



155-9B

Frank Edelblut  
Commissioner

JUN 18 '21 AM 8:55 RCVD  
Christine Brennan  
Deputy Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
TEL. (603) 271-6133  
FAX (603) 271-1953

June 3, 2021

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

**REQUESTED ACTION**

Authorize the Department of Education, Division of Workforce Innovation, Disability Determination Service (DDS), to exercise the final renewal option to an existing contract with Surge Temps, LLC of Manchester, NH (vendor code 305573), by increasing the price limitation by \$4,000,000.00 from \$3,600,000.00 to \$7,600,000.00, to provide full time employment services to medical and psychological consultants, and extending the end date from June 30 2021 to June 30, 2023 effective upon Governor and Council approval. This contract was originally approved by Governor and Council on September 10, 2019 (Item # 92A). 100% Federal Funds.

Funds to support this request are anticipated to be available in FY22 and FY23 in the account titled Disability Determination Service, upon the availability and continued appropriation of funds in the future operating budget with the ability to adjust encumbrances between fiscal years through the budget office without further Governor and Council approval, if needed and justified.

<b>FY</b>			<b><u>Total</u></b>
2022	06-56-56-565010-25500000-046-500462	Consultants	\$2,000,000.00
2023	06-56-56-565010-25500000-046-500462	Consultants	<u>\$2,000,000.00</u>
		<b>Total</b>	<b>\$4,000,000.00</b>

**EXPLANATION**

Due to a contractual change requested by the attorney general's office resulting in a change in legal entity through which the contract was executed. The original contract was competitively bid in a Request for Proposal (RFP) for DDS in the Concord Monitor and the Union Leader for the period of May 13 and 14, 2019 and posted to the department web site. A review committee consisting of Lisa Beck, Administrator IV, Lillian Day, Accountant IV and Anne Prehemo, Program Specialist IV reviewed thirteen (13) proposals that were received by the deadline.

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

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

The Division is required to have consultants evaluate medical evidence and determine its adequacy for making disability decisions. The consultants prepare an assessment of the individual's functional limitations imposed by the impairment(s). They also provide consultation in the development of internal forms, reviewing the quality of examination reports from independent vendors who are paid to provide reports to the Division concerning clients. The consultants do not perform examinations nor do they meet the disability applicant.

The Internal Revenue Service has determined these consultants do the work of employees. The employee leasing company, Surge Resources, LLC, is needed to provide the consultants with complete payroll services, to include withholding and pay all employer related taxes, W2's, direct deposit, garnishments, new hire W4/I9 compliance, and provide workers compensation.

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

Respectfully submitted,



Frank Edelblut  
Commissioner of Education

**AMENDMENT TO  
PROFESSIONAL SERVICES CONTRACT**

Now come the New Hampshire Department of Education, Bureau of Disability Determination Service, hereinafter "the Agency," and Surge Temps, LLC, Manchester, NH hereinafter "the Contractor", and pursuant to an agreement between the parties that was originally approved by Governor and Council on September 9, 2019 (item #92A) hereby agree to modify same as follows:

1. Amend Section 1.8 by increasing the price limitation by \$4,000,000 from \$3,600,000.00 to \$7,600,000.00
2. Amend 1.12 Name and Title of Contractor Signatory from James L. Petruccelli, Vice President to Alex Campos, Chief Executive Officer
3. Remove Exhibit C (Special Provisions) and replace with Exhibit A (Special Provisions)
4. Remove Exhibit A (The Services), Exhibit A-1 (Chief Psychiatrist), Exhibit A-2 (Chief Physician), Exhibit A-3 (Staff Psychiatrist), and Exhibit A-4 (Staff Physician) and replace with Exhibit B (Scope of Services)
5. Remove Exhibit B (The agreement Pricing, Method of Payment and Terms of Payment) and replace with Exhibit C (Method of Payment)
6. Remove Exhibit B-1 (Hourly and Maximum Payroll Rate Schedule) and replace with Exhibit C (Method of Payment)
7. All other provisions of this agreement shall remain in full force and effect as originally set forth; and
8. This amendment shall commence upon Governor and Council approval, for the period of July 1, 2021 through June 30, 2023.

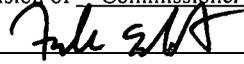
IN WITNESS WHEREOF, the parties, hereto have set their hands as of the day and year first above written.

THE STATE OF NEW HAMPSHIRE

Department of Education

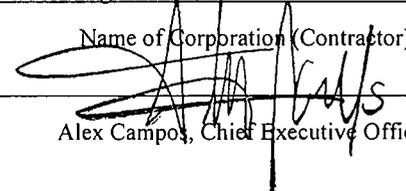
(Agency)

Division of Commissioner's Office

By:  4-9-21  
Frank Edelblut, Commissioner of Education Date

Surge Temps, LLC

Name of Corporation (Contractor)

By:  5/27/2021  
Alex Campos, Chief Executive Officer Date

STATE OF: New Hampshire

County of:

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2021 before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_ known to me (or satisfactory proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

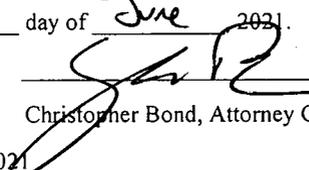
In witness whereof, I hereto set my hand and official seal.

N/A COVID - 19

Notary Public/Justice of the Peace

Commission Expires

Approved as to form, substance and execution by the Attorney General this 9th day of June, 2021.

  
Christopher Bond, Attorney General Office

Approved by the Governor and Council this \_\_\_\_\_ day of \_\_\_\_\_, 2021

By: \_\_\_\_\_

**EXHIBIT A**  
**Special Provisions**

**Federal Certification 2 CFR 200.415**

Required certification include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requisition payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows.

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the /federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud , false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)

- Modification of P37 : Item 11:

SURGE'S RELATION TO THE STATE. In the performance of this Agreement, Surge is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither Surge 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 stat to its employees.

Contractor Initials

Date

Handwritten signature and date: 5/24/21

**EXHIBIT B**  
**SCOPE OF SERVICES**

Surge Resources, LLC. ("Surge") shall provide services of licensed Physicians and Psychologists within the meaning of RSA 277-B to the New Hampshire Department of Education, Disability Determination Service ("Department") for the purpose of adjudicating social security disability claims.

In that regard, Surge shall:

- Recruit, hire and employ and pay licensed Physicians and Psychologists ("Employee") for the purpose of adjudicating social security disability claims consistent with the activities enumerated in Exhibit A-1 through A-4. The Department may refer potential Employee candidates to Surge for employment.
- Provide new hire guidance for Employees in compliance with state employment laws, W-4's and eligibility to work in the United States (form I-9).
- Track Employee time spend adjudicating social security disability claims.
- Provide complete payroll services for Employees (e.g., net pay, direct deposit, garnishment, W-2, verifications, benefit program, etc.).
- Withhold, report and pay all Employee and employer related taxes and contributions.
- Provide human resource support to Employees.
- Ensure that Employees shall work less than 30 hours per week.
- Require all Employees to make reasonable efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist.

The Department shall:

- Verify licensed status of Employees.
- Verify Homeland Security Presidential Directive 12 (HSPD 12) forms, including federal credit check, criminal background check and fingerprinting of Employees.
- Provide orientation and training specific to the services provided to the Department.

Contractor Initials

Date

  
8/27/21

**EXHIBIT B  
CONTINUED**

The Chief Psychologist shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the recruitment and selection of medical or psychological Employees.
- Supervise and assist in the training of staff medical or psychological Employees.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office of the Department to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training.

The Chief Physician shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the recruitment and selection of medical or psychological Employees.
- Supervise and assist in the training of staff medical or psychological Employees.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office of the Department to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training.

Contractor Initials

Date

A handwritten signature in black ink is written over the 'Contractor Initials' and 'Date' labels. The signature is stylized and appears to be 'S. J. / 21'.

**EXHIBIT B  
CONTINUED**

The Staff Psychologist shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Conduct qualitative reviews of consultative examination reports and refer corrective action from the consultative examination provider as needed to Chief Psychologist.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual. Highly complex or specialized workloads may be referred to the Chief Psychologist.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

The Staff Physician shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Conduct qualitative reviews of consultative examination reports and refer corrective action from the consultative examination provider as needed to Chief Physician.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual. Highly complex or specialized workloads may be referred to the Chief Physician.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

Date

  
5/27/21

**EXHIBIT C**

**Method of Payment**

<b>Employee Category</b>	<b>Gross Hourly Wage Rate</b>	<b>Maximum Salary FY 2022</b>	<b>Maximum Salary FY 2023</b>
Chief Physician	\$90.00	\$124,200.00	\$124,200.00
Staff Physician	\$94.00	\$99,264.00	\$99,264.00
Staff Physician	\$94.00	\$97,196.00	\$97,196.00
Staff Psychologist	\$94.00	\$81,216.00	\$97,290.00
Chief Psychologist	\$105.00	\$109,200.00	\$109,200.00
Staff Physician	\$80.00	\$84,480.00	\$84,480.00
Staff Psychologist	\$94.00	\$135,360.00	\$135,360.00
Staff Physician	\$95.00	\$45,600.00	\$0.00
Staff Physician	\$94.00	\$82,720.00	\$82,720.00
Staff Psychologist	\$94.00	\$115,056.00	\$69,513.00
Staff Psychologist	\$94.00	\$117,500.00	\$117,500.00
Physician/Psychologist	\$75.00	\$97,500.00	\$97,500.00
Physician/Psychologist	\$75.00	\$97,500.00	\$97,500.00

**Limitation on Price** This Contract will not exceed \$4,000,000

**Source of Funding** Funding for this contract is anticipated to be available in the account titled Disability Determination Services, FY 22 and FY 23 upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years through the Budget Office without further Governor and Council approval if needed and justified.

		<u>FY 22</u>	<u>FY 23</u>
06-56-56-565010-25500000-046-500462	Consultants	\$2,000,000	\$2,000,000

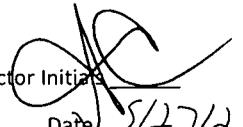
**Method of Payment** The Service fee shall be comprised of:  
Gross payroll for Employees based on Hourly and Maximum Payroll Rate Schedule above.

- Employer cost shall be comprised of employer related taxes, contributions and other statutory costs. Such costs shall be equal to 11.84% of payroll at the initiation of this Agreement and shall be adjusted upward or downward in the event of a statutory change in the rate.
- Per check charge of twenty dollars (\$20.00) per employee check processed.

For purposes of illustration, if Employee, Chief Psychologist, has a gross weekly payroll of \$585.00 the Surge invoice would be \$627.16 comprised of \$585.00 of gross payroll, plus Employer Costs of \$69.26 (\$585.00\* .1184) plus Per check charge of \$20.00

In the event Federal Funds are no longer available, Agreement may be terminated or suspended. Invoices will be provided bi-weekly and are due upon receipt. Surge and the department shall have no obligation to continue to provide services if invoices fall eight days in arrears Invoices will be sent to:

Lillian Day at [Lillian.Day@ssa.gov](mailto:Lillian.Day@ssa.gov) or Lillian Day  
Disability Determination Services  
21 South Fruit Street, Suite 30  
Concord NH 03301

Contractor Initials   
Date 5/27/21

# State of New Hampshire

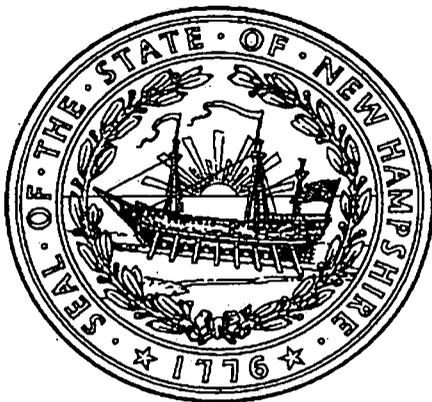
## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that SURGE TEMPS, LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on October 20, 1994. 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: 218242

Certificate Number: 0005341437



IN TESTIMONY WHEREOF.

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 6th day of April A.D. 2021.

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

William M. Gardner  
Secretary of State

**SURGE TEMPS, LLC**

CERTIFICATE OF MEMBER'S ACTION

The undersigned, being the sole member of Surge Temps, LLC, a New Hampshire limited liability company (the "Company") hereby certifies that a special meeting of the members of the Company was held on June 1, 2021 at 5:00 pm, with all the members being present, having waived notice of the time, place and purpose of the meeting.

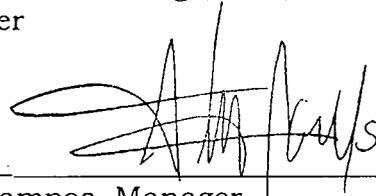
Upon motion duly made, the following Resolutions were unanimously adopted by the Members of the Company:

RESOLVED: That the Company shall negotiate and, upon successful conclusion of negotiations, enter into a renewal of its staffing relationship with the State of New Hampshire, Department of Education, to provide employment of certain medical professionals (Medical Consultants) to the State upon such terms and conditions as the Company may determine and negotiate;

AND IT WAS FURTHER RESOLVED: that Alex Campos, Chief Executive Officer, is authorized to act on behalf of the Company in all matters related to this business opportunity and resultant business relationship.

WITNESS the signature of the Member this 1st day of June, 2021:

Surge PEO Holdings, LLC, Sole  
Member

A handwritten signature in black ink, appearing to read 'Alex Campos', is written over a horizontal line.

Alex Campos, Manager



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
06/02/2021

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 RSC Insurance Brokerage, Inc. 1350 Avenue of the Americas 18th Flor New York NY 10019	CONTACT NAME: Linda Wright	
	PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: lwright@krautergroup.com	
INSURED VenSure TopCo, LLC Surge Temps, LLC 2600 W Geronimo Place Suite 100 Chandler AZ 85224	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Atain Specialty Insurance Company	17159
	INSURER B: Travelers Casualty Ins.Co of America	19046
	INSURER C: Evanston Insurance Co	35378
	INSURER D: Ace American Insurance Co.	22667
	INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL20102780600 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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			[REDACTED]	10/20/2020	10/20/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ Excluded GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ Included OTHER: \$
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			[REDACTED]	08/29/2020	08/29/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ OTHER: \$
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE			[REDACTED]	10/20/2020	10/20/2021	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 DED RETENTION \$ PER STATUTE OTH-ER
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	D E&O/Professional Liability			[REDACTED]	06/30/2020	06/30/2021	Limit 5,000,000

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

This certificate is issued as evidence of insurance coverage only.

CERTIFICATE HOLDER New Hampshire Department of Education 101 Pleasant Street Concord NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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92A 68

Frank Edelblut  
Commissioner

Christine Brennan  
Deputy Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
TEL. (603) 271-6133  
FAX (603) 271-1953

August 27, 2019

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

**REQUESTED ACTION**

Authorize the Department of Education, Bureau of Disability Determination Service, to enter into a **sole source** contract with Surge Temps, LLC of Manchester, NH (Vendor code 305573) in an amount not to exceed \$3,600,000 to provide full employment services to our medical and psychological consultants effective upon Governor and Council approval through June 30, 2021. This agreement includes an option to extend by up to 2 years at the discretion of the Department, Surge Temps, LLC, and upon approval of the Governor and Council. 100% Federal Funds.

Funds to support this request are anticipated to be available in the account titled Disability Determination Service, contingent upon Legislative approval of the next biennial budget.

06-56-56-56010-25500000-046-500462 Consultants	<u>FY2020</u>	<u>FY2021</u>
	\$1,800,000	\$1,800,000
 Total Contract Amount	 \$3,600,000	

**EXPLANATION**

This request is **sole source** due to a contractual change requested by the attorney general's office resulting in a change in legal entity through which the contract was executed. The original contract was competitively bid in a Request for Proposal (RFP) for DDS in the Concord Monitor and the Union Leader for the period of May 13 and 14, 2019 and posted to the department web site. A review committee consisting of Lisa Beck, Administrator IV, Lillian Day, Accountant IV and Anne Prehemo, Program Specialist IV reviewed thirteen (13) proposals that were received by the deadline.

The original contract, in combination with the individual medical consultant contracts, was approved by Governor and Council on June 19, 2019 (Item #221 B, attached). Subsequent to that approval, an amendment to the contract was needed to contract with additional medical consultants. Through the amendment process, it was determined that a new contract with Surge Temps, LLC, a subsidiary company of Surge Resources, LLC, should be executed to provide

complete employment and payroll services for the same medical consultants group. In addition to the payroll services listed above, Surge Temps, LLC, would hire, provide human resource support and track work hours.

The Division of Workforce Innovation uses medical and psychological consultants to review and advise staff in the determination of eligibility for clients in the Vocational Rehabilitation program and to assist in the determination of eligibility for Social Security disability benefits. Per Federal Regulation 20 CFR 404.1620: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

The Internal Revenue Service has determined these consultants do the work of employees. The employee leasing company, Surge Resources, LLC, was contracted to provide the consultants with complete payroll services, to include withholdings and pay all employer related taxes, W2's, direct deposit, garnishments, new hire W4/19 compliance, and provide workers compensation. The DDS Serves under the Division of Workforce Innovation at the Department of Education to ensure an opportunity to have educational preparation and opportunity for employment rather residing solely in a beneficiary program within DHHS. Forty-two percent of Vocational Rehabilitation clients are Social Security Beneficiaries preparing for employment and potentially decreasing reliance on public benefits. Vocational Rehabilitation serves people with disabilities by providing services that lead to gaining and retaining employment.

The Division is required to have consultants to evaluate medical evidence and to determine its adequacy for making disability decisions. The consultants prepare an assessment of the individual's functional limitations imposed by the impairment(s). They also provide consultation in the development of internal forms, reviewing the quality of examination reports from independent vendors who are paid to provide reports to the Division concerning clients. The consultants do not perform examinations nor do they meet the disability applicant.

Upon Governor and Council approval of this new contract, the Surge Resources, LLC, and independent medical consultant contracts that were approved on June 19, 2019 (Item #221B, attached), will terminate. There is no price increase in the price limitation of \$3,600,000 through June 30, 2021. The term of this agreement may be extended by up to 2 years by the Department, at its discretion, and with the agreement of Surge Temps, subject to approval by Governor and Council.

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

Respectfully submitted,



Frank Edelblut  
Commissioner of Education

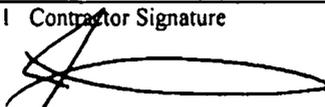
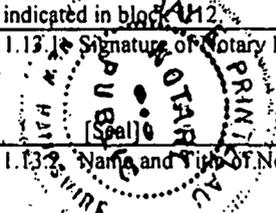
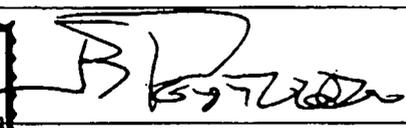
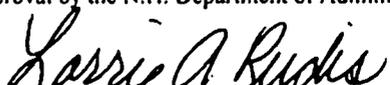
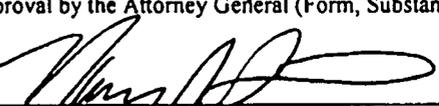
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire Department of Education		1.2 State Agency Address 21 South Fruit Street, Suite 30 Concord, NH 03301	
1.3 Contractor Name Surge Temps, LLC		1.4 Contractor Address 300 Hanover Street Manchester, NH 03104-4957	
1.5 Contractor Phone Number 603-623-0007	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$3,600,000.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number 603-271-3144	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory James L. Petruccelli, Vice President	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Hillsborough</u> On <u>8/27/19</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 Signature of Notary Public or Justice of the Peace <div style="display: flex; align-items: center;">  <div style="border: 2px solid black; padding: 5px; text-align: center;"> <b>JAY E PRINTZLAU</b>                      Notary Public, New Hampshire                      My Commission Expires January 10, 2023                 </div>  </div>			
1.13 Name and Title of Notary of Justice of the Peace			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Frank Edelblut Commissioner of Education	
Date: <u>8-30-19</u>			
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: <u>Sept 8, 2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>9/3/2019</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.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT  
EXHIBIT A: THE SERVICES**

Surge Temps, LLC. ("Surge") shall provide services of licensed Physicians and Psychologists within the meaning of RSA 277-B to the New Hampshire Department of Education, Disability Determination Service ("Department") for the purpose of adjudicating social security disability claims.

In that regard, Surge shall:

- Hire and employ and pay licensed Physicians and Psychologists ("Employee") for the purpose of adjudicating social security disability claims consistent with the activities enumerated in Exhibit A-1 through A-4. The Department may refer potential Employee candidates to Surge for employment.
- Provide new hire guidance for Employees in compliance with state employment laws, W-4's and eligibility to work in the United States (form I-9).
- Track Employee time spent adjudicating social security disability claims.
- Provide complete payroll services for Employees (e.g., net pay, direct deposit, garnishment, W-2, verifications, benefit program, etc.).
- Withhold, report and pay all Employee and employer related taxes and contributions.
- Provide human resource support to Employees.
- Establish a policy that Employees shall work less than 30 hours per week.
- Require all Employees to make reasonable efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist.

The Department shall:

- Verify licensed status of Employees.
- Verify Homeland Security Presidential Directive 12 (HSPD 12) forms, including federal credit check, criminal background check and fingerprinting of Employees.
- Provide orientation and training specific to the services provided to the Department.

Contractor Initials

*gd*

Date

*8/27/15*

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT  
EXHIBIT A-1: Chief Psychologist**

The Chief Psychologist shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the recruitment and selection of medical or psychological Employees.
- Supervise and assist in the training of staff medical or psychological Employees.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the Professional Relations Office of the Department to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training.

Contractor Initials AP

Date 8/27/19

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT  
EXHIBIT A-2: Chief Physician**

The Chief Physician shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the recruitment and selection of medical or psychological Employees.
- Supervise and assist in the training of staff medical or psychological Employees.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the Professional Relations Office of the Department to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training.

Contractor Initials

AP

Date

8/27/19

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT  
EXHIBIT A-3: Staff Psychologist**

The Staff Psychologist shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Conduct qualitative reviews of consultative examination reports and refer corrective action from the consultative examination provider as needed to Chief Psychologist.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual. Highly complex or specialized workloads may be referred to the Chief Psychologist.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training.

Contractor Initials

AP

Date

8/27/15

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT  
EXHIBIT A-4: Staff Physician**

The Staff Physician shall:

- Demonstrate ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Conduct qualitative reviews of consultative examination reports and refer corrective action from the consultative examination provider as needed to Chief Physician.
- Recommend the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties.
- Review and analyze medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual. Highly complex or specialized workloads may be referred to the Chief Physician.
- Mentor and train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training.

Contractor Initials

*AP*

Date

*8/21/19*

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT**

**EXHIBIT B:  
THE AGREEMENT PRICING, METHOD OF PAYMENT AND TERMS OF PAYMENT**

Surge will charge a Service Fee for all its services set out in Exhibit A, A-1, A-2, A-3, and A-4.

The Service fee shall be comprised of:

- Gross Payroll for Employees based on Hourly and Maximum Payroll Rate Schedule on Exhibit B-1.
- Employer cost shall be comprised of employer related taxes, contributions and other statutory costs. Such costs shall be equal to 11.48% of payroll at the initiation of this Agreement and shall be adjusted upward or downward in the event of a statutory change in the rate.
- Per check charge of twenty dollars (\$20.00) per Employee check processed.

For purposes of illustration, if Employee, Chief Psychologist, has a gross weekly payroll of \$585.00, the Surge invoice would be \$672.16, comprised of \$585.000 of gross payroll, plus Employer Cost of \$67.16 ( $\$585.00 * .1148$ ), plus Per check charge of \$20.00.

Funds for this Agreement are 100% Federal Funds from the account titled Disability Determination Services, 06-56-56-565010-25500000-046-500462. In the event Federal Funds are no longer available, Agreement may be terminated or suspended.

Invoices will be provided biweekly and are due upon receipt.

Surge and the Department shall have no obligation to continue to provide services if invoices fall eight days in arrears.

Contractor Initials AL

Date 8/27/19

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT**

**EXHIBIT B-1:  
Hourly and Maximum Payroll Rate Schedule**

Employee Name	Employee Category	Gross Hourly Wage Rate	Maximum Salary FY 2020	Maximum Salary FY 2021
Bibeau, Carole	Staff Physician	\$75.00	\$105,750.00	\$105,750.00
Bradley, Peter	Staff Physician	\$77.00	\$88,704.00	\$88,704.00
Dorsey, Diana	Staff Physician	\$90.00	\$99,360.00	\$99,360.00
Jaffe, Jonathan	Staff Physician	\$89.00	\$92,026.00	\$92,026.00
Jamieson, William	Staff Psychologist	\$90.00	\$49,680.00	\$66,240.00
Kalfas, Nicholas	Chief Psychologist	\$100.00	\$104,000.00	\$104,000.00
Kirmes, William	Staff Physician	\$75.00	\$66,600.00	\$86,400.00
Landerman, Laura	Staff Psychologist	\$90.00	\$126,900.00	\$126,900.00
MacEachran, John	Chief Physician	\$95.00	\$109,440.00	\$109,440.00
Rosenthal, Louis	Staff Physician	\$85.00	\$74,800.00	\$74,800.00
Schneider, Michael	Staff Psychologist	\$90.00	\$126,900.00	\$126,900.00
Stenslie, Craig	Staff Psychologist	\$90.00	\$129,600.00	\$129,600.00
Trice, James	Staff Physician	\$90.00	\$79,200.00	\$79,200.00
Name (s) to be determined	Staff Physician/ Psychologist	\$75.00	\$73,500.00	\$96,600.00

Establish a policy that physicians and psychologists will remain within their maximum salaries, for either fiscal year.

In the event Surge hires additional Staff Physician(s) or Staff Psychologist(s), they will make a gross hourly wage of \$75.00, with a maximum salary for FY 2020 and FY 2021 as indicated above.

Contractor Initials AP  
Date 8/27/19

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT**

**EXHIBIT C:  
Special Provisions**

- The term of this Agreement may be extended by up to 2 years by the Department, at its discretion, and with the agreement of Surge, subject to approval by Governor and Council.

- Modification of P37: Item 11:

**SURGE'S RELATION TO THE STATE.** In the performance of this Agreement, Surge is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither Surge 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.

Contractor Initials AP

Date 8/27/19

**EXHIBIT D****Contractor Obligations**

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

**Breach**

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**Fraud and False Statements**

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

**Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

**Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials AP  
Date 8/27/19

Exhibit E

**Federal Debarment and Suspension**

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
  - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  - 2. Does not have a proposed debarment pending;
  - 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  - 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials  
Date

AP  
8/2/19

## Exhibit F

## Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfllin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

AD  
8/2/19

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

#### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials AP  
Date 8/2/19

# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that SURGE TEMPS, LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on October 20, 1994. 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: 218242

Certificate Number: 0004551892



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 16th day of July A.D. 2019.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

**SURGE TEMPS, LLC**

**CERTIFICATE OF MEMBER'S ACTION**

The undersigned, being the sole Member of Surge Temps, LLC, a New Hampshire limited liability company (the "Company") hereby certifies that a special meeting of the members of the Company was held on August 27, 2019, at 3:00 pm, with all the Members being present, having waived notice of the time, place and purposes of the meeting.

Upon motion duly made, the following resolution was unanimously adopted by the Members of the Company:

**RESOLVED:** That the Company shall negotiate and, upon successful conclusion of negotiation, enter into a staffing relationship with the State of New Hampshire, Department of Education, to provide employment of certain medical professionals (Medical Consultants) to the State upon such terms and conditions as the Company may determine and negotiate;

**AND IT WAS FURTHER RESOLVED:** that James L Petruccelli, Vice President, is authorized to act on behalf of the Company in all matters related to this potential business opportunity and resultant business relationship;

WITNESS the signature of the Member this 27<sup>th</sup> day of August, 2019:

Surge PEO Holdings, LLC, sole member

  
George R Attar, Manager



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/8/2019

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

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

<b>PRODUCER</b> Crystal IBC, LLC 32 Old Slip Fl 17 New York NY 10005		<b>CONTACT NAME:</b> PHONE (A/C No. Ext) FAX (A/C No.) E-MAIL ADDRESS:	
<b>INSURED</b> GPB PEO Holdings, LLC 535 West 24th Street, Floor 4 New York NY 10011		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> Philadelphia Indemnity Insurance Company <b>NAIC #</b> 18058	
		<b>INSURER B:</b>	
		<b>INSURER C:</b>	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER: 323789426**      **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.

USER LTR	TYPE OF INSURANCE	ADDL INSD	SUBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:				1/1/2019	1/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA OCCUR) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY				1/1/2019	1/1/2020	COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000				1/1/2019	1/1/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Named Insured Schedule:  
GPB PEO Holdings, LLC  
GPB PEO Acquisition, LLC  
Matrix PEO Holdings, LLC  
Surge PEO Holdings, LLC  
Surge Resources, LLC  
Surge Resources II, LLC  
Surge Temps, LLC  
See Attached...

<b>CERTIFICATE HOLDER</b>  State of New Hampshire Department of Education Disability Determination Services 21 S. Fruit Street, Suite 30 Concord, NH 03301	<b>CANCELLATION</b>  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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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/27/2019

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

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

<b>PRODUCER</b> Stonehenge Insurance Solutions, Inc. 250 Tequesta Drive Suite 306 Tequesta, FL 33469	<b>CONTACT NAME:</b> Stonehenge Insurance	
	<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>
<b>E-MAIL ADDRESS:</b> certs@stonehengels.com		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
INSURER A: Atlantic Charter Insurance Company		44326
<b>INSURER B:</b>		
<b>INSURER C:</b>		
<b>INSURER D:</b>		
<b>INSURER E:</b>		
<b>INSURER F:</b>		

**INSURED**  
SURGE TEMPS, LLC  
300 HANOVER STREET  
MANCHESTER, NH 03104

### COVERAGES

CERTIFICATE NUMBER: KE4VUGG7

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 NO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/PROP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A		01/07/2019	01/07/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 \$ \$ \$ \$

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

### CERTIFICATE HOLDER

### CANCELLATION

State of New Hampshire - NH Department of Education  
DBA: Disability Determination Services  
21 South Fruit Street  
Suite 30  
Concord, NH 03301

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

pu

221B 9B



Frank Edelblut  
Commissioner

Christine Brennen  
Deputy Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301  
TEL. (603) 271-3495  
FAX (603) 271-1953

May 30, 2019

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

**REQUESTED ACTION**

1. Authorize the New Hampshire Department of Education, Disability Determination Services Bureau (DDS) to enter into a contract with Surge Resources, LLC, of Manchester NH (Vendor Code 305573) in an amount not to exceed \$3,600,000 to provide payroll services for Medical/Psychological Consultants, effective upon Governor and Council approval for the period of July 1, 2019 through June 30, 2021. 100% Federal Funds.
2. Contingent upon approval of #1 above, authorize the Department of Education, Disability Determination Services Bureau, to enter into contracts with medical and psychological consultants shown below, in an amount not to exceed \$1,922,080, of the amount noted in Requested Action #1 above, to conduct medical decisions, effective upon Governor and Council approval for the period of July 1, 2019 through June 30, 2019. The below contracts will be paid through the contract with Surge Resources, LLC. 100% Federal Funds.

Funds to support this request are anticipated to be available in account titled Disability Determination Service, contingent upon Legislative approval of the next Biennial Budget.

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462	\$1,800,000	\$1,800,000
(Consultants)		
<b>Total Contract Amount</b>	<b>\$3,600,000</b>	

The individuals to be contracted with are as follows:

	<u>Vendor Code</u>	<u>FY 2020</u>	<u>FY 2021</u>
Carole Bibeau, MD	280728	\$105,750	\$105,750
Peter Bradley, MD	218701	\$ 88,704	\$ 88,704
Diana Dorsey, MD	279013	\$ 99,360	\$ 99,360
Jonathan Jaffe, MD	168181	\$ 92,026	\$ 92,026
William Jamieson, Ph.D.	163997	\$ 49,680	\$ 66,240
Laura Landerman, Ph.D.	203544	\$126,900	\$126,900
John MacEachran, MD	206950	\$109,440	\$109,440
Louis Rosenthal, MD	160932	\$ 74,800	\$ 74,800
Michael Schneider, PsyD.	163027	\$126,900	\$126,900
James Trice, MD	218516	\$ 79,200	\$ 79,200
<b>Total per year</b>		<b>\$952,760</b>	<b>\$969,320</b>
<b>Total of all contracts</b>	<b>\$1,922,080</b>		

**EXPLANATION**

The Division of Workforce Innovation uses medical and psychological consultants to review and advise staff in the determination of eligibility for clients in the Vocational Rehabilitation program and to assist in the determination of eligibility for Social Security disability benefits. Per Federal Regulation 20 CFR 404.1620: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly."

The chief medical and chief psychological consultants, in addition to these duties, resolve difficult medical issues and provide training. The consultants must maintain current licensure in the state.

The DDS serves under the Division of Workforce Innovation at the Department of Education to ensure an opportunity to have educational preparation and opportunity for employment rather residing solely in a beneficiary program within DHHS. Forty-two percent of Vocational Rehabilitation clients are Social Security beneficiaries preparing for employment and potentially decreasing reliance on public benefits. Vocational Rehabilitation serves people with disabilities by providing services that lead to gaining and retaining employment.

Relative to Requests #1. The Internal Revenue Service has determined these consultants do the work of employees. The employee leasing company, Surge Resources, LLC, is needed to provide the consultants with complete payroll services, to include withholding and pay all employer related taxes, W2's, direct deposit, garnishments, new hire W4/19 compliance, and provide workers compensation.

The Department prepared and published a Request for Proposal (RFP) in the Concord Monitor and the Union Leader for the period of March 12, March 13 and March 14, 2019 and posted on the Department website. A review committee consisting of Lisa Beck, Administrator IV, Lillian Day, Accountant IV and Cheryl Hobart, Program Specialist I reviewed the (1) proposal received on 4/25/2019. The (1) proposal met the criteria of the Request for Proposal. See (Attachment A).

Relative to Request #2. The Division is required to have consultants to evaluate medical evidence and to determine its adequacy for making disability decisions. The consultants prepare an assessment of the

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
May 30, 2019

individual's functional limitations imposed by the impairment(s). They also provide consultation in the development of internal forms, reviewing the quality of examination reports from independent vendors who are paid to provide reports to the Division concerning clients. The consultants do not perform examinations nor do they meet the disability applicant.

The Department prepared and published a Request for Proposal (RFP) for DDS Staff Chief Medical and Chief Psychological Consultants in the Concord Monitor and the Union Leader for the period of May 13, 2019, May 14, 2019 and posted on the Department website. A review committee consisting of Lisa Beck, Administrator IV, Lillian Day, Accountant IV and Anne Prehemo, Program Specialist IV reviewed (13) proposals that were received by the deadline. All 13 met the criteria of the Request for Proposal. See (Attachment B).

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

Respectfully submitted,



Frank Edelblut  
Commissioner of Education

Employee Leasing Scores 2019

- 1. Statement outlining the services to be provided. 40 Points
- 2. Employee Leasing companies proposed bid. 40 Points
- 3. Employee Leasing Company licensed in the State of New Hampshire. 20 Points

<u>Bidder</u>	<u>Evaluation Criteria</u>	<u>Reviewer #1</u> <u>Lisa Beck</u>	<u>Reviewer #2</u> <u>Lillian Day</u>	<u>Reviewer #3</u> <u>Cheryl Hobart</u>
Surge Resources, LLC.	1.	40	40	40
	2.	35	35	35
	3.	20	20	20
	<b>Total</b>	<b>95</b>	<b>95</b>	<b>95</b>

Attachment B

**SCORING FOR REVIEW OF FY 20/21 MEDICAL CONSULTANT SERVICE.**

**Proposal Criteria in the RFP**

Capacity and Knowledge	50 points
References, Credentials and Licensing	10 points
Experience reviewing, assessing and applying program policy	30 points
HSPD 12	<u>10 points</u>
<b>Possible Points</b>	<b>100 points</b>

Thirteen (13) RFPs' were received and scored.

	Consensus
Dr. Bibeau, MD, MS	100
Dr. Bradley, MD	99
Dr. Dorsey, MD	100
Dr. Jaffe, MD	95
Dr. Jamieson, Ph.D	99
Dr. Landerman, Ph.D	95
Dr. MacEachran, MD	99
Dr. Rosenthal, MD	100
Dr. Schneider, Psy.D	95
Dr. Trice, MD	82

An RFP review occurred on Tuesday, May 20, 2019. The RFP review panel consisted of the following employees from the Department of Education/Disability Determination.

**Lisa Beck, Administrator IV.** Mrs. Beck brings seven years of Administrative & Supervisory experience developing and monitoring contracts for the state. She offers a wide range of experience related to providing service to the public.

**Lillian Day, Accountant IV.** Ms. Day brings ten years working with state contracts and over 15 years with the budgeting system. She is the Accountant for the DDS, in the many years she has been with the state she has had considerable experience reviewing proposals and working with contracts.

**Anne Prehemo, Program Specialist IV.** Ms. Prehemo oversees the medical and psychological service vendors who provide staff services and consultative exam services to the disability process. As Professional Relations Officer, she serves as the liaison with the medical community having done so successfully for twelve years.

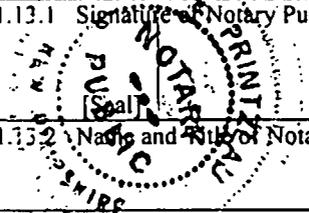
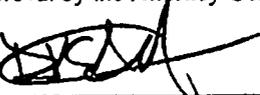
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**I. IDENTIFICATION.**

1.1 State Agency Name New Hampshire Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Surge Resources, LLC		1.4 Contractor Address 300 Hanover Street, Manchester, NH 03104-4957	
1.5 Contractor Phone Number 603-623-0007	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$3,600,000.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3144	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory James Petrucci Vice President	
1.13 Acknowledgement: State of <b>NH</b> , County of <b>Hillsborough</b> On <b>05/21/2019</b> , 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  		<div style="border: 2px dashed black; padding: 5px; text-align: center;"> <b>JAY E PRINTZLAU</b>                      Notary Public, New Hampshire                      My Commission Expires January 10, 2023                 </div>	
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
Date: <b>6-7-19</b>			
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: <b>6/10/2019</b>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  <b>RICARDO SANA</b> On: <b>6/7/2019</b>			
1.18 Approval by the Governor and Executive Council (if applicable) ) By: On:			

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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

Contractor Initials AP  
Date 5/1/2011

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.

Contractor Initials   
Date 5/21/2019

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION**

**P37 AGREEMENT**

**EXHIBIT A: THE SERVICES**

Surge Resources, LLC (Surge) will provide co-employment (along with the New Hampshire Department of Education) of licensed Medical Doctors and licensed Psychologists within the meaning of RSA Chapter 277-B.

In that regard, Surge will:

- Provide new hire guidance and compliance with state employment laws, W-4s and eligibility to work in the United States (forms I-9);
- Provide a system for the co-employees to track time engaged at the work contemplated by the New Hampshire Department of Education (NH DOE);
- Provide complete payroll services for the co-employees (net pay, direct deposits, garnishments, W-2s, verifications of income);
- Withhold, report and pay all employer-related taxes and contributions;
- Withhold, report and pay any garnishments or contributions to benefits programs; and
- Provide human resources consultation with respect to the co-employees as and when requested by the NH DOE;

New Hampshire Department of Education will identify, interview, vet and hire said licensed Medical Doctors and licensed Psychologists;

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION

P37 AGREEMENT

EXHIBIT B:  
THE CONTRACT PRICE, METHOD OF PAYMENT AND TERMS OF PAYMENT

SUBJECT:

Surge will charge a Service Fee for all its services set out at Exhibit A.

The Service Fee is made up of three components: gross payroll, the Employer Cost and the per check charge. Invoicing detail is based upon the client's disclosures of codes and experience modifier (if any) for workers' compensation. NH DOE warrants that this information is accurate and that disclosed codes are proper for the client's business. Coding changes and/or the application of a modifier will result in changes to Service Fees. NH DOE acknowledges that co-employees hired after services commence will be billed at disclosed rates for similar classification codes.

<u>Job Function</u>	<u>W/C Code</u>	<u>Employer Cost (% of payroll)</u>
Licensed Medical Doctors	NH 8832	11.48%
Licensed Psychologists	NH 8832	11.48%

Per Check Charge: \$20.00 per co-employee, per week

Example: Gross weekly pay for Dr. Smith is \$585.00 (9 hours at \$65.00 per hour). The Surge invoice would be \$585.00 (x) 11.48% plus a \$20.00 per check charge, or a total invoice for \$652.16.

Surge will provide invoices for its Service Fees to NH DOE weekly. Invoices are due upon receipt.

The parties acknowledge that Surge shall have no obligation to continue to provide services if invoices fall eight days in arrears.

AP  
5/21/2019

**STATE OF NEW HAMPSHIRE  
THE ADJUTANT GENERAL'S DEPARTMENT**

**EXHIBIT C, SPECIAL PROVISIONS**

**SUBJECT:**

The following special provisions modify, change, delete or add to the General Provisions of the agreement. Where any part of the General Provisions is modified or voided by these Special Provisions, the unaltered provisions for that part shall remain in effect.

Surge will not identify potential licensed Medical Doctors or licensed Psychologists for participation in this Agreement;

Surge will not vet or investigate the qualifications for the licensed Medical Doctors or licensed Psychologists identified by NH DOE;

Surge will not satisfy Homeland Security Presidential Directive 12 (HSPD 12) forms including federal credit check, criminal background check or fingerprinting and running the fingerprints through any data base;

Surge will not hire or identify a Chief Medical Consultant; NH DOE will identify and hire same as a co-employee, as with the other co-employees who are the subject of this Agreement;

Surge will not provide any orientation or training for any of the co-employees;

## EXHIBIT D

### Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

#### **Breach**

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### **Fraud and False Statements**

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC § 1001 and § 1020.

#### **Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

#### **Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

Date

AP  
5/21/2019

**Exhibit E**

**Federal Debarment and Suspension**

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm, by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials AP  
Date 5/21/2019

## Exhibit F

### Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/stllin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

AP  
5/21/2019

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

#### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials JP  
Date 5/21/2019

## Exhibit H

### Termination

#### a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract.  
If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages.  
If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

#### b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

#### c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials AP  
Date 5/21/2019

**SURGE RESOURCES, LLC**

**CERTIFICATE OF MEMBER'S ACTION**

The undersigned, being the sole Member of Surge Resources, LLC, a New Hampshire limited liability company (the "Company") hereby certifies that a special meeting of the members of the Company was held on May 21, 2019, at 11:00 am, with all the Members being present, having waived notice of the time, place and purposes of the meeting.

Upon motion duly made, the following resolution was unanimously adopted by the Members of the Company:

**RESOLVED:** That the Company shall negotiate and, upon successful conclusion of negotiation, enter into a PEO relationship with the State of New Hampshire, Department of Education, to provide co-employment with the State of certain medical professionals (Medical Consultants) upon such terms and conditions as the Company may determine and negotiate;

**AND IT WAS FURTHER RESOLVED:** that James L Petruccelli, Vice President, is authorized to act on behalf of the Company in all matters related to this potential business opportunity and resultant business relationship;

WITNESS the signature of the Member this 21<sup>st</sup> day of May, 2019:

Surge PEO Holdings, LLC, sole member



---

Abhaya Shrestha, Manager

**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 SURGE RESOURCES, LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on January 31, 1990. 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: 149103

Certificate Number: 0004518168



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 May A.D. 2019.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/6/2019

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

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

<b>PRODUCER</b> Crystal IBC, LLC 32 Old Slip Fl 17 New York NY 10005	<b>CONTACT NAME:</b> _____	
	<b>PHONE (A/C No. Ext):</b> _____	<b>FAX (A/C No.):</b> _____
<b>E-MAIL ADDRESS:</b> _____		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> GPB PEO Holdings, LLC 535 West 24th Street, Floor 4 New York NY 10011	<b>INSURER A:</b> Philadelphia Indemnity Insurance Company	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:** 323769426                      **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	ADOL (INSR)	SUBR (WVO)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____			██████████	1/1/2019	1/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/POP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY			██████████	1/1/2019	1/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			██████████	1/1/2019	1/1/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
	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/A			<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

Named Insured Schedule:  
 GPB PEO Holdings, LLC  
 GPB PEO Acquisition, LLC  
 Matrix PEO Holdings, LLC  
 Surge PEO Holdings, LLC  
 Surge Resources, LLC  
 Surge Resources II, LLC  
 Surge Temps, LLC  
 See Attached...

<b>CERTIFICATE HOLDER</b>  State of New Hampshire Department of Education Disability Determination Services 21 S. Fruit Street, Suite 30 Concord, NH 03301	<b>CANCELLATION</b>  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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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
06/03/2019

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

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

<b>PRODUCER</b> Jeffrey Rendel c/o Stonehenge Insurance Solutions, Inc. 300 Avenue of the Champions, Suite 222 Palm Beach Gardens, FL 33418	<b>CONTACT NAME:</b> _____	
	<b>PHONE (A/C No. Ext):</b> (561) 746-5027	<b>FAX (A/C No.):</b> (561) 746-5028
<b>E-MAIL ADDRESS:</b> certs@stonehengeis.com		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
INSURER A : Zurich-American Insurance Company		16535
INSURER B : _____		
INSURER C : _____		
INSURER D : _____		
INSURER E : _____		
INSURER F : _____		

**INSURED**  
 Surge Resources, LLC At. Emp: Surge Resources, LLC  
 300 Hanover Street  
 Manchester, NH 03104

### COVERAGES

CERTIFICATE NUMBER: 19NH201992737

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 INSD	SUBR VVVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED _____ RETENTION \$ _____						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	_____	05/19/2019	01/01/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> 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
	Location Coverage Period:			05/19/2019	01/01/2020	Client# 0-NH	

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

Coverage is provided for only those co-employees of, but not subcontractors to:  
 Surge Resources, LLC  
 300 Hanover St  
 Manchester, NH 03104

### CERTIFICATE HOLDER

State of New Hampshire - NH Department of Education  
 dba: Disability Determination Services  
 21 South Fruit Street  
 Suite 30  
 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

**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.

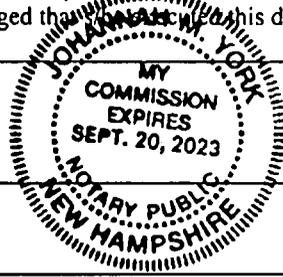
**AGREEMENT**

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 Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Carole Bibeau, MD, MS		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$211,500.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature Carole E. Bibeau MD, MS		1.12 Name and Title of Contractor Signatory Carole E Bibeau MD, MS	
1.13 Acknowledgement: State of <del>New Hampshire</del> County of <del>Herrnmark</del> On 5/21/19, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that he/she/it executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Signature]			
1.13.2 Name and Title of Notary or Justice of the Peace Johannah M York			
1.14 State Agency Signature [Signature] Date: 6-7-19		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: [Signature] Director, On: 6-10-2019			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: [Signature] Counsel SRA On: 6/7/2019			
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.

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

CB

Date

5/21/2019

**Appendix B**  
**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$75.00	\$105,750	\$105,750

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$211,500

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$105,750	\$105,750

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials CB  
Date 5/21/2019

**Appendix C**  
**Terms and Conditions**

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

**Conflicts of Interest**

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

**Insurance**

Insurance as referenced in #14 is waived.

**Termination**

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

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

Contractor Initials

CB

Date

5/21/2019

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials

CB

Date

5/21/2019

**Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

**Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials CB  
Date 5/21/2019

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials CB  
Date 5/21/2019

Exhibit F  
Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

CB

Date

5/21/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

CB

Date

5/2/19

### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials CS  
Date 5/21/19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

CB

Date

5/21/19

## CURRICULUM VITAE

Carole E. Bibeau MD, MS

### ADDRESS:

[REDACTED]  
Office: Disability Determination Services, 21 South Fruit Street, Suite 30, Concord NH 03301  
[REDACTED]

### EDUCATION:

May 1999 University of Vermont College of Medicine\*, Burlington, VT MD  
November 1988 Tufts University MS (ABD)  
Sackler School of Graduate Biomedical Sciences, Boston, MA  
June 1984 Dartmouth College, Hanover, NH AB

\*Larner College of Medicine at the University of Vermont as of September 2016

### POSTDOCTORAL TRAINING:

June 1999 - Residency in Primary Care Internal Medicine  
June 2002 Dartmouth-Hitchcock Medical Center, Lebanon, NH

### LICENSURE AND CERTIFICATION:

June 1997 United States Medical Licensing Exam Step I  
August 1998 United States Medical Licensing Exam Step II  
June 2000 United States Medical Licensing Exam Step III  
June 1997 Advanced Cardiac Life Support; recertification June 2000, June 2002  
June 1999 Basic Life Support; current recertification May 2017 - May 2019  
July 2002 New Hampshire Medical License #11651, active  
July 2002 Federal DEA #BB7846314, active  
August 2002 Certified, American Board of Internal Medicine; Recertified December 2012  
September 2002 Vermont Medical License #0420010457, expired 11/2018 (did not renew)

**CURRENT EMPLOYMENT:**

January 2018 - Medical Consultant, Disability Determination Services, Concord, NH  
Present

**ACADEMIC APPOINTMENTS:**

January 2, 2008 Assistant Professor of Medicine, Dartmouth Medical School\*\* Hanover, NH  
July 28, 2003 Clinical Instructor of Medicine, Dartmouth Medical School, Hanover, NH  
2002 - 2003 Adjunct Assistant Professor of Medicine, Dartmouth Medical School, Hanover, NH

\*\*Geisel School of Medicine at Dartmouth as of April 2012

**HOSPITAL APPOINTMENTS:**

July 28, 2003 - Staff Physician, Mary Hitchcock Memorial Hospital, Lebanon, NH  
January 5, 2018  
2002 - 2003 Staff Physician, Cottage Hospital, Woodsville, NH

**MAJOR COMMITTEE ASSIGNMENTS AND CONSULTATIONS:**

Fall 2010 Member, GME Internal Review Committee for the Department of Psychiatry  
Residency Program, Dartmouth-Hitchcock Medical Center  
Summer 2014 Member, Search Committee for Section Chief of General Internal Medicine  
to early 2015 Dartmouth-Hitchcock Medical Center

**MEMBERSHIP IN PROFESSIONAL SOCIETIES:**

1999 - 2018 Member, American College of Physicians  
2003 - 2018 Member, New Hampshire Medical Society

**AWARDS AND HONORS:**University of Vermont College of Medicine:

April 1995 B. Albert Ring Award, Department of Anatomy and Neurobiology  
April 1996 Phorplus Wasserman 1951 Prize for excellence in the basic sciences  
April 1997 Alpha Omega Alpha Medical Honor Society  
May 1999 Laura Weed Award in Internal Medicine

**AWARDS AND HONORS (cont'd.):**

- September 2001      Second Prize, Associates' Abstract Contest  
 NH Chapter of ACP/ASIM Annual Meeting
- March 2009      DHMC Department of Medicine Teaching Award
- Spring 2009      Nominated for Dartmouth Medical School Distinguished Small Group Leader Award

**Other DHMC Clinical and Administrative Activities: Section of General Internal Medicine**

- Member of physician group caring for patients at Hanover Terrace Healthcare, 2004 - October 2015  
 GIM Faculty Search Committee member, 2005 - 2006  
 Gold Team Leader, January 2006 - February 2010  
 Co-Chair, Team Restructuring Work Group, March - May 2009  
 Co-Leader, Heater Road Planning Group, summer 2011 - spring 2012  
 Team Leader, Heater Road GIM team quality improvement project on hypertension 2013  
 Reviewer for DH Knowledge Map E-consult and E-referral program, March 2015 - January 2018  
 Physician Leader, quality improvement project on POLST documentation, January 2016 - January 2018  
 Interviewer for MD and associate provider searches for Heater Road Clinic positions, 2015 - 2016

**TEACHING EXPERIENCE/TEACHING RESPONSIBILITIES:**Dartmouth Medical School/Geisel School of Medicine at Dartmouth:

- 2003 - 2013      On Doctoring:  
                     Small group facilitator 2003 - 2007, 2008 - 2010  
                     Clinic preceptor, 2007 - 2008 and 2010 - 2013
- 2003 - 2018      Preceptor, GAM rotation: average 2-4 times yearly; one student in 2010-11

Dartmouth-Hitchcock Medical Center:

- 2003 - 2009      GIM Outpatient Resident Clinic Preceptor: average three times/month  
                     Ward attending, Hospital Medicine Service: average four-six weeks/year
- 2003 - 2008      Facilitator, Outpatient Clinic (OPD) Curriculum: two sessions/year
- Fall 2006 - 2017   Facilitator, Primary Care Track Didactic session on Hyperlipidemia
- Fall 2009, 2010   Faculty Preceptor, GIM Business of Medicine rotation
- Summer 2015 -   Faculty Preceptor, Primary Care Track Internal Medicine Residents  
 January 2018      --clinic precepting on outpatient block, average 1-2 months/year
- Fall 2016 -        --continuity clinic precepting of two residents at clinic site, average one  
 January 2018      session/month

**BIBLIOGRAPHY:****Journal Articles:**Original Articles:

1. Bibeau, C.E. and Morrow, P.L. 1997. Drug related deaths in Vermont, 1992-1996. *Medical Examiner Issues* 8 (1-2): 2-8.
2. Bibeau, C.E., Tobet, S.A., Anthony, E.L.P., Carroll, R.S., Baum, M.J., and King, J.C. 1991. Vagino-cervical stimulation of ferrets induces release of luteinizing hormone-releasing hormone. *J. Neuroendocrinology* 3: 29-36.

**Abstracts:**Presented at National Meetings:

1. King, J.C., Tobet, S.A., Anthony, E.L.P., Bibeau, C.E., Carroll, R.S., and Baum, M.J. Dynamic changes in the LHRH neuronal system following vagino-cervical stimulation of the female ferret. Abstract presented at the 70th Annual Meeting of The Endocrine Society, New Orleans, LA, June 1988.

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

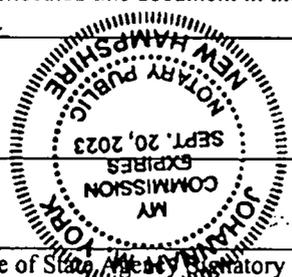
**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Peter Bradley, MD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$177,408.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature <i>Peter S Bradley MD</i>		1.12 Name and Title of Contractor Signatory <i>PETER S. BRADLEY MD</i>	
1.13 Acknowledgement: State of <i>New Hampshire</i> County of <i>Merrimack</i> On <i>5/22/19</i> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <i>Johannah M York</i> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <i>Johannah M York</i>			
1.14 State Agency Signature <i>Frank Edelblut</i> Date: <i>6-7-19</i>		1.15 Name and Title of State Agency Signatory <i>Frank Edelblut, Commissioner</i>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Karinne A Brooks</i> Director, On: <i>6/10/2019</i>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>[Signature]</i> <i>RICHARD SARA</i> On: <i>6/7/2019</i>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			



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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

PPB

Date

5/22/19

**Appendix B**  
**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$77.00	\$88,704	\$88,704

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$177,408

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$88,704	\$88,704

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials PSM  
Date 5/22/19

**Appendix C**  
**Terms and Conditions**

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

**Conflicts of Interest**

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

**Insurance**

Insurance as referenced in #14 is waived.

**Termination**

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

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

Contractor Initials PHS  
Date 5/22/19

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials PyB

Date 5/22/19

### Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

### Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials PKB

Date 5/22/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials PHB

Date 5/22/19

Exhibit F  
Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sflllin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

AMB

Date

5/12/19

## Exhibit H

### Termination

#### a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

#### b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

#### c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials POB

Date 8/22/19

### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials PMB

Date 5/22/19

## CURRICULUM VITAE PETER S. BRADLEY MD

### PROFESSIONAL EXPERIENCE

Disability Determination Consultant NH Medicaid	2011-2019
Emergency Medicine Physician:	
Parkland Medical Ctr., Derry, NH	2003-2005
Elliott Hospital, Manchester, NH	1992-2003
Catholic Medical Ctr., Manchester, NH	1994-2003
Wentworth-Douglass Hospital, Dover, NH	1975-1991
Family Practice Physician:	
Eisenhower Army Medical Ctr., Fort Gordon GA	1973-1975

### MEDICAL TRAINING

Family Practice Residency	
Moses Cone Memorial Hospital, Greensboro, NC	1971-1973

### EDUCATION

MD, Boston University School of Medicine	1967-1971
BA, University of Massachusetts, Amherst, MA	1963-1967
Marist College, Framingham MA	1962-1964

DIPLOMAT: American Board of Emergency Medicine	1990-2009
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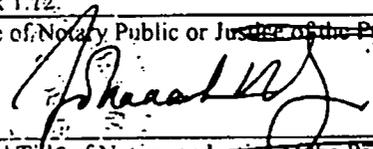
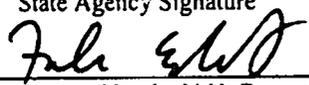
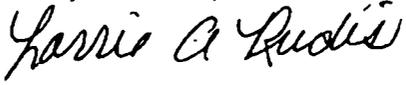
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**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 Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Diana Dorsey, MD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$198,720.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory DIANA DORSEY MD	
1.13 Acknowledgement: State of <del>New Hampshire</del> County of <del>Merrimack</del> On <u>5/31/19</u> , before the undersigned officer, personally appeared the person indicated in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that she executed this agreement in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace Johanniah M York			
1.14 State Agency Signature  Date: <u>6-7-19</u>		1.15 Name and Title of State Agency Signatory Frank Edelblut Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: <u>6-10-19</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Ricardo SAVA On: <u>6/7/2019</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.

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

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Date

5/31/19

**Appendix B**  
**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$90.00	\$99,360	\$99,360

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$198,720

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$99,360	\$99,360

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials DR  
Date 5/31/19

## Appendix C

### Terms and Conditions

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

### Conflicts of Interest

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

### Insurance

Insurance as referenced in #14 is waived.

### Termination

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

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

Contractor Initials

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Date

5/31/19

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials

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Date

5/31/19

### Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

### Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

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Date

5/31/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

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Date

5/31/19

Exhibit F  
Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

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Date

5/31/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

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Date

5/31/19

### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials

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Date

5/31/19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

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Date

5/31/19

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

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Jonathan Jaffe, MD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$184,052.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature [Signature]		1.12 Name and Title of Contractor Signatory Jonathan H. Jaffe MD	
1.13 Acknowledgement: State of <u>New Hampshire</u> County of <u>Rockingham</u> On <u>5/21/19</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 [Signature]			
1.13.2 Name and Title of Notary or Justice of the Peace Johannah M. York			
1.14 State Agency Signature [Signature] Date: <u>6-7-19</u>		1.15 Name and Title of State Agency Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Karin A. Rudis</u> Director, On: <u>6-10-2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>[Signature]</u> <u>Richard Sava</u> On: <u>6/7/2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			



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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

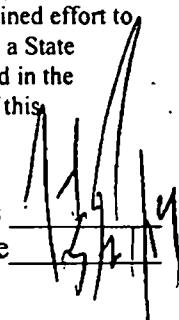
**7. PERSONNEL.**

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

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

Contractor Initials

Date

Handwritten signature and date in black ink. The signature is stylized and appears to be 'M. J. ...'. The date is written as '1/24/14'.

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.

*[Handwritten Signature]*  
*[Handwritten Date: 5/21/11]*

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.

Contractor Initials  
Date

J (4)  
5/2/19

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

Date

*A.H.D.*  
*5/21/19*

**Appendix B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$89.00	\$92,026	\$92,026

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$184,052

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$92,026	\$92,026

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials

Date

JHA  
5/21/19

## Appendix C

### Terms and Conditions

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

### Conflicts of Interest

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

### Insurance

Insurance as referenced in #14 is waived.

### Termination

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

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

Contractor Initials

Date

NWA  
5/2/19

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials

AAA

Date

5/21/19

**Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

**Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

Date

MSA  
5/31/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

Date

AFJ  
5/26/18

Exhibit F  
Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials                       
Date 5/21/99

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

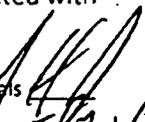
The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information(including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

Date

  
5/22/14

**Ownership of Intellectual Property**

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials

Date

*Handwritten signature*  
*5/1/16*

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

Date

*[Handwritten Signature]*  
*[Handwritten Date: 5/21/19]*

# Jonathan H. Jaffe, MD

---

Phone [REDACTED] ~ Email [REDACTED]

## EDUCATION

### YALE UNIVERSITY

1966-1970

*New Haven, Connecticut*

- B.A.

### UNIVERSITY OF ILLINOIS MEDICAL SCHOOL

1970- 1974

*Chicago, Illinois*

- M.D.

### MACNEAL MEMORIAL HOSPITAL

1974-1977

*Berwyn, Illinois*

- Residency in Family Practice

## PROFESSIONAL EXPERIENCE

### NH DDS

2001-2019

Concord NH

Medical Consultant

- CMC-PPA  
2000-2001  
*Bedford, NH*
- Staff physician in hospital owned practice

### RIVER ROAD FAMILY HEALTH CENTER

1978-2000

*Bedford, NH*

- Private practice, Family Medicine. President and CEO. Started in 1977 as solo practice- by 2000 grew to group practice with 2 MD NP and PA-C. Practice was sold in 2000 . . I was heavily involved in the business aspects of he practice including personnel, contracting with MCO;s, payoll, etc.

### ST. TERESA'S NURSING HOME

1983--1992

*Manchester, NH*

- served as director during time of significant expansion and move to newly built facility.

FAMILY HEALTH AND SOCIAL SERVICE CENTER

1977-1982

*Worcester, Massachusetts*

served as preceptor in family practice residency model office 1 day/week.

STAFF PHYSICIAN

MATTHEW THORNTON HEALTH PLAN

1977

*Nashua, NH*

- staff physician in a closed panel HMO

EMERGENCY ROOM-PART TIME

St Joseph Hospital-Milford NH

1978-1981

MacNeal Memorial Hospital-Berwyn, IL

1975-1977

Morris Hospital-Morris IL

1975-1976

HOSPITAL AFFILIATIONS

Catholic Medical Center-Manchester, NH

1978-2001

Elliot Hospital-Manchester, NH

1978-2001

St Joseph Hospital-Nashua, NH

1977-201

Southern NH regional Medical Center-Nashua, NH

1977-2001

CERTIFICATION

DIPLOMATE, NATIONAL BOARD OF MEDICAL EXAMINERS

1975

CERTIFIED, AMERICAN BOARD OF FAMILY PRACTICE

1977, 1983, 1989, 1995

MISCELLANEOUS EXPERIENCE

TREASURER-NH ACADEMY OF FAMILY PHYSICIANS

1990-1992

CHIEF, DEPARTMENT OF FAMILY PRACTICE and

MEMBER OF THE EXECUTIVE COMMITTEE

CATHOLIC MEDICAL CENTER

1987, 1990, 1991  
*Manchester, NH*

## FACULTY APPOINTMENTS

CLINICAL INSTRUCTOR-DEPT. OF FAMILY PRACTICE  
UNIVERSITY OF ILLINOIS MEDICAL SCHOOL  
1975-1977

ASSOCIATE-DEPT. OF FAMILY AND COMMUNITY MEDICINE  
UNIVERSITY OF MASSACHUSETTS MEDICAL SCHOOL  
1977-1984

ADJUNCT ASSISTANT PROFESSOR-DEPT. OF FAMILY AND  
COMMUNITY MEDICINE  
DARTMOUTH MEDICAL SCHOOL  
1981-1984

CLINICAL ASSISTANT PROFESSOR-DEPT. OF FAMILY MEDICINE AND  
COMMUNITY HEALTH  
TUFTS MEDICAL SCHOOL  
1984-2001

## LICENSE.

NEW HAMPSHIRE #5775  
1977-present

## HONORS/AWARDS

B.A. CUM LAUDE/DEPARTMENTAL HONORS(psychology)  
YALE UNIVERSITY  
1970

USPHS TRAINEE IN CLINICAL PSYCHIATRY  
UNIVERSITY OF ILLINOIS MEDICAL SCHOOL  
1970-1972

FELLOW, AMERICAN ACADEMY OF FAMILY PHYSICIANS  
1980

## ORGANIZATIONS

AMERICAN ACADEMY OF FAMILY PHYSICIANS  
NH ACADEMY OF FAMILY PHYSICIANS

NH MEDICAL SOCIETY

PUBLICATIONS

“GERIATRIC NUTRITIONAL SCREENING FOR A FAMILY PRACTICE CENTER”

AGING AND LEISURE LIVING

DECEMBER, 1978

“CHIEF COMPLAINT OF FATIGUE: A PROSPECTIVE STUDY”

JOURNAL OF FAMILY PRACTICE

JANUARY, 1990

PERSONAL

BIRTHDATE: [REDACTED]

BIRTHPLACE: [REDACTED]

MARRIED

REFERENCES FURNISHED ON REQUEST

- **A copy of my current NH Medical license and completed HSPD 12 forms 1-3 from Appendix D are enclosed.**

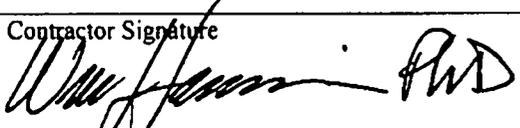
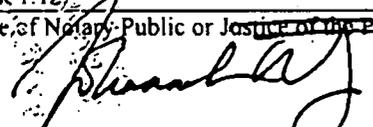
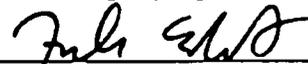
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

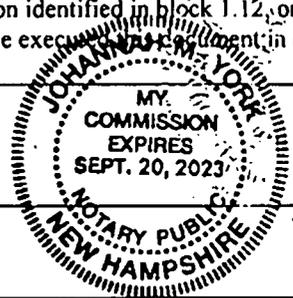
**AGREEMENT**

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 Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name William Jamieson, PhD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$115,920.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory WILLIAM J. JAMIESON, Ph.D.	
1.13 Acknowledgement: State of <u>New Hampshire</u> , County of <u>Merrimack</u> On <u>5/20/19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace Johannah M York			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Harrisie A Rudis</u> Director, On: <u>6-10-19</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Emaris SAVA On: <u>6/17/2019</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.

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

Date

UHF  
5/20/2019

**Appendix B**  
**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$90.00	\$49,680	\$66,240

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$115,920

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$49,680	\$66,240

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials

Date

*WJH*  
5/20/2019

## Appendix C

### Terms and Conditions

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

### Conflicts of Interest

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

### Insurance

Insurance as referenced in #14 is waived.

### Termination

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

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

Contractor Initials

Date

*WJ*  
8/20/2019

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials

Date

*WJ*  
5/20/2019

**Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

**Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

Date

WJH  
5/20/2019

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

Date 5/20/2019

Exhibit F

Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

*YJ*  
5/20/2019

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

Date

*WJF*  
*5/20/2019*

### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials

Date

*WJ*  
*5/20/2019*

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

Date

*WJH*  
*5/22/04*

**WILLIAM J. JAMIESON, Ph.D.**

NH Licensed Psychologist  
Clinical Neuropsychology and Psychology

**CURRICULUM VITAE**

Home Address:

[REDACTED]  
[REDACTED]  
[REDACTED]

Work Address:

[REDACTED]  
[REDACTED]  
[REDACTED]

**EDUCATION**

- 1988-1990 Postdoctoral training in neuropsychology at Boston Neurobehavioral Institute.
- 1968-1974 The University of Michigan, Horace Rackham School of Graduate Studies, Clinical Psychology, Ph.D., 1980.
- 1964-1968 Yale University, Psychology Major, BA , 1968.
- 1960-1964 Sweet Home High School, Amherst, New York.

**ACADEMIC HONORS**

- 1964-1967 Yale University, Dean's List

**RESEARCH TRAINING AND EXPERIENCE**

- 1994-1998 Chairman of Ethical Review Board, Charter Brookside Hospital, Nashua, NH.
- 1980 Paper, "Body Image and Experience in Pregnancy and the Early Puerperium" (doctoral dissertation).
- 1970 Paper, "Relation of Failures in Concrete thought on the Rorschach to Degree of Psychopathology" (unpub., typescript, in fulfillment of pre-candidacy research requirement).
- 1970-1971 Course, Research Strategies in Clinical Psychology
- 1968 Courses, Supervised Research

### **TEACHING EXPERIENCE**

- 1974-1983 Teaching occasional courses at New Hampshire College, New England College and Merrimack Valley College.
- 1972-1974 Teaching childbirth education classes together with my wife, dealing with psychological and physiological aspects of pregnancy, labor and delivery.
- 1971-1974 Teaching fellow for various courses at the University of Michigan.

### **CLINICAL EXPERIENCE**

- 2007- 2013 Geriatric neuropsychological evaluations, Mental Health Center of Greater Manchester (Part-time)
- 1998- Present Private practice- psychotherapy, psychological and neuropsychological evaluation, consultation
- 1995-1998 Part time Private Practice
- 1989-1998 Full- time Psychologist at Northeast Psychiatric Associates; Inpatient and outpatient psychological and neuropsychological evaluations;
- 1986-1989 Half-time Staff Psychologist at Northeast Psychiatric Associates
- 1982-1989 Private Practice
- 1974-1988 Staff Psychologist at Greater Manchester Mental Health Center: primarily engaged in short-term, outpatient psychotherapy and psychological testing (part-time from 1982).
- 1972-1973 Half-time clinical internship at University of Michigan Hospital, Neuropsychiatric Institute.
- 1971-1972 Half-time clinical internship at Ann Arbor VA Hospital, on inpatient, locked psychiatric ward.
- 1969-1971 Half-time clinical internship at the University of Michigan Counseling Center.
- 1968-1969 Course sequence in diagnostic testing at the University of Michigan.

### **CONSULTING AND SUPERVISORY EXPERIENCE**

- 2001- Present Consultant to NH office of Social Security Disability Determination

- 1995 - Present      Consultant to Manchester Police Department and other local departments regarding hiring of new officers, and evaluations of current officers
- 1989-1998          Clinical supervision of various staff at Northeast Psychiatric Associates.
- 1979-1987          Consultation to New Hampshire College counseling personnel.
- 1974 - Present      Diagnostic and treatment consultation on a wide range of psychological, neuropsychological, and rehabilitation questions (e.g.; courts, Vocational Rehabilitation; Disability Determination; Rehabilitation Medicine Unit at Catholic Medical Center; Geropsych Unit at Elliot Hospital; Senior Psychiatric Center at Monadnock Community Hospital)
- 1980-1984          Clinical supervision of staff members at Greater Manchester Mental Health Center.
- 1978-1982          Consultation to Manchester Police Department regarding hiring of new officers.

**LICENSURE**

Licensed Psychologist, State of New Hampshire

**ASSOCIATIONS**

Providers' Council, New Hampshire Brain Injury Association

**PUBLICATIONS**

Armengol, C., Jamieson, W., "Screening Versus Comprehensive Neuropsychological Examinations," in The Consumer-Oriented Neuropsychological Report, Armengol, C., Kaplan, E., and Moes, E.(ed.), PAR Press, 2001.

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

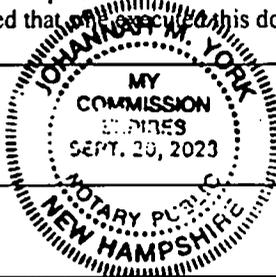
**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Laura Landerman, PhD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$253,800.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature <i>Laura M Landerman Garber</i>		1.12 Name and Title of Contractor Signatory Laura M Landerman Garber PhD	
1.13 Acknowledgement: State of <del>New Hampshire</del> County of <del>Merrimack</del> On <u>5/21/19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] <i>Johannah De York</i>			
1.13.2 Name and Title of Notary or Justice of the Peace Johannah De York			
1.14 State Agency Signature <i>Frank Edelblut</i> Date: <u>6-7-19</u>		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <i>Garric A Rudis</i> Director, On: <u>6/10/19</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>[Signature]</i> <i>CINARIS SALA</i> On: <u>6/7/2019</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

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5/21/15

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

*[Handwritten Signature]*  
8/20/19

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.

Contractor Initials

Date

Handwritten signature and date in black ink.

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

Date

*[Handwritten Signature]*  
5/24/19

**Appendix B**  
**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$90.00	\$126,900	\$126,900

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$253,800

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$126,900	\$126,900

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials YML/6  
Date 2/21/19

## Appendix C

### Terms and Conditions

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

### Conflicts of Interest

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

### Insurance

Insurance as referenced in #14 is waived.

### Termination

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

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

Contractor Initials

Date

  
5/21/19

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials



Date

5/21/19

**Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

**Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

Date

*JNY*  
*5/21/19*

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

Date

YMD 6  
5/21/19

Exhibit F  
Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

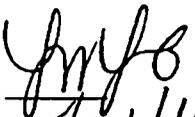
  
5/21/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

Date

*JMYG*  
*5/21/19*

**Ownership of Intellectual Property**

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials

Date

YMYO  
5/21/19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

Date

*JMP*  
5/21/18

*Curriculum Vitae*

**Laura M. Landerman, Ph.D.**

New Hampshire Licensed Psychologist # 478

Date of Birth:  
Place of Birth:  
Contact:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Academic History:**

- 1987      **The Pennsylvania State University**  
University Park, Pennsylvania  
Doctorate in Psychology
- 1983      **University of Pittsburgh**  
Pittsburgh, Pennsylvania  
Master of Psychiatric Social Work
- 1981      **The Pennsylvania State University**  
University Park, Pennsylvania  
Bachelor of Arts with Distinction  
Abnormal and Developmental Psychology

**Clinical and Consulting Training  
and Experience:**

- 2009-present      **New Hampshire Department of Disability Services**  
Concord, New Hampshire
- Psychological consultant providing review of child and adult disability claims on-site; peer mentoring and consultation; liaison and collaboration with mental health and physician providers on-site and across the state
- 2004-present      **Lamora Psychological Associates**  
Nashua, New Hampshire
- Part-time staff psychologist providing out-patient psychotherapy, evaluation and consultation particularly with children, adolescents and families.

**Clinical Training and Experience**  
*continued*

1997-2004

**Slatoff & Ward Psychological Associates**  
Nashua, New Hampshire

Providing direct clinical psychology services as part of a large group mental health practice serving individuals, families, couples and groups; children, adolescents, adults and seniors; Conducting psychometric evaluation with children and adolescents. Senior consultant for eating disorder patients.

1987-1997

**Charter Brookside Hospital/Northeast Psychiatric Associates**  
Nashua, New Hampshire

Professional psychological services emphasizing in- and out-patient brief care and crisis-oriented psychotherapy, multi-disciplinary consultation and standardized projective and intelligence assessments with children, adolescents and families, including:

- 1987-1988 Staff Psychologist, Inpatient Adolescent Unit
- 1988-1990 Coordinator of Psychological Services, Special Treatment Unit, Adolescent Psychiatry (including supervision and peer review; development of the Eating Disorders Unit)
- 1990-1997 Senior Psychologist, Director of Eating Disorders Programs; Senior Psychometrician

1986-1987

**Mount Sinai Hospital**  
**Department of Child and Adolescent Psychiatry**  
Hartford, Connecticut  
APA approved clinical psychology internship

Inpatient adolescent individual and family psychotherapies; Acute Behavioral Crisis team; Child Life Program; Psychological assessment specialty.

**Clinical Training and Experience**  
*continued*

1985-1986

**The Pennsylvania State University  
Center for Counseling and Psychological Services**  
Ritenour Health Center,  
University Park, Pennsylvania

Providing out-patient individual and group psychotherapies, emphasizing behavioral interventions with eating disordered individuals; Intake and diagnostic interviewing; Community out-reach and consultative services.

1984-1986

**The Psychological Clinic  
Centre County Base Service Unit**  
The Pennsylvania State University,  
University Park, Pennsylvania

Eating Disorder service consultant; Psychotherapist providing out-patient individual interventions emphasizing treatment of eating disorders

1983-1986

**College of Educational Counseling Services  
The Pennsylvania State University, University Park, Pennsylvania**

- Intake Coordinator/Staff Supervisor
- Ritenour Health Center, The Pennsylvania State University: Advanced practica in clinical psychology
- College Education Counseling Services: Advanced practica in clinical psychology including vocational assessment

1982-1983

**Center for Counseling Services, University of Pittsburgh  
Pittsburgh, Pennsylvania**

Outpatient psychotherapist (individual and group); Liaison, Office of Residence Life; Consultant, campus eating disorder services

**Clinical Training and Experience**  
*continued*

- 1983                   **Western Psychiatric Institute and Clinic**  
**Pittsburgh, Pennsylvania**
- Adolescent and Youth Module  
Psychotherapist, focus on evaluation and treatment of adolescents and families, with specialized treatment module for eating disordered patients. After-care program treatment clinician.
- 1981-1983           **Office of Residence Life, University of Pittsburgh,**  
**Pittsburgh, Pennsylvania**
- Resident Director and Area Coordinator,  
Program development coordinator. Supervisor of Peer Counselor Program.
- 1981                   **Parental Stress Center**  
**Pittsburgh, Pennsylvania**
- Internship in clinical psychology; providing parent training, family crisis and multi-disciplinary team intervention; child abuse/neglect evaluation
- 1978-1981           **Office of Residential Life, The Pennsylvania State University**  
**University Park, Pennsylvania**
- Resident Assistant, Honors Program Assistant, Peer Educator and Counselor, Program Development; Co- Teacher Counselor Education.

## Teaching, Community, Research and Publication Activity:

- 2016-present Founder and Director, *MilitaryHolidayCardChallenge.com*  
Coordinating civic resources across to New Hampshire to collect  
and deliver over 70,000 holiday cards to active duty U.S. military
- 2011 Garber, Benjamin D. Garber and Landerman, Laura M. (2011).  
Muchmore and Jaycox: A Call for Developmentally-Responsive  
Parenting Plans. *New Hampshire Bar Journal*. (see:  
<https://www.nhbar.org/uploads/pdf/BJ-Spring2011-Vol52-No1-Pg54.pdf>)
- 2006 Garber, Benjamin D. & Landerman, L. (Summer, 2006). How should  
the child's voice be heard when parental rights and responsibilities are  
contested? *New Hampshire Bar Journal*. (see  
<https://www.nhbar.org/publications/display-journal-issue.asp?id=334>)
- 2000-Present **Consultant and editor,**  
*HealthyParent.com*
- Consultant to research, development and publication of clinical  
and educational materials in areas of child and family functioning.
- 1997-Present **Community Volunteer**  
Hollis Public Schools (SAU 41),  
Hollis, New Hampshire
- Providing ad hoc support, direction and education in classroom, small  
group orientation, organization and behavior management capacities.  
Fundraising coordinator: Spirit Wear; Hospitality Chair-P.T.S.A.  
Sports Coach Cheerleading, Softball and Tee-ball. Girl Scout  
Leader, Swift Water Council.
- 1993-1997 **Southern New Hampshire HIV/AIDS Task Force**  
Psychology Affiliate/Advisor
- 1988-1989 **"Learning to Grow," Charter Brookside Hospital**  
**Northeast Psychiatric Associates**  
Speaker and consultant, community education series

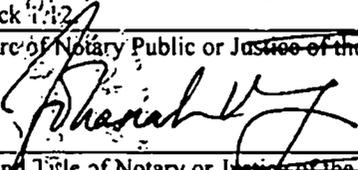
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name John MacEachran, MD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 255 00000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$218,880.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory John H. MacEachran, MD	
1.13 Acknowledgement: State of <u>New Hampshire</u> , County of <u>Merrimack</u> On <u>5/21/19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace Johannah M York			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Garrie A Rudis</u> Director, On: <u>6/10/19</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  <u>Richard Smith</u> On: <u>6/7/2019</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.

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials JH  
Date 5/21/19

**Appendix B**  
**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$95.00	\$109,440	\$109,440

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$218,880

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$109,440	\$109,440

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials JHU  
Date 5/21/19

**Appendix C**  
**Terms and Conditions**

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

**Conflicts of Interest**

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

**Insurance**

Insurance as referenced in #14 is waived.

**Termination**

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

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

Contractor Initials JHM  
Date 5/21/19

Exhibit D  
Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

**Breach**

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**Fraud and False Statements**

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

JH  
Contractor Initials 5/21/19

Date \_\_\_\_\_

**Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

**Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials           

Date 5/21/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

Date

*JM*  
5/21/19

Exhibit F  
Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfllin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

  
5/21/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

JH  
5/21/19

Date \_\_\_\_\_

**Ownership of Intellectual Property**

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials JAN

Date 5/22/19

## Exhibit H

### Termination

#### a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

#### b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

#### c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials JKM

Date 5/21/19

# John H. MacEachran

PHONE [REDACTED] • E-MAIL [REDACTED]

## **EDUCATION**

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June 1977 – June 1980  
Internship/Residency Family Practice  
Milton S. Hershey Center, Penn. State University

June 1974 – June 1977  
Dartmouth Medical School  
• Doctor of Medicine, 1977

June 1966 – May 1970  
Dartmouth College  
• Bachelor of Arts, History

## **PROFESSIONAL EXPERIENCE**

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2010 – Present  
New Hampshire Disability Determination Service  
Medical Consultant , Chief Medical consultant 2014 - Present  
Concord, NH

1980 - 2000  
Staff physician  
Monadnock Community Hospital  
Peterborough NH  
• Family Practice and Emergency Medicine

## **BOARD CERTIFICATION**

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AAFP 1980  
Re-certification 1986, 1992, 1998, 2004

## **LICENSURE**

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New Hampshire Board of Medicine 1980 - present

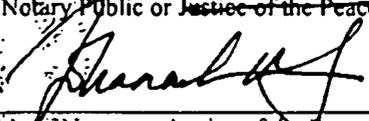
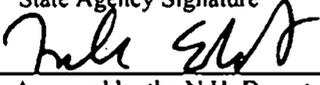
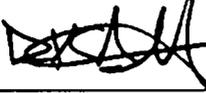
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**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 Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Louis Rosenthal, MD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$149,600.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory LOUIS ROSENTHALL, MD	
1.13 Acknowledgement: State of <u>New Hampshire</u> County of <u>Merrimack</u> On <u>5/20/19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace 			
1.13.2 Name and Title of Notary or Justice of the Peace Johann M York			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Garrie A Rudis</u> Director, On: <u>6/10/2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  <u>RICARDO SANA</u> On: <u>6/7/2019</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

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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.

## Appendix A

### Scope of the Work:

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Apply medical specialty knowledge in evaluation of disability cases for all age ranges.
- Reviews and analyzes medical evidence to determine impairment severity and remaining physical and mental functional capacity.
- Prepares a detailed written medical analysis of the facts of the disability case including the total effect of the impairment(s), including those that are not severe.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology, psychiatry or other specialties.
- Consults with internal and external professionals or contact providers, including physicians and psychologists, to address highly complex issues or to resolve conflicts in evidence.
- May assist in medical training of adjudicative personnel to ensure uniform understanding of instructions containing medical content.
- Attend required training

Medical consultants must maintain a current license in the state of work. Licensure requires continuing education

Contractor Initials  
Date

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5-20-19

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

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Date

5-20-19

**Appendix B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$85.00	\$74,800	\$74,800

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$149,600

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$74,800	\$74,800

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials

CR

Date

5-20-19

## Appendix C

### Terms and Conditions

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

### Conflicts of Interest

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

### Insurance

Insurance as referenced in #14 is waived.

### Termination

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

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

Contractor Initials

CR

Date

5-20-19

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials

LR

Date

5-20-19

**Environmental Protection**

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

**Procurement of Recovered Materials**

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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

Date \_\_\_\_\_

LR

5-20-19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

Date

LR  
5-20-19

Exhibit F

Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sflllin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

LR  
5-20-19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

UR

Date

5-20-19

### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials LR  
Date 5-20-19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

Date

LR  
5-20-19

EDUCATION: PENN STATE, BS 1963 - 1967  
 BOSTON UNIVERSITY, MD 1967 - 1971

INTERNSHIP & RESIDENCY 1971 - 1974  
 MAINE MEDICAL CENTER PORTLAND, MAINE

BOARD CERTIFICATION: FAMILY MEDICINE CERTIFIED 1977  
 RE-CERTIFIED 1983, 1989, 1995, 2001, 2009

PROFESSIONAL ACTIVITY: US ARMY MEDICAL CORPS, ACTIVE DUTY 1974 - 1976  
 FAMILY PRACTICE CONCORD NH FULL TIME 1976 - 2008  
 MEMBER, NH Board of Medicine 2009 - ~~Present~~ 2016  
 CLINICAL PRECEPTOR DARTMOUTH/CONCORD  
 FAMILY PRACTICE RESIDENCY PROGRAM 2009 - ~~Present~~ 2017  
 MEDICAL CONSULTANT, SOCIAL SECURITY  
 DISABILITY DETERMINATION 2009 - Present  
 PER DIEM EMPLOYEE, DARTMOUTH/HITCHCOCK CLINIC  
 OUT-PATIENT CARE 2009 - ~~Present~~ 2013

## MEMBERSHIPS/OFFICES HELD/AWARDS

MEDICAL DIRECTOR NH ODD FELLOWS HOME 1980 - 1995  
 EDUCATIONAL CHAIRMAN, NHAFP 1982 - 1986  
 PRESIDENT, NHAFP 1988 - 1990  
 CHAIRMAN, CREDENTIALS COMMITTEE CONCORD HOSPITAL 1996 - 1998  
 PRESIDENT, CONCORD HOSPITAL MEDICAL STAFF 1998 - 2000  
 MEMBER, LEADERSHIP COUNCIL,  
 DARTMOUTH - HITCHCOCK CLINIC, CONCORD 2001 - 2005  
 MEMBER, AMERICAN ACADEMY of FAMILY PHYSICIANS 1977- Present  
 "TOP DOC" FAMILY MEDICINE VOTED BY PEERS ANNUALLY  
 PUBLISHED IN NH MAGAZINE 2008

LOUIS E. ROSENTHALL, MD

CURRICULUM VITAE

CITIZENSHIP: PRESIDENT COPOCO (CONCORD POOL COOPERATIVE) 1980 - 1982  
LITTLE LEAGUE COACH, CONCORD AMERICAN LITTLE LEAGUE 1988 - 1994  
DEACON SOUTH CONGREGATIONAL CHURCH 2008 - ~~Present~~ 2010  
OVERNIGHT VOLUNTEER HOMELESS SHELTER 2008 - ~~Present~~ 2011  
MEMBER, CONCORD ROTARY CLUB 2010 - PRESENT

FAMILY: MARRIED, [REDACTED] 1972 - Present  
CHILDREN, [REDACTED]

INTERESTS: RUNNING (COMPLETED 11 MARATHONS)  
HIKING (WHITE MTS & GRAND CANYON, TWICE)  
BASEBALL HISTORY & AVID RED SOX FAN  
COIN COLLECTING

REFERENCES: AVAILABLE UPON REQUEST

ADDRESS: LOUIS E. ROSENTHALL

[REDACTED]

[REDACTED]

PHONE: [REDACTED] [REDACTED]

E-mail: [REDACTED]

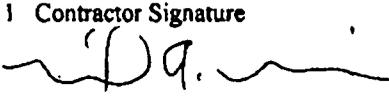
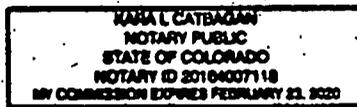
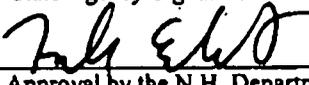
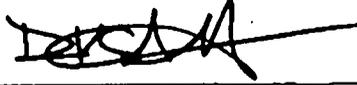
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name Michael Schneider, PsyD.		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$253,800.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Michael A. Schneider Psychological Consultant	
1.13 Acknowledgement: State of Colorado, County of Jefferson On May 22 <sup>nd</sup> , 2019, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 			
1.13.2 Name and Title of Notary or Justice of the Peace Kara L. Cathagan, Notary Public			
1.14 State Agency Signature  Date: 6-7-19		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: 6/10/19			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Ricardo Saura: 6/7/2019			
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.

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials cm do

Date 5/24/19

**Appendix B**  
**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$90.00	\$126,900	\$126,900

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$253,800

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$126,900	\$126,900

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials m. q. dr  
Date 5/22/19

## Appendix C

### Terms and Conditions

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

### Conflicts of Interest

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

### Insurance

Insurance as referenced in #14 is waived.

### Termination

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

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

Contractor Initials M.Q.G.

Date 5/22/19

## Exhibit D

### Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

#### Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials m.d.A.

Date 5/22/19

### Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

### Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials M. D. A.  
Date 5/22/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials M.P.D.

Date 5/22/19

Exhibit F

Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfllin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials max  
Date 5/22/19

## Exhibit G

### Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

#### Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

#### Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

MAA

Date

5/22/19

### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials M.A.S.  
Date 5/22/19

## Exhibit H

### Termination

#### a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

#### b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

#### c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

MAQ

Date

5/22/19

## **Curriculum Vitae**

**Michael A. Schneider, PSY. D.**

### **Professional Experience:**

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

Private Practice  
Claremont, New Hampshire

New Hampshire Hospital  
Consulting Psychologist

Warren D. Fitzgerald and Associates  
Group Practice

### **Education:**

Hahnemann Medical University and Hospital, Philadelphia, Pennsylvania  
Psy.D. Clinical Psychology

Hahnemann Medical University and Hospital, Philadelphia, Pennsylvania  
M.S. Clinical Psychology

Herbert H. Lehman College, Bronx, New York  
B.A. History

### **Certification and Licensure:**

Licensed Psychologist, New Hampshire, #261  
Licensed Psychologist, Colorado #3538

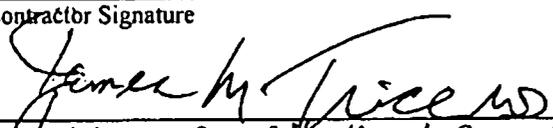
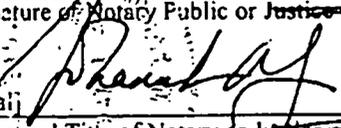
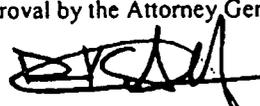
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Education, DDS		1.2 State Agency Address 21 S. Fruit St., Suite 30, Concord, NH 03301	
1.3 Contractor Name James Trice, MD		1.4 Contractor Address [REDACTED]	
1.5 Contractor Phone Number [REDACTED]	1.6 Account Number 25500000-046-500462	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$158,400.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner of Education		1.10 State Agency Telephone Number (603) 271-3495	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory JAMES M TRICE MD	
1.13 Acknowledgement: State of <u>New Hampshire</u> County of <u>Herrnack</u> On <u>5/23/19</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 			
1.13.2 Name and Title of Notary or Justice of the Peace [REDACTED]			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Frank Edelblut, Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Harrie A. Buckle</u> Director, On: <u>6/10/19</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  <u>RICARDO SANA</u> On: <u>6/7/2019</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.

Contractor Initials   JT    
Date   5/23/19

## Appendix A

### Scope of the Work

Per Federal Regulation 20 CFR 404.1620 provides that: "The State will provide...consultant services...sufficient to ensure that disability determinations are made accurately and promptly." In the role of Medical/Psychological Consultant, the contractor shall:

- Demonstrated ability in the application of SSA disability program regulations and possess significant SSA disability program knowledge and experience.
- Assist in the selection of DDS Staff medical or psychological consultants and Consultative Examination Providers. Supervise and assist in the training of staff medical or psychological consultants.
- Conduct qualitative reviews of consultative examination reports and request corrective action from the consultative examination provider as needed.
- Coordinate with the professional Relations Office to conduct routine quality analysis of consultative examination reports in order to ensure exam report standards continue to be met. Provide feedback to consultative providers as necessary.
- Recommends the need for medical tests, evaluations or consultative examinations in the fields of medicine, psychology or other specialties. Acts as ordering physician to obtain hospital testing as required.
- Reviews and analyses medical evidence to determine impairment severity and remaining physical or mental functional capacity for routine, highly complex, or specialized workloads, as defined by the SSA Program Operations Manual.
- May mentor or train examiners in medical or psychological content to ensure uniform understanding in the disability program standards.
- Attend required training

Contractor Initials

Date

JT  
5/23/19

**Appendix B**

**Payment Terms**

In consideration of the services to be performed by the contractor, the State, through the services of Surge Resources, LLC, agrees to pay Contractor, in accordance with the hourly rate payment schedule provided below, commencing on Governor and Council approval through June 30, 2021.

	<u>FY 2020</u>	<u>FY 2021</u>
Hourly Rate = \$90.00	\$79,200	\$79,200

There is not a set amount of scheduled hours.

**Limitation on Price:** This contract will not exceed \$158,400

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

**Source of Funds:**

Funds for this contract is 100% Federal Funds from the account titled Disability Determination Services as follows:

	<u>FY 2020</u>	<u>FY 2021</u>
06-56-56-565010-25500000-046-500462 Consultant	\$79,200	\$79,200

**Method of Payment:**

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

Surge Resources, LLC has been contracted by the Department of Education, Bureau of Disability Determination Services to provide complete payroll services for contracted medical and psychological consultants.

Contractor Initials

*JT*

Date

*5/23/19*

## Appendix C

### Terms and Conditions

1. All obligations of the State, including the continuance of payments under an approved contract shall be contingent upon the availability and continued appropriation of funds. In the event a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate or amend the contract immediately upon giving the contractor notice of such termination or amendment.
2. When delivering services under an approved contract, the contractor shall work under the direct supervision of the DDS Administrator, or their designated representative in coordination with oversight by the Chief Medical or Psychological Consultant.
3. The Contract is subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.
4. Any reduction in available work on a given day, the State may suspend work for the day.
5. The number of hours of work performed weekly is an "as needed" basis.

### Conflicts of Interest

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

### Insurance

Insurance as referenced in #14 is waived.

### Termination

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

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

Contractor Initials

GT

Date

5/33/19

Exhibit D

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address administrative, contractual, or legal remedies in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Contractor Initials

*GT*

Date

*5/23/19*

### Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

### Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

Date

GT  
5/23/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
  2. Does not have a proposed debarment pending;
  3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
  4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials

Date

JH  
5/23/19

Exhibit F

Anti-Lobbying

The Contractor 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, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier SubContractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

JT

Date

5/23/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Contractor Initials

Date 5/23/18

### Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials

GT

Date

5/23/19

## Exhibit H

### Termination

#### a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract. If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages. If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

#### b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

#### c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

Date

JT  
5/23/19

Curriculum Vitae

James M. Trice, MD

Telephone; [REDACTED] Email [REDACTED]

BORN: [REDACTED] Chicago, Illinois

CITIZENSHIP : USA

EDUCATION:

1968-1970 Wagner College  
1970-1972 Richmond College, City University of New York, BS Biology  
1972-1975 School of Medicine, University of Rome, Italy  
1975-1977 George Washington University, School of Medicine, MD

POST GRADUATE TRAINING:

1977-1978 Internship, Internal Medicine, George Washington University  
1978-1980 Residency, Internal Medicine, George Washington University  
1981-1983 Fellowship, Rheumatology, University of Tennessee

BOARD CERTIFICATION:

1997 International Society of Clinical Densitometry, Cert. Densitometrist  
1984 American Board of Internal Medicine, Rheumatology, (Diplomate)  
1980 American Board of Internal Medicine (Diplomate)

CLINICAL ACTIVITIES:

1980-1981 Ambulatory Care, Northern Virginia; Hospitalist, Western Maryland  
1983-2007 Private Practice, Rheumatology/Internal Medicine \*

FACULTY POSITIONS:

1996-2002 Adjunct assistant professor of Medicine, Dartmouth Medical Center  
in the Dartmouth Medical Center/Concord Hospital Family Practice  
Residency Program  
2007-2008 Clinical Instructor in Medicine, Division of Rheumatology, UCLA  
2008-2009 Clinical Assistant Professor of Medicine, UCLA  
2011- 2015 Assistant Professor of Medicine, Fletcher Allen Health Care,  
University of Vermont College of Medicine

**LICENSURE:** 1983-2017 New Hampshire, (6799); California 2007-2019(G88009),  
2011-2016 Vermont, not renewed

**CURRICULUM VITAE**

James M. Trice, MD

**HOSPITAL APPOINTMENTS:**

2011- 2015 Fletcher Allen Health Care, University of Vermont Medical Center  
2007-2009 Ronald Reagan, UCLA Medical Center, Attending Physician  
2007-2009 Santa Monica, UCLA Medical Center, Attending Physician  
1983-2011 Concord Hospital, Attending Physician

**ADMINISTRATIVE ASSIGNMENTS:**

1999 Chairman, Department of Internal Medicine, Concord Hospital

**PROFESSIONAL ORGANIZATIONS:**

1986-1995 Chairman, Board of Directors Arthritis Foundation, NH Chapter

**SOCIETY MEMBERSHIPS:**

1988-present American College of Rheumatology

**HONORS, AWARDS, DISTINCTIONS:**

1986 Founding Fellow, American Rheumatism Association  
1993 Arthritis Foundation Honor for helping to educate patients with  
arthritis;  
1995 Service Award, Arthritis Foundation, NH Chapter  
2009 Highest rated subspecialty Clinic by patients, UCLA  
2009 Recognition for subspecialty care to patients by the department of  
Internal Medicine, Division of Rheumatology

**CLINICAL MILESTONES:**

1983-2007 Very Active Clinical Research Career as a PI in multiple protocols  
1995 First to offer Bone Densitometry by DEXA, Concord, NH  
1997 First in Concord, (second in NH) to be a certified clinical  
densitometrist by the International Society of Clinical Densitometry  
2006 Rheumatology Rounds, UCLA Medical Center; Musculoskeletal  
Manifestations of Acromegaly  
2010 Rheumatology Grand Rounds, Giant Cell Arteritis/Polymyalgia  
Rheumatica, Oregon Health and Sciences University

## **CURRICULUM VITAE**

**James M. Trice, MD**

### **FACULTY POSITION RESPONSIBILITIES UCLA**

2007-2009 Ongoing care/consultations/new patient evaluations in the clinic  
32-36 hours/week in Santa Monica and Westwood  
Inpatient consultations and ongoing care in Santa Monica and  
Westwood, 13-15 weeks/year  
Clinical Instruction second year medical students 4 hours/week from  
October to April  
Resident teaching in the clinic and hospital very often  
Rheumatology Fellow mentoring and teaching in the clinic and hospital  
on almost a daily basis; Fellows continuity clinic once a month  
Didactic lectures to the housestaff 1-2 times per year  
Rheumatology Grand Rounds approximately once a year

### **FACULTY POSITION RESPONSIBILITIES Fletcher Allen/University of Vermont Medical Center**

2011- 2015 Ongoing Care/consultations/new patient evaluations in the ambulatory  
clinic 28-32 hours per week  
Inpatient consultations/care 6-8 weeks per year  
Clinical instruction and didactic teaching of fellows, residents and  
medical students  
Rheumatology Grand Rounds twice a year  
Bone density interpretations and reports  
Clinical Research

### **BIBLIOGRAPHY:**

1. Thrombotic Thrombocytopenic Purpura during Penicillamine Therapy for Rheumatoid Arthritis; James M. Trice, Robert S Pinals and Gerald I Plitman; Archives of Internal Medicine, July 1983, Volume 143, 1487-1488
2. Dimethyl Sulfoxide: A Review of Its Uses in the Rheumatic Diseases; James M. Trice and Robert S.Pinals; Seminars in Arthritis and Rheumatism, August 1984 Volume 15 (1), 45-60
3. Sulfasalazine in Rheumatoid Arthritis; A Double Blind Placebo Controlled Trial; Pinals RS, et al, Arthritis and Rheumatism, 29: 1427-1434, 1984 (Acknowledgement)
4. The Safety and Efficacy Of a JAK Inhibitor in Patients with Active Rheumatoid Arthritis; Joel M. Kremer et al; Arthritis and Rheumatism July 2009, Volume 60 Number 7, 1895-1905 (PI Acknowledgement)
5. Ofatumumab, A Human Anti-CD 20 Monoclonal Antibody for Treatment of Rheumatoid Arthritis with an Inadequate Response to One or More Disease

**Modifying Antirheumatic Drugs; Results of a Randomized, Double-Blind Placebo  
Controlled Phase I/II Study; Ostergard, M et al in Arthritis and Rheumatism  
August 2010, Volume 62, Number 8; 2227-2238 (PI Acknowledgement)**

**\* July 10, 2009 to February 6, 2011 not employed in medicine  
February 7, 2011 to December 11, 2011, medical consultant for Department of  
Disability Services(Social Security), State of New Hampshire ; 32 hours/week  
7/1/2015-12/31/2015 not employed in Medicine  
Current Position:  
01/01/2016-present: Medical consultant DDS 13-20 hours/week**

**May 17, 2019**