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

Lori A. Shabinette
 Commissioner

Patricia M. Tilley
 Director

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

November 24, 2021

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Public Health Services, to amend an existing contract with ClearChoiceMD MSO, LLC (VC#286284), New London, NH, for COVID-19 testing at eight (8) locations across the state, by exercising a contract renewal option by increasing the price limitation by \$20,000,000 from \$8,822,660 to \$28,822,660 and extending the completion date from December 31, 2021 to March 31, 2022, effective December 31, 2021, upon Governor and Council approval. 100% Federal Funds.

The original contract was approved by Governor and Council on October 13, 2021, item #27B.

Funds are available in the following account for State Fiscal Year 2022, with the authority to adjust budget line items within the price limitation through the Budget Office, if needed and justified.

05-95-095-950010-1919 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SERVICES, HHS: OFFICE OF THE COMMISSIONER, COMMISSIONERS OFFICE, COVID19 FEMA DHHS

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2022	103-502664	Contracts for Oper Svc	95010690	\$8,822,660	\$20,000,000	\$28,822,660
			Total	\$8,822,660	\$20,000,000	\$28,822,660

EXPLANATION

The purpose of this request is for the Contractor to continue to run four (4) fixed sites in Manchester, Nashua, Claremont, and Newington and to add four (4) sites in Laconia, Lincoln, Keene, and Berlin/Gorham areas to conduct COVID-19 testing, as directed by the Department. Additional testing capacity will help alleviate the demand on hospitals and healthcare infrastructure related to the current surge of COVID-19 infections and allow hospitals to utilize their staffing for internal surge capacity in the care of patients with COVID-19 infections.

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
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The initial contract for \$8,822,660 is being increased by \$20,000,000 as a result of increased demand as a result of the current surge in cases requiring additional funds to pay for more demand for COVID-19 tests than initially anticipated during the initial three (3) month contract and to allow the expansion of fixed testing sites to additional locations across the state and maintain operations at the initial four (4) test sites.

The fixed sites are open seven (7) days per week, for a minimum of six (6) hours per day. Individuals seeking a COVID-19 test can drive up or walk up to the sites to obtain a test at no charge to the individual or their insurance. The Contractor will continue to provide proper staff, logistics, and supplies to operate the sites. The Contractor will also continue to work with a certified laboratory to conduct the specimen testing.

The population served includes residents statewide. The exact number of New Hampshire residents who will be served will depend on the trajectory of the COVID-19 pandemic.

The Department is monitoring contracted services by reviewing weekly reports on the number of individuals tested.

As referenced in Exhibit A of the original agreement, the parties have the option to extend the agreement for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for three (3) months of the two (2) years available.

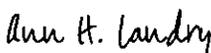
Should the Governor and Council not authorize this request, individuals across the state may have trouble accessing testing services in a timely manner to avoid potentially spreading COVID-19 and there will be increased demand on hospitals for testing while hospitals are coping with a surge in cases.

Area served: Statewide

Source of Federal Funds: Assistance Listing Number #97.036, FAIN 4516DRNHP00000001. This contract is funded by 100% FEMA funds.

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

Respectfully submitted,

DocuSigned by:

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Lori A. Shibinette
Commissioner

**State of New Hampshire
Department of Health and Human Services
Amendment #1**

This Amendment to the COVID-19 Community Testing contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and ClearChoiceMD MSO, LLC ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on October 13, 2021, (Item # 27B), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 17, and Exhibit A, Revisions to Standard Agreement Provisions, Paragraph 1.2, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

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

1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
March 31, 2022
2. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:
\$28,822,660
3. Modify Exhibit B Scope of Services, Section 1 Statement of Work, Subsection 1.1 to read:
 - 1.1. The Contractor shall conduct specimen collection and testing for SARS-CoV-2 at fixed testing sites, where individuals may drive-through and walk-up, seven (7) days per week for a minimum of six (6) hours per day, at locations in New Hampshire, including, but not limited to:
 - 1.1.1. Manchester.
 - 1.1.2. Nashua.
 - 1.1.3. Newington.
 - 1.1.4. Claremont.
 - 1.1.5. Laconia.
 - 1.1.6. Lincoln.
 - 1.1.7. Keene.
 - 1.1.8. Berlin.
 - 1.1.9. Other areas of the state as approved by the Department.
4. Modify Exhibit B Scope of Services by adding Section 1 Statement of Work, Subsection 1.7 to read:
 - 1.7. The Contractor shall ensure that each test site has at least three (3) staff members on duty, which can be re-evaluated based on need and as approved by the Department.
 - 1.7.1. For three (3) staff members, the Contractor shall conduct at least 200 COVID-19 test. For each additional staff member, the Contractor shall complete an additional 50 tests per site.

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- 1.7.2. If an individual appears for a COVID-19 test before 1PM EST, the Contractor shall provide them with a COVID-19 test.
- 1.7.3. If an individual is asymptomatic and appears after 1PM EST for a Covid-19 test, and the site's capacity has been reached based upon the staff levels mentioned in 1.7.1, the Contractor shall refer the individual to their facility or schedule an appointment for the next calendar day at the fixed site.
- 1.7.4. If an individual is symptomatic, then they shall be seen by the Contractor that same day.
- 1.7.5. The Contractor shall collaborate with the Department on the Go Live date for each site, based on availability of staff and logistics.
- 1.7.6. If the Contractor administers under 60 COVID-19 test consistently for two weeks at any individual site, the Contractor shall notify the Department for approval to close the site.

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All terms and conditions of the Contract not modified by this Amendment remain in full force and effect. This Amendment shall be effective December 31, 2021, upon Governor and Council approval.

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

State of New Hampshire
Department of Health and Human Services

12/8/2021

Date

DocuSigned by:
Patricia M. Tilley
8485B38658ED4C8
Name: Patricia M. Tilley
Title: Director

ClearchoiceMD MSO, LLC.

12/8/2021

Date

DocuSigned by:
Joseph E. Sicard
0E70B58EE37743E
Name: Joseph E. Sicard
Title: Director of Ops

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

OFFICE OF THE ATTORNEY GENERAL

12/9/2021

Date

DocuSigned by:
J. Christopher Marshall
DSBD458E80D4403...

Name: J. Christopher Marshall

Title: Assistant Attorney General

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

OFFICE OF THE SECRETARY OF STATE

Date

Name:

Title:

State of New Hampshire

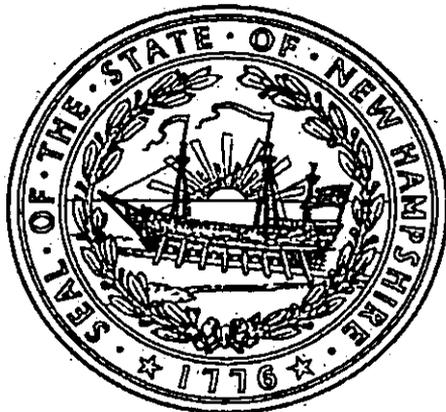
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that CLEARCHOICEMD MSO, LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on August 19, 2013. 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: 696298

Certificate Number: 0005447142



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 23rd day of September A.D. 2021.

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

William M. Gardner
Secretary of State

CERTIFICATE OF AUTHORITY

I, Marcus J. Hampers, hereby certify that:
(Name of the elected Officer of the Corporation/LLC; cannot be contract signatory)

1. I am a duly elected Clerk/Secretary/Officer of ClearChoiceMD MSO LLC
(Corporation/LLC Name)

2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on December 8th, 2021, at which a quorum of the Directors/shareholders were present and voting.
(Date)

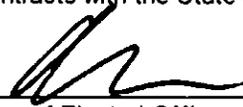
VOTED: That Joseph E. Sicard, MPAS, PA-C (may list more than one person)
(Name and Title of Contract Signatory)

is duly authorized on behalf of ClearChoiceMD MSO LLC to enter into contracts or agreements with the State
(Name of Corporation/ LLC)

of New Hampshire and any of its agencies or departments and further is authorized to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, which may in his/her judgment be desirable or necessary to effect the purpose of this vote.

3. I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract/contract amendment to which this certificate is attached. This authority remains valid for **thirty (30)** days from the date of this Certificate of Authority. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

Dated: 12/8/21


Signature of Elected Officer
Name: Marcus J. Hampers, MD, MBA
Title: President and CMO

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Lori A. Shibanette
Commissioner

Patricia M. Tilley
Director

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

29 HAZEN DRIVE, CONCORD, NH 03301
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September 17, 2021

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Public Health Services, to enter into a **Retroactive Sole Source** contract with ClearChoiceMD MSO, LLC. (VC# 286284), New London, NH, in the amount of \$8,822,660 for COVID-19 testing at four (4) locations across the State, with the option to renew for up to two (2) additional years, effective retroactively to October 1, 2021, upon Governor and Council approval through December 31, 2021. 100% Federal Funds.

Funds are available in the following account for State Fiscal Year 2022, with the authority to adjust budget line items within the price limitation through the Budget Office, if needed and justified.

05-95-095-950010-1919 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SERVICES, HHS: OFFICE OF THE COMMISSIONER, COMMISSIONERS OFFICE, COVID19 FEMA DHHS

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2022	103-502664	Contracts for Oper Svc	95010690	\$8,822,660
			Total	\$8,822,660

EXPLANATION

This request is **Retroactive** because the Department needed to immediately set up testing sites across the State, to alleviate the potential burden on hospitals that is anticipated to occur in the coming weeks. In addition, the Contractor is able to provide a forty-eight (48) hour result turnaround time to individuals who otherwise are unable to obtain COVID-19 tests with timely results as there is a current national shortage of rapid antigen COVID-19 test.

This request is **Sole Source** because the Department, in the interest of the public's health and safety, identified the Contractor as having the capacity to quickly provide COVID-19 testing services across the State at locations the Department identified as high need areas. The Contractor has previously supported the Department's ongoing COVID-19 response by providing similar testing services and therefore has the resources and experience to immediately stand up these testing locations. The Contractor was the only testing provider identified within New Hampshire who had staffing immediately available to perform specimen collection across the

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
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state at multiple test sites, whereas other contractors would have to hire staff away from the healthcare system where staff are needed to care for patients who contract COVID-19 infections.

The purpose of this request is for the Contractor to set up four (4) fixed sites in Manchester, Nashua, Sullivan County, and the Seacoast region to conduct COVID-19 testing, as directed by the Department. The fixed sites will be open seven (7) days per week, for a minimum of six (6) hours per day. Individuals seeking a COVID-19 test can drive up or walk up to the sites to obtain a test at no charge to the individual or their insurance. The Contractor will set up each site and ensure they have the proper staff, logistics, and supplies to operate as directed by the Department. The Contractor will also work with a certified laboratory to conduct the specimen testing.

The population served includes residents statewide. The exact number of residents of the State of New Hampshire who will be served will depend on the trajectory of the COVID-19 pandemic.

The Department is monitoring contracted services by reviewing weekly reports on the number of individuals tested.

As referenced in Exhibit A of the attached agreement, the parties have the option to extend the agreement for up two (2) additional years, contingent upon satisfactory delivery of services, available funding from the Federal Emergency Management Agency or other federal funds, agreement of the parties, and Governor and Council approval.

Should the Governor and Council not authorize this request, individuals across the State may have trouble accessing COVID-19 testing services in a timely manner to avoid potentially spreading COVID-19.

Area served: Statewide

Source of Federal Funds: Assistance Listing Number #97.036, FAIN 4516DRNHP00000001

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

Respectfully submitted,

DocuSigned by:
Ann H. N. Landry
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Lori A. Shibinette
Commissioner

Subject: COVID-19 Community Testing (SS-2022-DPHS-16-COVID-01)

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

AGREEMENT

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

GENERAL PROVISIONS**1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name ClearchoiceMD MSO, LLC.		1.4 Contractor Address 74 Pleasant Street Ste 204 New London, NH	
1.5 Contractor Phone Number (603) 667-0262	1.6 Account Number 05-95-095-950010-1919	1.7 Completion Date December 31, 2021	1.8 Price Limitation \$8,822,660
1.9 Contracting Officer for State Agency Nathan D. White, Director		1.10 State Agency Telephone Number (603) 271-9631	
1.11 Contractor Signature DocuSigned by: <i>Joseph E. Sicard</i> Date: 9/28/2021		1.12 Name and Title of Contractor Signatory Joseph E. Sicard Director of Ops.	
1.13 State Agency Signature DocuSigned by: <i>Patricia M. Tilley</i> Date: 9/29/2021		1.14 Name and Title of State Agency Signatory Patricia M. Tilley Director	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) DocuSigned by: By: <i>J. Christopher Marshall</i> On: 9/29/2021 DS00450E80D4403...			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required; in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

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

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete

compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

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

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

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

6.3 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

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

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

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

Contractor Initials

Date 9/28/2021

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8. EVENT OF DEFAULT/REMEDIES.

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

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

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

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

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

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

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

9. TERMINATION.

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

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

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

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

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

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

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

Contractor Initials

JES

Date 9/28/2021

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

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

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

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

17. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. **CHOICE OF LAW AND FORUM.** This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

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

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

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

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

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

24. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

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

EXHIBIT A

Revisions to Standard Agreement Provisions

1. Revisions to Form P-37, General Provisions

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

3.1. Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire as indicated in block 1.17, this Agreement, and all obligations of the parties hereunder, shall become effective on October 1, 2021 ("Effective Date"), upon Governor and Executive Council approval.

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

3.3. The parties may extend the Agreement for up to two (2) additional year(s) from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

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

12.3. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed and how corrective action shall be managed if the subcontractor's performance is inadequate. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance. The Contractor has identified NorDX as the provider of laboratory services under this Agreement and the State approves the use of [insert legal name]. Contractor may change the provider of laboratory services with the prior written approval of the State.

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



EXHIBIT B

Scope of Services

1. Statement of Work

- 1.1. For the purposes of this agreement, any references to days shall mean calendar days.
- 1.2. The Contractor shall conduct specimen collection and testing for SARS-CoV-2 at fixed testing sites, where individuals may drive-through and walk-up, seven (7) days per week for a minimum of six (6) hours per day, at locations in New Hampshire, including, but not limited to:
 - 1.2.1. Manchester.
 - 1.2.2. Nashua.
 - 1.2.3. Seacoast area of New Hampshire.
 - 1.2.4. Sullivan County.
 - 1.2.5. Other areas of the state as approved by the Department.
- 1.3. The Contractor shall provide all logistical resources at fixed sites as needed to provide the services described herein, including, but not limited to, the following:
 - 1.3.1. Staff.
 - 1.3.2. Test kits.
 - 1.3.3. Personal Protective Equipment (PPE)
 - 1.3.4. Rent, if applicable.
 - 1.3.5. Set-up (including, but not limited to electrical, permits).
 - 1.3.6. Utilities (electrical, internet)
 - 1.3.7. Courier services.
 - 1.3.8. Generators/fuel.
 - 1.3.9. Conex boxes.
 - 1.3.10. Heaters.
 - 1.3.11. Light towers.
 - 1.3.12. Traffic control including cones.
 - 1.3.13. Laptops and printers.
 - 1.3.14. Office supplies, including chairs, tables, utility carts, office supplies, and hand warmers.
 - 1.3.15. Portable toilets.
 - 1.3.16. Sharps disposal and/or waste disposal.

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YES

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



EXHIBIT B

- 1.4. The Contractor shall conduct specimen collection and testing for patients who have symptoms of COVID-19 or who are pre-symptomatic or asymptomatic at the request of the:
 - 1.4.1. Individual being tested; or
 - 1.4.2. Department.
- 1.5. The Contractor shall not require an office or telemedicine visit in order for patients to receive COVID-19 testing.
- 1.6. The Contractor shall not bill or charge the patient, the patient's insurance, or any other third party for the tests, including for specimen collection, supplies, laboratory tests costs, and results notification.
- 1.7. The Contractor shall ensure that each test site shall be capable of conducting at least one hundred and fifty (150) tests for individuals per day.
- 1.8. The Contractor shall determine the appropriate venue and physical location for specimen collection, with approval by the Department.
- 1.9. The Contractor shall request a waiver, if necessary, from the Department's Bureau of Health Facilities Administration for a temporary drive-through location or walk-up facility.
- 1.10. The Contractor shall begin operating the specimen collection sites and conduct testing at each test site within two (2) weeks after receiving approval from the Department for each test site.
- 1.11. The Contractor shall provide one (1) Medical Director to oversee test operations and quality, including serving as the ordering provider for SARS-CoV-2 tests.
- 1.12. The Contractor shall conduct polymerase chain reaction (PCR) tests and utilize a regional high volume laboratory for specimen processing and diagnostic testing.
- 1.13. The Contractor shall conduct all PCR tests within 48 hours or less from the time of specimen collection to the time that patients may access or be notified of the test results.
- 1.14. The Contractor shall ensure the collection, handling, processing and testing of specimens comply with guidelines issued by the Centers for Disease Control and Prevention (CDC), available at <https://www.cdc.gov/coronavirus/2019-nCoV/lab/guidelines-clinical-specimens.html> and by the laboratory used for processing specimens.
- 1.15. The Contractor shall ensure patients provide appropriate consent, prior to collection of specimens, to authorize testing at the laboratory and reporting to the ordering medical provider, the Department, and any other individual or entity designated to receive the test results.

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



EXHIBIT B

- 1.16. The Contractor shall identify any communication access needs to ensure needed language assistance is provided, which may include, but is not limited to:
 - 1.16.1. Over-the-phone interpretation of spoken languages.
 - 1.16.2. Video remote interpretation to access American Sign Language.
- 1.17. The Contractor shall ensure communication and language assistance is provided to individuals, as appropriate and needed, to ensure the validity of any consent by utilizing translated consent forms and/or interpreters.
- 1.18. The Contractor shall ensure all personnel collecting, handling, processing and transporting specimens are trained to safeguard the confidentiality of the patient and protected health information (PHI), as defined in the Health Information Portability and Accountability Act (HIPAA).
- 1.19. The Contractor shall ensure the secure and confidential transporting of specimens to the laboratory.
- 1.20. The Contractor shall ensure the Medical Director and ordering provider for each COVID-19 test is a licensed medical provider in New Hampshire.
- 1.21. The Contractor shall ensure the licensed medical provider ordering COVID-19 tests or COVID designee or the laboratory performing such tests notifies: The Contractor shall ensure:
 - 1.21.1. Patients with positive results confirming the diagnosis of COVID-19 are informed within twenty-four (24) hours of the test result being available from the laboratory:
 - 1.21.1.1. By telephone or other electronic method, OR
 - 1.21.1.2. By first-class U.S. mail, if telephone or other electronic method is unsuccessful
 - 1.21.2. Patients with negative results are informed of test results in a method determined by the Contractor.
- 1.22. The Contractor shall utilize existing communication methods to inform the local community of the availability of outpatient COVID-19 testing, how and when patients can access the services, and the location of the specimen collection site. Communication methods may include, but are not limited to:
 - 1.22.1. The Contractor's website.
 - 1.22.2. Written and verbal outreach to community partners.
 - 1.22.3. Social media platforms.
- 1.23. The Contractor shall ensure any marketing materials abide by existing requirements for communication access, including but not limited to:

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



EXHIBIT B

- 1.23.1. Ensuring vital and significant materials are made available in additional languages, as appropriate, and translated by qualified, competent translation providers, as follows:
 - 1.23.1.1. Statewide, only Spanish meets the criteria for translation.
 - 1.23.1.2. Translation is required for languages depending on factors including the number and proportion of LEP persons served or likely to seek services in the Contractor's service areas, and the frequency with which LEP individuals come into contact with the Contractor's programs, activities and services.
 - 1.23.1.3. Notification on all materials of the availability of free communication access and language assistance for any individuals who may require it.
 - 1.23.1.4. All materials have a phone number to call for further information, ensuring staff answering that phone number shall have access to over-the-phone interpretation to assist callers who need spoken language interpretation.
- 1.24. The Contractor shall provide communication and language assistance at all points of contact in accessing COVID-19 testing to individuals with communication access needs, including individuals with limited English proficiency, or individuals who are deaf or have hearing loss.
- 1.25. The Contractor shall conduct outreach to vulnerable populations and minority populations, including but not limited to notifying partner organizations who work with these populations about the availability of COVID-19 testing.
- 1.26. The Contractor shall ensure all tests results, both positive and negative, are reported to the Division of Public Health Services through the Electronic Laboratory Reporting (ELR) system, or ensure the laboratory used for processing specimens and conducting testing reports both positive and negative results to the Division of Public Health Services through the ELR system.
- 1.27. The Contractors designate laboratory shall report all positive cases of COVID-19 with complete case information within twenty-four (24) hours after the test result is available from the laboratory by fax to (603) 271-0545 to the Division of Public Health Services using the New Hampshire Confidential COVID-19 Case Report Form available at: <https://www.dhhs.nh.gov/dphs/cdcs/covid19/covid19-reporting-form.pdf>.

2. Exhibits Incorporated

- 2.1. The Contractor shall use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information. Yes

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



EXHIBIT B

Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and in accordance with the attached Exhibit I, Business Associate Agreement, which has been executed by the parties.

- 2.2. The Contractor shall comply with all Exhibits D through K, which are attached hereto and incorporated by reference herein.
- 2.3. The Contractor's Use and Responsibilities for Confidential Information are as follows.
 - 2.3.1. The Contractor agrees to use, disclose, maintain, or transmit Confidential Data from Providers as required, specifically authorized, or permitted under the Contract or this Agreement. Further, the Contractor, including but not limited to all its directors, officers, employees, and agents, agrees not to use, disclose, maintain, or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rules. The Contractor shall provide Confidential Information as required by the Contract, RSA 141-C:7, 141-C:9, RSA 141-C:10, and in a form required by He-P 301.03 and the "New Hampshire Local Implementation Guide for Electronic Laboratory Reporting for Communicable Disease and Lead Test Results Using HL7 2.5.1," Version 4.0 (5/23/2016), found at: <https://www.dhhs.nh.gov/dphs/bphsi/documents/elrguide.pdf>.
 - 2.3.2. The Contractor shall transmit Confidential Information to the Division of Public Health Services by means of a secure file transport protocol (sFTP) or secure fax provided by the Department and agreed to by the parties and approved by the Department's Information Security Officer.
 - 2.3.2.1. Any individual seeking credentials to access the sFTP site shall sign and return to the Department a "Data Use and Confidentiality Agreement" (Attachment A) when requesting sFTP account.
 - 2.3.3. The Contractor shall transmit the Confidential Information to the Division of Public Health Services as required by statute and this Agreement, namely:
 - 2.3.3.1. All test results, including but not limited to positive and negative results, shall be reported electronically via electronic laboratory reporting procedures, also referred to as "ELR," as noted above.
 - 2.3.3.2. Test results shall be provided to the patient within 24 hours of after the test being completed at the reference laboratory.
- 2.4. As necessary, the Contractor agrees to comply with any request to correct or complete the data once transmitted to the Division of Public Health Services.

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



EXHIBIT B

- 2.5. The Contractor agrees that the data submitted shall be the "minimum necessary" to carry out the stated use of the data, as defined in the HIPAA Privacy Rule and in accordance with all applicable confidentiality laws.
- 2.6. The parties agree that this Agreement shall be construed in accordance the terms of Contract and governed by the laws of the State of New Hampshire.
- 2.7. The Contractor and the Department agree to negotiate an amendment to this Agreement as needed to address a Contract amendment, or any changes in policy issues, fiscal issues, information security, and other specific safeguards required for maintaining confidentiality of the data.

3. Reporting Requirements

- 3.1. The Contractor shall submit weekly reports of de-identified data to the Department's designated point of contact for fixed site testing regarding operations of COVID-19 testing, including, but not limited to:
 - 3.1.1. Number of persons who received COVID-19 testing per day at each individual test site.
 - 3.1.2. Number of persons who require language assistance.
 - 3.1.3. Number of persons for whom race and/or ethnicity is documented on the specimen collection test requisition form.
 - 3.1.4. Number of positive and negative tests at each site.
 - 3.1.5. Positivity rate and negativity rate by site.
- 3.2. The Contractor shall ensure race and/or ethnicity demographic identifiers for the persons who received COVID-19 testing are collected consistently and correctly, in accordance with best practice standards and processes as provided by the Office of Health Equity, and entered either manually or electronically on the reference laboratory COVID-19 test requisition forms.

4. Additional Terms

4.1. Impacts Resulting from Court Orders or Legislative Changes

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

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

- 4.2.1. The Contractor shall submit within ten (10) days of the contract effective date, and comply with, a detailed description of the communication access and language assistance services they will provide to ensure meaningful access to their programs and services.

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



EXHIBIT B

services to persons with limited English proficiency, people who are deaf or have hearing loss, are blind or have low vision, or who have speech challenges.

4.3. Credits and Copyright Ownership

- 4.3.1. All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement, "The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services."
- 4.3.2. All materials produced or purchased under the contract shall have prior approval from the Department before printing, production, distribution or use.
- 4.3.3. The Department shall retain copyright ownership for any and all original materials produced, including, but not limited to: brochures, resource directories, protocols or guidelines, posters and reports.
- 4.3.4. The Contractor shall not reproduce any materials produced under the contract without prior written approval from the Department.

4.4. Operation of Facilities: Compliance with Laws and Regulations

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

5. Records

5.1. The Contractor shall keep records that include, but are not limited to:

ClearchoiceMD MSO, LLC.

Exhibit B

Contractor Initials

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Date 9/28/2021

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



EXHIBIT B

- 5.1.1. Books, records, documents and other electronic or physical data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor.
- 5.1.2. All records must be maintained in accordance with accounting procedures and practices, which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.
- 5.1.3. Statistical, enrollment, attendance or visit records for each recipient of services, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.
- 5.1.4. Medical records on each patient/recipient of services.
- 5.2. During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts. Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

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**New Hampshire Department of Health and Human Services
COVID-19 Community Testingme of Procurement
EXHIBIT C**

Payment Terms

1. For the purposes of this Agreement:
 - 1.1. The Department has identified the Contractor as a Contractor, in accordance with 2 CFR 200.331.
 - 1.2. The Department has identified this Agreement as NON-R&D, in accordance with 2 CFR §200.332.

Deployment of Fixed Sites

2. Payment for the Scope of Services identified in Exhibit B Scope of Services shall be made as follows:
 - 2.1. One-time payment of \$158,165 per Department-approved fixed testing site, inclusive of all costs to operate the fixed testing site, including, but not limited to, staffing, testing supplies, office supplies, equipment, rent, utilities, and waste disposal.
 - 2.2. Payment of \$150 per COVID-19 test.
3. The Department shall pay for a maximum of fifty-four thousand and six hundred (54,600) tests during the term of this contract.
4. The Contractor shall submit an invoice in a form satisfactory to the Department by the fifteenth (15th) working day of the following month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to Beth.Kelly@dhhs.nh.gov, or invoices may be mailed to:

Financial Manager
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
6. The Department shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available, subject to Paragraph 4 of the General Provisions Form Number P-37 of this Agreement.
7. The final invoice shall be due to the Department no later than forty (40) days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.
8. The Contractor must provide the services in Exhibit B, Scope of Services, in compliance with funding requirements.

DS
YES

**New Hampshire Department of Health and Human Services
COVID-19 Community Testingme of Procurement
EXHIBIT C**

9. The Contractor agrees that funding under this Agreement may be withheld, in whole or in part in the event of non-compliance with the terms and conditions of Exhibit B, Scope of Services.
10. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this agreement may be withheld, in whole or in part, in the event of non-compliance with any Federal or State law, rule or regulation applicable to the services provided, or if the said services or products have not been satisfactorily completed in accordance with the terms and conditions of this agreement.
11. Notwithstanding Paragraph 17 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years and budget class lines through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.
12. Audits
 - 12.1. The Contractor must email an annual audit to melissa.s.morin@dhhs.nh.gov if any of the following conditions exist:
 - 12.1.1. Condition A - The Contractor expended \$750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.
 - 12.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of \$1,000,000 or more.
 - 12.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.
 - 12.2. If Condition A exists, the Contractor shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.
 - 12.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.
 - 12.4. In addition to, and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department all payments made under ^{or} the 

**New Hampshire Department of Health and Human Services
COVID-19 Community Testingme of Procurement
EXHIBIT C**

Contract to which exception has been taken, or which have been disallowed because of such an exception.

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YES

New Hampshire Department of Health and Human Services
Exhibit D



CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

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

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

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

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

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

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

Vendor Initials JES
Date 9/28/2021

New Hampshire Department of Health and Human Services
Exhibit D



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

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

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

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

Vendor Name:

9/28/2021

Date

DocuSigned by:

 Name: Joseph E. Sicard
 Title: Director of Ops

New Hampshire Department of Health and Human Services
Exhibit E



CERTIFICATION REGARDING LOBBYING

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

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

- Programs (indicate applicable program covered):
- *Temporary Assistance to Needy Families under Title IV-A
 - *Child Support Enforcement Program under Title IV-D
 - *Social Services Block Grant Program under Title XX
 - *Medicaid Program under Title XIX
 - *Community Services Block Grant under Title VI
 - *Child Care Development Block Grant under Title IV

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

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

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

Vendor Name:

9/28/2021

Date

DocuSigned by:

 Name: Joseph E. Sicard
 Title: Director of Ops

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New Hampshire Department of Health and Human Services
Exhibit F



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

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

INSTRUCTIONS FOR CERTIFICATION

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

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New Hampshire Department of Health and Human Services
Exhibit F

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

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

PRIMARY COVERED TRANSACTIONS

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

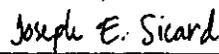
LOWER TIER COVERED TRANSACTIONS

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

Contractor Name:

9/28/2021

Date

DocuSigned by:

 Name: Joseph E. Sicard
 Title: Director of Ops

DS

 Contractor Initials
 Date 9/28/2021

New Hampshire Department of Health and Human Services
Exhibit G



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

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

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

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

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

Exhibit G

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

New Hampshire Department of Health and Human Services
Exhibit G



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

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

- I. By signing and submitting this proposal (contract) the Contractor agrees to comply with the provisions indicated above.

Contractor Name:

9/28/2021

Date

DocuSigned by:
Joseph E. Sicard
Name: Joseph E. Sicard
Title: Director of Ops

Exhibit G

Contractor Initials

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JES

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

New Hampshire Department of Health and Human Services
Exhibit H



CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

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

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

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

Contractor Name:

9/28/2021

Date

DocuSigned by:

Joseph E. Sicard

Name: Joseph E. Sicard

Title: Director of Ops

Contractor Initials DS
JES
Date 9/28/2021



New Hampshire Department of Health and Human Services

Exhibit I

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

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

(1) **Definitions.**

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

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Date 09/29/21

New Hampshire Department of Health and Human Services



Exhibit I

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

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

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
 - I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraphs c, d. below;
 - III. For data aggregation purposes for the health care operations of Covered Entity; or
 - IV. For data aggregation purposes for the health care operations of the Covered Entity."
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party or subcontractor, Business Associate must obtain, prior to making any such disclosure, a business associate agreement with the third party or subcontractor, that complies with HIPAA and ensures that all requirements and restrictions placed on the Business Associate as part of this BAA with the Covered Entity, are included in its business associate agreement with the third party or subcontractor.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit B of the Agreement, disclose any PHI in response to a request demand (subpoena or court order) for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity, can determine how to best protect the PHI. If Covered Entity objects to such disclosure, the Business

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New Hampshire Department of Health and Human Services



Exhibit I

Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies as long as any resulting delay will not violate such law, or court order. if applicable, in any judicial proceeding the Business Associate shall resist any efforts to access any Part 2 records.

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

(3) Obligations and Activities of Business Associate.

- a. Business Associate shall implement appropriate safeguards to prevent unauthorized use or disclosure of PHI in accordance with HIPAA and Part 2, as applicable.
- b. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.
- c. Business Associate shall notify the Covered Entity's Privacy Officer by email at DHHSPrivacyOfficer@dhhs.nh.gov immediately after the Business Associate has determined that any known or suspected privacy or security incident, or Breach has occurred potentially exposing or compromising PHI. This includes inadvertent or accidental uses or disclosures or breaches of unsecured PHI.

Business Associate shall comply with all applicable sections of the Privacy, Security, Breach Notification Rules, the HITECH Act, and any state and federal suspected or known PHI loss obligations and procedures.

- The parties acknowledge and agree that unless notice to the contrary is provided by Covered Entity to Business Associate, this paragraph constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence or attempts of unsuccessful security or privacy incidents for which no additional notice to Covered Entity shall be required.
 - Unsuccessful Security Incidents" means, without limitation, pings and other broadcast attacks on Business Associate's firewalls, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. "
 - Nothing in this BAA shall be interpreted to prohibit Business Associate from making its own, independent report of a Breach to any government regulator.
- d. Business Associate agrees that its internal incident and breach response policies and procedures address and describe how the Business Associate will perform

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Contractor Initials JES

Date 9/28/2021



New Hampshire Department of Health and Human Services

Exhibit I

the following:

- Identify incident/breaches/establish notification method and timing;
- Determine if protected health information is involved in incidents;
- Report suspected or confirmed incidents to the Covered Entity as required in the BAA;
- Draft a preliminary risk assessment report within 24 hours of notification of the Covered Entity; Investigate and mitigate the incident/breach;
- Draft a final incident response report and mitigation plan; and
- Communicate the risk assessment, report and mitigation plan as required by the BAA.

Business Associate agrees that within 24 hours of receipt of a "NH DHHS Contractor Security Incident Risk Assessment Report" (Report") from Covered Entity, Business Associate shall complete Report based on information available at the time, and return it to Covered Entity at DHHSPrivacyOfficer@dhhs.nh.gov; and DHHSInfoSecurityOffice@dhhs.nh.gov;

Business Associate agrees to identify and convene a core incident/breach response group to determine the risk level of the incident/breach and determine risk-based responses to incident/breach and mitigation measures;

Business Associate agrees that promptly following the conclusion of Business Associate's Incident/Breach response investigation, Business Associate agrees to provide a final written incident response report and mitigation plan to the Covered Entity's Information Security Officer at DHHSInfoSecurityOffice@dhhs.nh.gov; and

To the extent required by law, to address and report incidents and/or Breaches according to the HIPAA Breach Notification Rule, the Federal Trade Commission's Health Breach Notification Rule 16 CFR Part 318, and as applicable relating to personal information (PI), in accordance with NH RSA 359-C:20, and the Agreement; and

To Communicate all legal notifications required as a result of a breach or suspected breach of PHI, pursuant to the BAA and the Agreement to ensure notifications are coordinated with the Covered Entity.

The Business Associate shall ensure that any subcontractors used by the Business Associate shall similarly notify the Covered Entity of a breach or suspected breach immediately upon discovery, shall make a full disclosure, including providing the Covered Entity with all available information, and shall cooperate fully with the Covered Entity as defined above.

- e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including

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9/28/2021

Date

New Hampshire Department of Health and Human Services



Exhibit I

the duty to return or destroy the PHI as provided under Section 3 (M).

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

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Date 9/28/2021

New Hampshire Department of Health and Human Services



Exhibit I

(4) Obligations of Covered Entity

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

(5) Termination for Cause

In addition to Paragraph 9 of the standard terms and conditions (P-37) of the Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule and to a Section of 42 CFR Part 2 or other applicable federal or state law means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity r "Security Rule" insert ", 42 CFR Part 2, and to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement and the Business Associate Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.
- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any

3/2014

Contractor Initials

JES

9/28/2021

Date



New Hampshire Department of Health and Human Services

Exhibit I

person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.

- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) l, the defense and indemnification provisions of section (3) e and Paragraph 13 of the General Provisions of the Agreement (P-37), shall survive the termination of the Agreement.

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

<p>Department of Health and Human Services</p> <p>The State of New Hampshire <i>Patricia M. Tilley</i> <small>MA2832818FED1CA</small></p> <p>Signature of Authorized Representative Patricia M. Tilley</p> <p>Name of Authorized Representative Director</p> <p>Title of Authorized Representative 9/29/2021</p> <p>Date</p>	<p>ClearChoiceMD</p> <p>Name of the Contractor <i>Joseph E. Sicard</i> <small>05100548E377A3E</small></p> <p>Signature of Authorized Representative Joseph E. Sicard</p> <p>Name of Authorized Representative Director of Ops</p> <p>Title of Authorized Representative 9/28/2021</p> <p>Date</p>
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New Hampshire Department of Health and Human Services
Exhibit J



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

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

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

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

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

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

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

Contractor Name:

9/28/2021

Date

DocuSigned by:

Joseph E. Sicard

Name: Joseph E. Sicard

Title: Director of Ops

JES

Contractor Initials

Date 9/28/2021

New Hampshire Department of Health and Human Services
Exhibit J



FORM A

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

- The DUNS number for your entity is: 005306298
- In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

NO YES

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

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

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

NO YES

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

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

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

Name: _____	Amount: _____

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



A. Definitions

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

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

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

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

JES

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



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

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

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

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

Contractor Initials JES

Date 9/28/2021

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



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

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

II. METHODS OF SECURE TRANSMISSION OF DATA

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

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



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

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

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

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

A. Retention

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

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



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

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

B. Disposition

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

IV. PROCEDURES FOR SECURITY

- A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:
 1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
 2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).

New Hampshire Department of Health and Human Services
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DHHS Information Security Requirements



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

New Hampshire Department of Health and Human Services
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the breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

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

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



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

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

V. LOSS REPORTING

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

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

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

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



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

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

VI. PERSONS TO CONTACT

A. DHHS Privacy Officer:

DHHSPrivacyOfficer@dhhs.nh.gov

B. DHHS Security Officer:

DHHSInformationSecurityOffice@dhhs.nh.gov

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 CLEARCHOICEMD MSO, LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on August 19, 2013. 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: 696298

Certificate Number: 0005447142



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 23rd day of September A.D. 2021.

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

William M. Gardner
Secretary of State

CERTIFICATE OF AUTHORITY

I, Marcus J. Hampers, hereby certify that:
(Name of the elected Officer of the Corporation/LLC; cannot be contract signatory)

1. I am a duly elected Clerk/Secretary/Officer of ClearChoiceMD MSO LLC
(Corporation/LLC Name)

2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on September 28th, 2021, at which a quorum of the Directors/shareholders were present and voting.
(Date)

VOTED: That Joseph E. Sicard, MPAS, PA-C (may list more than one person)
(Name and Title of Contract Signatory)

is duly authorized on behalf of ClearChoiceMD MSO LLC to enter into contracts or agreements with the State
(Name of Corporation/ LLC)

of New Hampshire and any of its agencies or departments and further is authorized to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, which may in his/her judgment be desirable or necessary to effect the purpose of this vote.

3. I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract/contract amendment to which this certificate is attached. This authority remains valid for thirty (30) days from the date of this Certificate of Authority. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

Dated: 9/28/21


Signature of Elected Officer
Name: Marcus J. Hampers, MD, MBA
Title: President and CMO

CLEACHO-01

MKAVANAGH



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/28/2021

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 Hickok & Boardman Insurance Group 346 Shelburne Rd Burlington, VT 05401	CONTACT NAME: Melissa Kavanagh PHONE (AC, Ho, Ext): (802) 383-1621 FAX (AC, No): (802) 658-0541 EMAIL ADDRESS: mkavanagh@hbinsurance.com													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Travelers Casualty Insurance Company of America</td> <td>31194</td> </tr> <tr> <td>INSURER B: Travelers Property Casualty Co of America</td> <td>25674</td> </tr> <tr> <td>INSURER C: Travelers Indemnity Co of Connecticut</td> <td>25682</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Travelers Casualty Insurance Company of America	31194	INSURER B: Travelers Property Casualty Co of America	25674	INSURER C: Travelers Indemnity Co of Connecticut	25682	INSURER D:		INSURER E:		INSURER F:
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INSURER E:														
INSURER F:														
INSURED ClearChoiceMD MSO, LLC 74 Pleasant St. Suite 204 New London, NH 03257														

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADOL INSR	SUBR LWRD	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"/> PROJE CT <input type="checkbox"/> LOC OTHER:			680-4S411299-21-42	5/28/2021	5/28/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ 300,000 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	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			680-4S411299-21-42	5/28/2021	5/28/2022	COMBINED SINGLE LIMIT (EA ACCIDENT) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS 5,000			CUP4S430634	5/28/2021	5/28/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N	UB4S413963	5/28/2021	5/28/2022	<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

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

CERTIFICATE HOLDER **CANCELLATION**

State of NH, Department of Health and Human Services 129 Pleasant Street Concord, NH 03301-3857	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
---	---