

ARC  
19



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

Lori A. Weaver  
Interim Commissioner

Patricia M. Tilley  
Director

29 HAZEN DRIVE, CONCORD, NH 03301-3857  
603-271-4501 1-800-852-3345 Ext. 4501  
Fax: 603-271-4827 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

December 19, 2022

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** amendment to an existing contract with Qualtrax, Inc. (VC#225887), Blacksburg, VA to continue providing support and maintenance of a cloud hosted, compliance and document management software, by exercising a renewal option by increasing the price limitation by \$81,326 from \$51,099 to \$132,425 and by extending the completion date from December 31, 2022 to December 31, 2027, effective upon Governor and Council approval. 100% General Funds.

The original contract was approved by Governor and Council on May 15, 2019, item #10.

Funds are available in the following account for State Fiscal Year 2023, and are anticipated to be available in State Fiscal Years 2024, 2025, 2026 and 2027, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

**05-95-90-903010-79660000 HEALTH AND SOCIAL SERVICES, DEPT. OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF LABORATORY SERVICES, PUBLIC HEALTH LABORATORIES**

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2019	024-500230	Maintenance other than buildings-general	90059000	\$10,220	\$0	\$10,220
2020	038-500177	Software License/Maintenance	90059000	\$10,220	\$0	\$10,220
2021	038-500177	Software License/Maintenance	90059000	\$10,220	\$0	\$10,220

2022	038-500177	Software License/ Maintenance	90059000	\$10,219	\$0	\$10,219
2023	038-500177	Software License/ Maintenance	90059000	\$10,220	\$6,347	\$16,567
2024	038-500177	Software License/ Maintenance	90059000	\$0	\$17,396	\$17,396
2025	038-500177	Software License/ Maintenance	90059000	\$0	\$18,266	\$18,266
2026	038-500177	Software License/ Maintenance	90059000	\$0	\$19,179	\$19,179
2027	038-500177	Software License/ Maintenance	90059000	\$0	\$20,138	\$20,138
			<b>Total</b>	<b>\$51,099</b>	<b>\$81,326</b>	<b>\$132,425</b>

#### EXPLANATION

This request is **Retroactive** to December 31, 2022 to ensure there is no lapse in services. The Department originally sent this amendment to the Contractor for execution on December 2, 2022, but the amendment execution process took longer than anticipated. This request is **Sole Source** because MOP 150 requires all amendments to agreements previously approved as sole source to be identified as sole source. The Contractor is the only vendor authorized to perform maintenance and support services on its proprietary software.

The purpose of this request is for the Contractor to continue providing support and maintenance for its proprietary software, Qualtrax, utilized by the Department to manage accreditation standards and audit procedural documents. The Contractor has migrated internal software to a cloud hosted solution. The Department is satisfied with the Contractor's performance over the past 7 years. The Contractor facilitates the management of multiple regulatory standards designed to oversee the work performed by The Public Health Laboratories to ensure the integrity of test results and the data generated. Additionally, the Contractor serves as a repository for all documents describing and managing the organization processes and procedures required to perform the laboratory work and supporting activities related to health promotion, statewide.

The Public Health Laboratories serves the citizens and residents of the State by providing accurate and reliable test results and responds to public health incidents, as needed. To be ready and prepared, The Public Health Laboratories maintain all working documents using the Contractor's Qualtrax software. It is the central hub for policies, procedures and visual aids used by the laboratory. In the event of an emergency, the cloud-based software is also accessible by users offsite, and is backed up on a regular basis.

The Department will continue to monitor contracted services through:

- Monthly reports provided by the Contractor containing the number of occurrences and duration of system downtime; and
- Project status reports containing, at a minimum:
  - Project status related to the Contractor's Work Plan;
  - Deliverable statuses;
  - Availability for technical assistance;
  - Accomplishments during the weeks being reported;
  - Future activities; and
  - Issues and concerns requiring resolution.

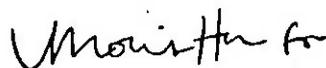
As referenced in in Part 2 - Information Technologies Provisions, Section 2 – Contract Term, of the original agreement, the parties have the option to extend the agreement for up to five (5) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval. The Department is exercising its option to renew services for five (5) of the five (5) years available.

Should the Governor and Council not authorize this request, The Public Health Laboratories' ability to comply with accreditation requirements may be compromised. Additionally, the Department's ability to respond to public health incidents may be negatively impacted.

Area served: Statewide

Source of Funds: 100% General Funds

Respectfully submitted,



Lori A. Weaver  
Interim Commissioner



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**  
27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
[www.nh.gov/doit](http://www.nh.gov/doit)

**Denis Goulet**  
*Commissioner*

January 5, 2023

Lori Weaver, Commissioner  
Department of Health and Human Services  
State of New Hampshire  
29 Hazen Drive  
Concord, NH 03301

Dear Commissioner Weaver:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a retroactive amendment with Qualtrax, Inc., as described below and referenced as DoIT No. 2019-019A.

The purpose of this request is to continue to provide support and maintenance of the proprietary software utilized by to manage accreditation standards and audit procedural documents.

The Price Limitation will increase by \$81,326 and the contract will have a new total Price Limitation of \$132,425, effective upon Governor and Executive Council approval retroactive from January 1, 2023 through December 31, 2027.

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

Sincerely,

A handwritten signature in black ink that reads "Denis Goulet".

Denis Goulet

DG/jd  
DoIT #2019-019A

cc: Mike Williams, IT Manager

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

This Amendment to the Qualtrax Compliance Management Software contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and Qualtrax, Inc. ("the Contractor"), formerly known as Qualtrax Compliance Software.

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on May 15, 2019, (Item #10), 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 18, and the General Terms and Conditions, Subsection 9, Miscellaneous, Subsection 9.6, the Contract may be amended upon written agreement of the parties and approval by the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, and 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 1.3, Contractor Name, to read:  
Qualtrax, Inc.
2. Form P-37 General Provisions, Block 1.7, Completion Date, to read:  
December 31, 2027
3. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:  
\$132,425
4. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:  
Robert W. Moore, Director.
5. Modify Part 2 - Information Technology Provisions, Subsection 2.2., to read:  
2.2. The Contract shall begin on the Effective Date and extend through December 31, 2027.
6. Modify Part 3 - Exhibit B, Price and Payment Schedule, Section 1. Payment Schedule, Subsection 1.1. Not to Exceed, to read:  
1.1. Not to Exceed  
  
This is a Not to Exceed (NTE) Contract for the period between the Effective Date through December 31, 2027. The Contractor shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow the Contractor to invoice the State for the activities, deliverables, or milestones in the price and payment table in 1.2. below.
7. Modify Part 3 - Exhibit B, Price and Payment Schedule, Section 1. Payment Schedule, Subsection 1.2. Activity, Deliverable, or Milestone (table), by deleting (incorrectly numbered) Section 6, Planning and Project Management, and replacing it in its entirety with Section 7, Planning and Project Management, to read:

<b>7 - Planning and Project Management.</b>			
7.1	Pre-installation form set to customer for review	Qualtrax Support Team	Included

7.2	Conduct Project Kickoff Meeting	NH DoIT, DHHS Project Team, Qualtrax Support Team	Included
7.3	Pre-installation Form Completed	NH DoIT Resource	Included
7.4	Backup of Qualtrax database complete and sent to Qualtrax Operational Engineers	NH DoIT	Included
7.5	Data import into a Qualtrax test system	Qualtrax OE	Included
7.6	Testing phase begins-Customer completes the validation checklist	DHHS Project Team	Included
7.7	When testing is complete, a production conversion date is sent	Qualtrax OE	Included
7.8	Update software license key is sent and used for the conversion	Qualtrax OE	Included
7.9	NH DoIT backs up database with current revision and sends to Qualtrax Operational Engineers	NH DoIT	Included
7.10	NH DoIT Quality communicates internally the cut over date/time for the existing system	NH DoIT, DHHS Project Team	Included
7.11	Data is imported into the Qualtrax hosted production system	Qualtrax OE	Included
7.12	If needed, provide refresher training	Qualtrax Product Consultant	Included
7.13	Hosted site is now live with production data	Qualtrax OE, DHHS Project Team	Included
7.14	Conduct Project Exit Meeting	Non-Software	Included
7.15	Hosting, Support & Maintenance Year 1 (5/15/19 – 12/31/19)	Qualtrax OE	\$10,220
7.16	Hosting, Support & Maintenance Year 2 (1/1/20 – 12/31/20)	Qualtrax OE	\$10,220

DS  
*mm*

7.17	Hosting, Support & Maintenance Year 3 (1/1/21 – 12/31/21)	Qualtrax OE	\$10,220
7.18	Hosting, Support & Maintenance Year 4 (1/1/22 – 12/31/22)	Qualtrax OE	\$10,219
7.19	Hosting, Support & Maintenance Year 5 (1/1/23 – 12/31/23)	Qualtrax OE	\$16,567
7.20	Hosting, Support & Maintenance Year 6 (1/1/24 – 12/31/24)	Qualtrax OE	17,396
7.21	Hosting, Support & Maintenance Year 7 (1/1/25 – 12/31/25)	Qualtrax OE	18,266
7.22	Hosting, Support & Maintenance Year 8 (1/1/26 – 12/31/26)	Qualtrax OE	\$19,179
7.23	Hosting, Support & Maintenance Year 9 (1/1/27 – 12/31/27)	Qualtrax OE	\$20,138

All terms and conditions of the Contract not modified by this Amendment remain in full force and effect. This Amendment shall be effective January 1, 2023 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

1/3/2023

Date

DocuSigned by:  
*Patricia M. Tilley*  
Name: Patricia M. Tilley  
Title: Director

Qualtrax, Inc.

1/2/2023

Date

DocuSigned by:  
*Noah Walstrom*  
Name: Noah Walstrom  
Title: General Counsel

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

OFFICE OF THE ATTORNEY GENERAL

1/3/2023

Date

DocuSigned by:  
  
Name: Robyn Guarino  
Title: Attorney

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

OFFICE OF THE SECRETARY OF STATE

Date

Name:  
Title:

# State of New Hampshire

## Department of State

### CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that QUALTRAX, INC. is a Delaware Profit Corporation registered to transact business in New Hampshire on February 28, 2019. 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: 813773

Certificate Number: 0005892507



IN TESTIMONY WHEREOF,  
I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 3rd day of November A.D. 2022.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan  
Secretary of State

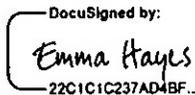
**QUALTRAX INC. – a Delaware registered company**

I, Emma Hayes, hereby certify that I am duly elected Officer of Qualtrax Inc. I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on 20<sup>th</sup> December, 2022, at which a quorum of the Directors/shareholders were present and voting.

**VOTED:** That Noah Walstrom, Legal Counsel is  
duly authorized to enter into contracts or agreements on behalf of  
Qualtrax Inc. with the State of New Hampshire and any of  
its agencies or departments and further is authorized to execute any documents  
which may in his/her judgment be desirable or necessary to effect the purpose  
of this vote.

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 to which this certificate is attached. This authority **remains valid for thirty (30)** days from the date of this Corporate Resolution. 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:** 22/12/2022

**ATTEST:**   
Name: **Emma Hayes**

**Position: Company Officer**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/25/2023

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

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

<b>PRODUCER</b> Arthur J. Gallagher Risk Management Services, LLC 2850 Golf Road Rolling Meadows IL 60008  License#: BR-724491 IDEAINC-05	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 630-773-3800      FAX (A/C, No): 630-285-4006 E-MAIL ADDRESS:	
	<b>INSURER(S) AFFORDING COVERAGE</b> NAIC #	
<b>INSURED</b> Ideagen Inc 105 East Roanoke Street Blacksburg VA 24060	<b>INSURER A:</b> Travelers Casualty and Surety Company      19038	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:** 1761223097      **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	UB1VW89955923NMG	1/1/2023	4/30/2023	<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)  
 Qualtrax Inc is a sister company of Ideagen Inc. Qualtrax has no payroll, employees or insurable interest in regard to a Workers Compensation policy. Therefore, Qualtrax is not a named insured on this policy.

**CERTIFICATE HOLDER****CANCELLATION**

State of New Hampshire Department of Health and Human Services 129 Pleasant Street Concord NH 03301	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	---

© 1988-2015 ACORD CORPORATION. All rights reserved.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/03/2023

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

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

<b>PRODUCER</b> Brown Insurance 100 Hubbard Street Ste A Blacksburg VA 24060-5745		<b>CONTACT NAME:</b> Nancy Via <b>PHONE (A/C, No, Ext):</b> (540) 552-5331 <b>E-MAIL ADDRESS:</b> nvia@LLBrown.net <b>FAX (A/C, No):</b> (540) 552-3321	
<b>INSURED</b> Qualtrax, Inc PO Box 991 Blacksburg VA 24063		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> One Beacon NAIC # 20621 <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

COVERAGES CERTIFICATE NUMBER: 2023-2024 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENTL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			711-01-65-43-0003	01/04/2023	01/04/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			711-01-65-43-0003	01/04/2023	01/04/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			711-01-65-43-0003	01/04/2023	01/04/2024	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

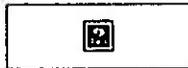
<b>CERTIFICATE HOLDER</b> State of New Hampshire Department of Health and Human Services 129 Pleasant Street Concord NH 03301	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	---

**From:** Anthony Gruttadauria  
**To:** Goodwin, Allison  
**Cc:** Bergquist, Amy; Durgin, Kimberly; Gao, Fengxiang; Brisson, Erica; Stevenson, Michael  
**Subject:** FW: New Hampshire COI (RE: Ideagen Invoice INV3589 Due for Payment - 12.10.2022)  
**Date:** Tuesday, January 24, 2023 4:07:39 PM  
**Attachments:** image.png  
State of New Hampshire certificate holder WC Qualtrax Ideagen.pdf  
Qualtrax W9 - Noah Walstrom.pdf

**EXTERNAL:** Do not open attachments or click on links unless you recognize and trust the sender.

Please see attachments and information below.

Thank you!



**Anthony Gruttadauria**  
Account Manager



LinkedIn



www.ideagen.com

This e-mail has been sent from a PC belonging to Ideagen. Its contents are confidential to the sender and the intended recipient. If you receive it in error, please tell us by return and then delete it from your system; you may not rely on its contents nor copy/disclose it to anyone. Opinions, conclusions and statements of intent in this e-mail are those of the sender and will not bind Ideagen unless confirmed by an authorised representative independently of this message. We do not accept responsibility for viruses; you must scan for these. Please note that e-mails sent to and from Ideagen are routinely monitored for record keeping and quality control, to ensure regulatory compliance and to prevent viruses and unauthorized use of our computer systems.

Ideagen is committed to the environment. Please think before you print.

Ideagen, registered in England No. 2805019  
Registered office, One Mere Way Ruddington Fields Business Park, Ruddington, Nottinghamshire, NG11 6JS.

**From:** Terry Driver  
**Sent:** Tuesday, January 24, 2023 4:00 PM  
**To:** Anthony Gruttadauria  
**Subject:** New Hampshire

Hi Anthony!

Attached is the COI for workman's comp with New Hampshire noted as a Certificate holder.

**Regarding adding Qualtrax to the WC. Below is the explanation from Stephanie with Gallagher:**

Qualtrax is not listed as the insured because there is no payroll associated with the company. Therefore, there is no insurable interest for a WC policy in Qualtrax name.

1. This being said, Stephanie is still working with Travelers to determine if it would be possible to add Qualtrax on the policy.
2. Stephanie has offered to speak with New Hampshire to discuss the above matter. Her

contact information is below.

3. If this could potentially help? Attached is a copy of the Qualtrax W-9. The address on our W-9 is the same as the address on the WC COI of the insured, Ideagen Inc.

**Stephanie Gillum**

Reverse Flow Manager, GGB US Inbound Team

CA License No. 4027161



Insurance | Risk Management | Consulting

[Redacted]

[Redacted]

**Gallagher**

2850 Golf Road, Rolling Meadows, IL 60008

[www.ajg.com](http://www.ajg.com)

Arthur J. Gallagher Risk Management Services LLC.

CA License No. 0D69293

---

**Terry Driver**

**Sales Support Coordinator**



**From:** [Morin, Christine](#)  
**To:** [Noah Walstrom](#)  
**Cc:** [Brisson, Erica](#)  
**Subject:** RE: New Hampshire - Qualtrax COI  
**Date:** Thursday, February 9, 2023 3:14:12 PM

---

[REDACTED]

Christine A. Morin  
Attorney, Bureau of Contracts and Procurement  
NH Department of Health and Human Services  
[REDACTED]

**STATEMENT OF CONFIDENTIALITY**  
*The information contained in this electronic message and any attachment to this message may contain confidential or privileged information and are intended for the exclusive use of the addressee(s). Please notify the sender of this email immediately if you are not the intended recipient and destroy all copies of this electronic message and attachments.*

---

**From:** Noah Walstrom [REDACTED]  
**Sent:** Wednesday, February 1, 2023 4:17 PM  
**To:** Morin, Christine [REDACTED]  
**Subject:** New Hampshire - Qualtrax COI

**EXTERNAL:** Do not open attachments or click on links unless you recognize and trust the sender.

Hello Attorney Morin,

This is Noah Walstrom, legal counsel with Ideagen. I was recently contacted by our Account Manager, Anthony Gruttadauria, who has been working with Erica Brisson on finalizing documents relating to NH's purchase of the Qualtrax product. It is my understanding that the final step is to provide a Certificate of Insurance (COI), that which there have been some complications with, and that which I hope we can figure out.

I have been told that NH is requiring "Qualtrax, Inc." be listed on the COI as an insured entity. I can

assure you that we do have employment-based policies in place with Ideagen, Inc., which serves as a parent company to Qualtrax and employing entity for Ideagen employees in the United States. I believe we provided NH staff with a letter explaining this structure in greater detail. However, our documentation was still deemed to be unacceptable.

Our broker has been working closely with our staff to adapt our policy to suit NH's requirements, but she is incapable of changing our policy or creating a new one to name "Qualtrax, Inc." as an insured entity, as it is not Ideagen's employing entity and has no current or future payroll. I doubt that we are the first company to contract with NH that is structured in this manner, so we are looking for a suggested pathway forward that does not include plainly naming "Qualtrax, Inc" within the COI. If acceptable, we could add a brief description of Ideagen, Inc.'s relationship to Qualtrax within the COI if it would settle this final step. If not, I look forward to any suggestions that you might be able to provide.

Do let me know if you would like to discuss on call. Our broker communicated that she is happy to join in on a discussion if need be. Thank you, and I look forward to hearing from you.

Best,  
Noah

---

Noah Walstrom  
Legal Counsel

[Redacted]

[Redacted]

[Redacted] [www.ideagen.com](http://www.ideagen.com)

[Redacted]

This e-mail has been sent from a PC belonging to Ideagen. Its contents are confidential to the sender and the intended recipient. If you receive it in error, please tell us by return and then delete it from your system; you may not rely on its contents nor copy/disclose it to anyone. Opinions, conclusions and statements of intent in this e-mail are those of the sender and will not bind Ideagen unless confirmed by an authorised representative independently of this message. We do not accept responsibility for viruses; you must scan for these. Please note that e-mails sent to and from Ideagen are routinely monitored for record keeping and quality control, to ensure regulatory compliance and to prevent viruses and unauthorized use of our computer systems.

Ideagen is committed to the environment. Please think before you print.

Ideagen, registered in England No. 2805019  
Registered office, One Mere Way Ruddington Fields Business Park, Ruddington, Nottinghamshire, NG11 6JS.



Jeffrey A. Meyers  
Commissioner

Lisa M. Morris  
Director

10  
mau

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

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

April 2, 2019

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

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, Division of Public Health, to enter into a **sole source** agreement with Qualtrax Compliance Software, Vendor #225887, 105 East Roanoke St., Blacksburg, VA 24060, to provide support and maintenance to cloud hosted compliance and document management software, in an amount not to exceed \$51,099, effective upon date of Governor and Executive Council approval, through December 31, 2022. 100% General Funds.

Funds are available in the following account(s) for State Fiscal Year (SFY) 2019, and are anticipated to be available in SFY 2020, 2021, 2022 and SFY 2023, upon the availability and continued appropriation of funds in the future operating budgets.

**05-95-90-903010-79660000-024-500230-90059000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, Bureau of Laboratory Services, Public Health Laboratories, General Funds**

State Fiscal Year (SFY)	Class/Account	Class Title	Job Number	Total Amount
2019	024-500230	Maintenance other than building-general	90059000	\$10,220
2020	038-500177	Software License/Maint.	90059000	\$10,220
2021	038-500177	Software License/Maint.	90059000	\$10,220
2022	038-500177	Software License/Maint.	90059000	\$10,219
2023	038-500177	Software License/Maint.	90059000	\$10,220
			Total	\$51,099

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

### EXPLANATION

This request is sole source because the vendor is the only entity authorized to provide maintenance and support for their proprietary software.

The purpose of this request is to establish an agreement with Qualtrax Compliance Software for the support and maintenance of their software which manages accreditation standards and audits procedural documents. This agreement will also aid in the migration of the software, from within the Department, to a cloud hosted solution. The laboratory has been using Qualtrax for 4 years and is very satisfied with its performance to meet the needs of the Quality Management System. Qualtrax facilitates the management of multiple regulatory standards designed to oversee the work performed by the laboratory and to ensure the quality of test results and data generated. Qualtrax also serves as a repository to all the documents describing the organization processes and procedures required to carry out the laboratory work and its supporting activities related to the promotion of health around the communities of NH.

As referenced in in Part 2 – Information Technologies Provisions, Section 2. Contract Term of this contract, the Department has the option to extend contract services for up to five (5) additional year(s), contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Executive Council.

Should the Governor and Executive Council not authorize this request, the ability of the Public Health Laboratories to comply with accreditation requirements may be compromised and the ability to protect the public health may be negatively impacted.

Area served: Statewide.

Source of Funds: 100% General Funds, Maintenance other than building-general.

Approved by:



Jeffrey A. Meyers  
Commissioner



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**  
27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
[www.nh.gov/doit](http://www.nh.gov/doit)

**Denis Goulet**  
*Commissioner*

March 18, 2019

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

Dear Commissioner Meyers:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a sole source contract with Qualtrax Compliance Software, of Blacksburg, VA (Vendor #225887) as described below and referenced as DoIT No. 2019-019.

The purpose of this request is to enter into a sole source contract with Qualtrax Compliance Software to provide support and maintenance of the Qualtrax software which manages accreditation standards and audits documents, as they relate to various accreditation agencies and standards. This software is currently in use by the Division of Public Health Services. This agreement will also migrate the existing Qualtrax solution, which is maintained within DHHS to a cloud hosted solution.

The amount of the contract is not to exceed \$51,099.00, and shall become effective upon the date of Governor and Executive Council approval through December 31, 2022.

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

Sincerely,

Denis Goulet

DG/ik/ck  
DoIT #2019-019

cc: Bruce Smith, IT Manager, DoIT

Subject: SS-2019-DPHS-06-QUALT/

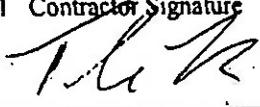
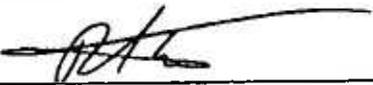
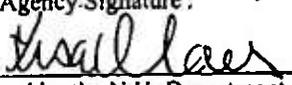
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name NH Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Qualtrax Compliance Software		1.4 Contractor Address 105 E Roanoke St., Blacksburg, VA 24060	
1.5 Contractor Phone Number 800-755-1875	1.6 Account Number 05-095-090-903010-79660000-024-500230-90059000	1.7 Completion Date 12/31/2022	1.8 Price Limitation \$51,099
1.9 Contracting Officer for State Agency Nathan White Director, Bureau of Contracts and Procurement		1.10 State Agency Telephone Number 603-271-9631	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Thomas Haas CFO	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Forsyth</u> On <u>March 21 2019</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity <u>Director</u> of block 1.12.			
Signature of Notary Public or Justice of the Peace 			
Name and Title of Notary or Justice of the Peace David Bethoney, Notary			
1.14 State Agency Signature  Date: <u>4/15/19</u>		1.15 Name and Title of State Agency Signatory LISA MORRIS, DIRECTOR DPHS	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>4/10/2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**TABLE OF CONTENTS**

<b>TERMS AND DEFINITIONS</b> .....	<b>2</b>
<b>1. CONTRACT DOCUMENTS</b> .....	<b>16</b>
<b>2. CONTRACT TERM</b> .....	<b>17</b>
<b>3. COMPENSATION</b> .....	<b>18</b>
<b>4. CONTRACT MANAGEMENT</b> .....	<b>18</b>
<b>5. DELIVERABLES</b> .....	<b>23</b>
<b>6. SOFTWARE</b> .....	<b>25</b>
<b>7. SERVICES</b> .....	<b>25</b>
<b>8. WORK PLAN DELIVERABLE</b> .....	<b>26</b>
<b>9. CHANGE ORDERS</b> .....	<b>27</b>
<b>10. INTELLECTUAL PROPERTY</b> .....	<b>29</b>
<b>11. USE OF STATE'S INFORMATION, CONFIDENTIALITY</b> .....	<b>31</b>
<b>12. LIMITATION OF LIABILITY</b> .....	<b>34</b>
<b>13. TERMINATION</b> .....	<b>35</b>
<b>14. CHANGE OF OWNERSHIP</b> .....	<b>40</b>
<b>15. ASSIGNMENT, DELEGATION AND SUBCONTRACTS</b> .....	<b>40</b>
<b>17. REQUIRED WORK PROCEDURES</b> .....	<b>33</b>
<b>18. SAAS SPECIFIC TERMS AND CONDITIONS</b> .....	<b>36</b>

---

State of NH Contract 2019-019  
Part 2  
Date: 5/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**1. TERMS AND DEFINITIONS**

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

---

State of NH Contract 2019-019  
Part 2  
Date: 5/21/19  
Contractor's Initials: MMY

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance Letter	An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review.
Acceptance Period	The timeframe during which the Acceptance Test is performed
Acceptance Test Plan	The Acceptance Test Plan provided by the Vendor and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables.
Acceptance Test and Review	Tests performed to determine that no Defects exist in the application Software or the System
Access Control	Supports the management of permissions for logging onto a computer or network
Agreement	A contract duly executed and legally binding.
Appendix	Supplementary material that is collected and appended at the back of a document
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system
Authorized Persons	The Contractor's employees, contractors, subcontractors or other agents who need to access the State's personal data to enable the Contractor to perform the services required.
Certification	The Vendor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Vendor has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Change Order	Formal documentation prepared for a proposed change in the Specifications.
Completion Date	End date for the Contract

State of NH Contract 2019-019  
 Part 2  
 Date: 3/21/19   
 Contractor's Initials

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Confidential Information	Information required to be kept Confidential from unauthorized disclosure <i>under the Contract</i>
Contract	This Agreement between the State of New Hampshire and a Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Agreement	Part 1, 2, and 3. The documentation consisting of both the General Provisions and the Exhibits which represents the understanding and acceptance of the reciprocal legal rights and duties of the parties with respect to the Scope of Work
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
Contract Documents	Documents that comprise this Contract (See Contract Agreement, Section 1.1)
Contract Managers	The persons identified by the State and the Vendor who shall be responsible for all contractual authorization and administration of the Contract. These responsibilities shall include but not be limited to processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities. (See Section 4: <i>Contract Management</i> )
Contract Price	The total, not to exceed amount to be paid by the State to the Contractor for product and services described in the Contract Agreement. This amount is listed in the General Provisions Section 1.8 (P-37).
Contractor	The Vendor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.
Contracted Vendor/Vendor	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.

State of NH Contract 2019-019  
 Part 2  
 Date: 3/1/19  
 Contractor's Initials TM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Conversion Test	A test to ensure that a Data conversion process correctly takes Data from a legacy system and successfully converts it to a form that can be used by the new System.
Cure Period	The thirty (30) day period following written notification of a default within which a contracted vendor must cure the default identified.
Custom Code	Code developed by the Vendor specifically for this project for the State of New Hampshire
Custom Software	Software developed by the Vendor specifically for this Project for the State of New Hampshire
Data	State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used /converted by the Vendor during the Contract Term
Data Breach	The unauthorized access by a non-authorized person/s that results in the use, disclosure or theft of a the State's unencrypted non-public data.
DBA	Database Administrator

State of NH Contract 2019-019  
 Part 2  
 Date: 3/21/19   
 Contractor's Initials \_\_\_\_\_

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**

**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

<b>Deficiencies/Defects</b>	<p>A failure, deficiency or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.</p> <p><b>Class A Deficiency – Software</b> - Critical, does not allow System to operate, no work around, demands immediate action; <i>Written Documentation</i> - missing significant portions of information or unintelligible to State; <i>Non Software</i> - Services were inadequate and require re-performance of the Service.</p> <p><b>Class B Deficiency – Software</b> - important, does not stop operation and/or there is a work around and user can perform tasks; <i>Written Documentation</i> - portions of information are missing but not enough to make the document unintelligible; <i>Non Software</i> - Services were deficient, require reworking, but do not require re-performance of the Service.</p> <p><b>Class C Deficiency – Software</b> - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; <i>Written Documentation</i> - minimal changes required and of minor editing nature; <i>Non Software</i> - Services require only minor reworking and do not require re-performance of the Service.</p>
<b>Deliverable</b>	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by the Vendor to the State or under the terms of a Contract requirement.
<b>Department of Information Technology (DoIT)</b>	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
<b>Documentation</b>	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
<b>Digital Signature</b>	Certification that guarantees the unaltered state of a file, also known as "code signing."

State of NH Contract 2019-019  
 Part 2  
 Date: 3/16/19  
 Contractor's Initials:

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract
Encryption	Supports the transformation of data for security purposes
Enhancements	Updates, additions, modifications to, and new releases for the Software, and all changes to the Documentation as a result of Enhancements, including, but not limited to, Enhancements produced by Change Orders
Firm Fixed Price Contract	A Firm-Fixed-Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Vendor's cost experience in performing the Contract
Fully Loaded	Rates are inclusive of all allowable expenses, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users
Implementation	The process for making the System fully operational for processing the Data.
Implementation Plan	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.

State of NH Contract 2019-019  
 Part 2  
 Date: 3/11/19  
 Contractor's Initials

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Input Validation	Ensure that the values entered by users or provided by other applications meets the size, type and format expected. Protecting the application from cross site scripting, SQL injection, buffer overflow, etc.
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Invoking Party	In a dispute, the party believing itself aggrieved.
Key Project Staff	Personnel identified by the State and by the Contractor as essential to work on the Project.
Licensee	The State of New Hampshire
Non Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
Non-Public Information	Data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.
Non-Software Deliverables	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other
Normal Business Hours	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, July 4 <sup>th</sup> , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided
Notice to Proceed (NTP)	The State Contract Manager's written direction to the Vendor to begin work on the Contract on a given date and time

State of NH Contract 2019-019  
 Part 2  
 Date: 12/19  
 Contractor's Initials: PM

**STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software  
 SAAS CONTRACT 2019-019  
 PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Open Data Formats	A data format based on an underlying Open Standard.
Open Source Software	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
Open Standards	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
Operating System	System is fully functional, all Data has been loaded into the System, is available for use by the State in its daily operations.
Operational	The System is operating and fully functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
Order of Precedence	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence
Personal Data	Data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or protected health information (PHI) relating to a person.
Project	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.

State of NH, Contract 2019-019  
 Part 2  
 Date: 3/11/19  
 Contractor's Initials: 

**STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software  
 SAAS CONTRACT 2019-019**

**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

<b>Project Team</b>	The group of State employees and contracted Vendor's personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality
<b>Project Management Plan</b>	A document that describes the processes and methodology to be employed by the Vendor to ensure a successful Project.
<b>Project Managers</b>	The persons identified who shall function as the State's and the Vendor's representative with regard to Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Requests (CR) utilizing the Change Control Procedures (CCP)
<b>Project Staff</b>	State personnel assigned to work with the Vendor on the Project
<b>Proposal</b>	The submission from a Vendor in response to the Request for a Proposal or Statement of Work
<b>Protected Health Information (PHI)</b>	Individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.
<b>Regression Test Plan</b>	A plan integrated into the Work Plan used to ascertain whether fixes to Defects have caused errors elsewhere in the application/process.
<b>Review</b>	The process of reviewing Deliverables for Acceptance
<b>Review Period</b>	The period set for review of a Deliverable. If none is specified then the Review Period is five (5) business days.

State of NH Contract 2019-019  
 Part 2  
 Date: 3/4/19  
 Contractor's Initials: 

**STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software  
 SAAS CONTRACT 2019-019  
 PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

RFP (Request for Proposal)	A Request For Proposal solicits Proposals to satisfy State functional requirements by supplying data processing product and/or Service resources according to specific terms and conditions
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network
Schedule	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract
Security Incident	The potentially unauthorized access by non-authorized persons to personal data or non-public data the Contractor believes could reasonably result in the use, disclosure or theft of a State's unencrypted personal data or non-public data within the possession or control of the Contractor. A security incident may or may not turn into a data breach.
Service Level Agreement (SLA)	A signed agreement between both the State and the Contractor that is subject to the terms and conditions in this document that unless otherwise agreed to includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.
Service	The work or labor to be performed by the Vendor on the Project as described in the Contract.
the Contractor	The vendor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.
Software	All custom Software and COTS Software provided by the Vendor under the Contract

State of NH Contract 2019-019  
 Part 2  
 Date: 3/14/19  
 Contractor's Initials: 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Software-as-a-Service (SaaS)	The capability provided to the State to use the Contractor's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The State does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
Software Deliverables	Software and Enhancements
Software License	Licenses provided to the State under this Contract
Solution	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Contract Specifications. The off-the-shelf Software and configured Software customized for the State -provided by the Vendor in response to this RFP.
Specifications	The written provisions that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.

State of NH Contract 2019-019  
 Part 2  
 Date: 3/15/19  
 Contractor's Initials: *ADW*

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

State	STATE is defined as: State of New Hampshire Department of Health and Human Services 129 Pleasant Street Concord, NH 03301 Reference to the term "State" shall include applicable agencies
Statement of Work (SOW)	A Statement of Work clearly defines the basic requirements and objectives of a Project. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Vendor. The Contract Agreement SOW defines the results that the Vendor remains responsible and accountable for achieving.
State's Confidential Records	State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to <u>RSA Chapter 91-A</u>
State Data	For SaaS applications means all data created or in any way originating with the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Contractor.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1 <sup>st</sup> through June 30 <sup>th</sup> of the following calendar year
State Identified Contact	The person or persons designated in writing by the State to receive security incident or breach notification.

State of NH Contract 2019-019  
 Part 2  
 Date: 5/11/19  
 Contractor's Initials: DM

**STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software  
 SAAS CONTRACT 2019-019  
 PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

State's Project Manager (PM)	State's representative with regard to Project management and technical matters. Agency Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Proposal (CP).
Subcontractor	A person, partnership, or company not in the employment of, or owned by, the Vendor, which is performing Services under this Contract under a separate Contract with or on behalf of the Vendor
System	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
TBD	To Be Determined
Technical Authorization	Direction to a Vendor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the Contract Agreement
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	Period of the Contract from the Effective Date through termination.
Transition Services	Services and support provided when Contractor is supporting System changes.
UAT	User Acceptance Test
Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.

State of NH Contract 2019-019  
 Part 2  
 Date: 3/14/19  
 Contractor's Initials: 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
User Management	Supports the administration of computer, application and network accounts within an organization
Vendor/ Contracted Vendor	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
Verification	Supports the confirmation of authority to enter a computer system, application or network
Walk Through	A step-by-step review of a Specification, usability features or design before it is handed off to the technical team for development
Work Hours	Vendor personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.
Work Plan	The overall plan of activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project as specified in Appendix C. The Work Plan shall include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.
Written Deliverables	Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Vendor either in paper or electronic format.

State of NH Contract 2019-019  
 Part 2  
 Date: 3/2/19   
 Contractor's Initials \_\_\_\_\_

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**INTRODUCTION**

This Contract is by and between the State of New Hampshire, acting through New Hampshire Department of Health and Human Services ("State"), and Qualtrax Compliance Software, a Virginia Corporation, ("Contractor"), having its principal place of business at 105 E Roanoke St., Blacksburg, VA 24060.

Under this Contract, the Contractor shall provide Cloud Hosted Software and Maintenance and Support of Software to the State. Qualtrax is a compliance software that manages accreditation standards and audits documents as they relate to a variety of accreditation agencies and their standards. Various national and international agencies oversee the work done by the laboratory, examples include: FDA, CDC, NELAC, TNI, PHAP and soon ISO 17025. The oversight and management of all regulatory requirements from those entities as well as those outlined by the Quality Management System are made significantly easier by the implementation of the software program.

**RECITALS**

Whereas the State desires to have the Contractor provide a Cloud Hosted Software and Maintenance and Support of Software, and associated Services for the State;

Whereas the Contractor wishes to provide Cloud Hosted Software and Maintenance and Support of Software.

The parties therefore agree as follows:

**1. Contract Documents**

**1.1. CONTRACT DOCUMENTS**

This Contract Agreement (2019-019) is comprised of the following documents:

- A. Part 1 - Form P-37 General Provision
- B. Part 2 - Information Technology Provisions
- C. Part 3 - Exhibits

Exhibit A- Contract Deliverables

Exhibit B- Price and Payment Schedule

Exhibit C- Special Provisions

Exhibit D- Administrative Services

Exhibit E- Implementation Services

---

State of NH/Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials   *jm*

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- Exhibit F- Testing Services
- Exhibit G- Maintenance and Support Services
- Exhibit H- Requirements
- Exhibit I- Work Plan
- Exhibit J- Software Agreement
- Exhibit K- Warranty and Warranty Services
- Exhibit L- Training Services
- Exhibit M- Agency RFP with Addendums, by reference
- Exhibit N- Vendor Proposal, by reference
- Exhibit O- Certificates and Attachments

**D. Part 3 – Attachments**

- Attachment 1 – Exhibit H Business Requirements
- Attachment 2 – DHHS Exhibits

**1.2. ORDER OF PRECEDENCE**

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

- State of New Hampshire, Department of Health and Human Services Contract Agreement 2019-019, including Parts 1, 2, and 3.
- Service Level Agreement – Qualtrax Cloud
- Service Level Agreement – Hosted Qualtrax
- Qualtrax – Terms – Conditions
- New Hampshire Public Health Hosted Conversion 5 year renewal lock 181221
- Move to Hosted Data Guide\_Customer-facing

**2. CONTRACT TERM**

---

State of NH Contract 2019-019  
Part 2  
Date: 3/11/19  
Contractor's Initials:

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**

**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 2.1. The Contract and all obligations of the parties hereunder shall become effective after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council of the State of New Hampshire approval ("Effective Date").
- 2.2. The Contract shall begin on the Effective Date and extend through December 31, 2022. The Term may be renewed for up to five (5) years, ("Extended Term") at the sole option of the State, subject to the parties prior written agreement on applicable fees for each extended term.
- 2.3. The Contractor shall commence work upon issuance of a Notice to Proceed by the State.

**3. Compensation**

**3.1. CONTRACT PRICE**

The Contract Price, Part 1, P37, block 1.8 price limitation, method of payment, and terms of payment are identified and more particularly described in section 5 of P-37 Agreement and Part 3 Contract Exhibit B: *Price and Payment Schedule*.

**3.2. NON-EXCLUSIVE CONTRACT**

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

**4. Contract Management**

The Project will require the coordinated efforts of a Project Team consisting of both the Contractor and State personnel. The Contractor shall provide all necessary resources to perform its obligations under the Contract. The Contractor shall be responsible for managing the Project to its successful completion.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/11/19  
Contractor's Initials: 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**4.1. THE CONTRACTOR'S CONTRACT MANAGER**

The Contractor shall assign a Contract Manager who shall be responsible for all Contract authorization and administration.

The Contractor's Contract Manager is:

Kayla Rux  
105 E. Roanoke Street  
Blacksburg, VA 24060  
Tel: 540-260-9961  
Email: [krux@qualtrax.com](mailto:krux@qualtrax.com)

**4.2. THE CONTRACTOR'S PROJECT MANAGER**

**4.2.1. Contract Project Manager**

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

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 4.2.2. The Contractor's Project Manager must be qualified to perform the obligations required of the position under the Contract, shall have full authority to make binding decisions under the Contract, and shall function as the Contractor's representative for all administrative and management matters. The Contractor's Project Manager shall perform the duties required under the Contract, including, but not limited to, those set forth in Exhibit I, Section 2. The Contractor's Project Manager must be available to promptly respond during Normal Business Hours within two (2) hours to inquiries from the State, and be at the site as needed. The Contractor's Project Manager must work diligently and use his/ her best efforts on the Project.
- 4.2.3. The Contractor shall not change its assignment of the Contractor's Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than of the Contractor's Project Manager being replaced; meet the requirements of the Contract; and be subject to reference and background checks described above in General Provisions, Section 4.2.1: *Contract Project Manager*, and in Contract Agreement General Provisions, Section 4.6: *Reference and Background Checks*, below. The Contractor shall assign a replacement of the Contractor's Project Manager within ten (10) business days of the departure of the prior Contractor's Project Manager, and the Contractor shall continue during the ten (10) business day period to provide competent Project management Services through the assignment of a qualified interim Project Manager.
- 4.2.4. Notwithstanding any other provision of the Contract, the State shall have the option, at its discretion, to terminate the Contract, declare the Contractor in default and pursue its remedies at law and in equity, if the Contractor fails to assign a the Contractor Project Manager meeting the requirements and terms of the Contract.

---

State of NH Contract 2019-019

Part 2

Date: 2/21/19

Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

4.2.5. CONTRACTOR Project Manager is:

Kayla Rux  
105 E. Roanoke Street  
Blacksburg, VA 24060  
Tel: 540-260-9961  
Email: krux@qualtrax.com

4.3. CONTRACTOR KEY PROJECT STAFF

4.3.1. The Contractor shall assign Key Project Staff who meet the requirements of the Contract, and can implement the Software Solution meeting the requirements set forth in RFP Appendix C: System Requirements and Deliverables, Table C.2: System Requirements and Deliverables-Vendor Response Checklist. The State may conduct reference and background checks on the Contractor's Key Project Staff. The State reserves the right to require removal or reassignment of the Contractor's Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with General Provisions Section 4.6: Background Checks.

4.3.2. The Contractor shall not change any of the Contractor's Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Key Project Staff will not be unreasonably withheld. The replacement of the Contractor's Key Project Staff shall have comparable or greater skills than of the Contractor's Key Project Staff being replaced; meet the requirements of the Contract, including but not limited to the requirements set forth in RFP Appendix C: *System Requirements and Deliverables* and be subject to reference and background checks described in Contract Agreement- General Provisions, Section 4.6: *Reference and Background Checks*,

---

State of NH Contract 2019-019  
Part 2  
Date: 3/2/19   
Contractor's Initials \_\_\_\_\_



**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

4.5.8. The State Project Manager is:

J. Trevor Lester  
LIMS Administrator  
Public Health Laboratories  
Division of Public Health Services  
NH Department of Health and Human Services  
29 Hazen Dr.  
Concord, NH 03301  
Tel: 603-271-4617  
Email: jonathan.lester@dhhs.nh.gov

4.6. REFERENCE AND BACKGROUND CHECKS

4.6.1. The Contractor shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The Contractor shall promote and maintain an awareness of the importance of securing the State's information among the Contractor's employees and agents.

4.6.2. The State may, at its sole expense, conduct reference and background screening of the Contracted Vendor Project Manager and the Contractor Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Contract Agreement – General Provisions-Section 11: Use of State's Information, Confidentiality.

**5. DELIVERABLES**

5.1. CONTRACTOR RESPONSIBILITIES

5.1.1. The Contractor shall be solely responsible for meeting all requirements, and terms and conditions specified in this Contract, regardless of whether or not a subcontractor is used.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/20/19  
Contractor's Initials

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

**5.2. DELIVERABLES AND SERVICES**

5.2.1. The Contractor shall provide the State with the Deliverables and Services in accordance with the time frames in the Work Plan for this Contract, and as more particularly described in Contract Exhibit A: *Contract Deliverables*.

**5.3. NON-SOFTWARE AND WRITTEN DELIVERABLES REVIEW AND ACCEPTANCE**

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19 TAM  
Contractor's Initials \_\_\_\_\_

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

5.4. SOFTWARE REVIEW AND ACCEPTANCE

System/Software Testing and Acceptance shall be performed as set forth in the Test Plan and more particularly described in Exhibit F: *Testing Services*.

**6. SOFTWARE**

The Contractor shall provide the State with access to the Software and Documentation set forth in the Contract, and particularly described in Exhibit J: *Software Agreement*.

**7. SERVICES**

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

---

State of NH Contract 2019-019

Part 2

Date:           

Contractor's Initials

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**7.1. ADMINISTRATIVE SERVICES**

The Contractor shall provide the State with the administrative Services set forth in the Contract, and particularly described in Exhibit D: Administrative Services.

**7.2. IMPLEMENTATION SERVICES**

The Contractor shall provide the State with the Implementation Services set forth in the Contract, and particularly described in Exhibit E: Implementation Services.

**7.3. TESTING SERVICES**

The Contractor shall perform testing Services for the State set forth in the Contract, and particularly described in Exhibit F: Testing Services.

**7.4. TRAINING SERVICES**

The Contractor shall provide the State with training Services set forth in the Contract, and particularly described in Exhibit L: Training Services.

**7.5. MAINTENANCE AND SUPPORT SERVICES**

The Contractor shall provide the State with Maintenance and support Services for the Software set forth in the Contract, and particularly described in Exhibit G: System Maintenance and Support.

**7.6. WARRANTY SERVICES**

The Contractor shall provide the State with warranty Services set forth in the Contract, and particularly described in Exhibit K: Warranty & Warranty Services.

**8. WORK PLAN DELIVERABLE**

8.1. The Contractor shall provide the State with a Work Plan that shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment Schedule.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/10/19 jm  
Contractor's Initials jm

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 8.2. The initial Work Plan shall be a separate Deliverable and is set forth in Contract Exhibit I: *Work Plan*. The Contractor shall update the Work Plan as necessary, but no less than every two weeks, to accurately reflect the status of the Project, including without limitation, the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment Schedule. Any such updates to the Work Plan must be approved by the State, in writing, prior to final incorporation into Contract Exhibit I: *Work Plan*. The updated Contract Exhibit I: *Work Plan*, as approved by the State, is incorporated herein by reference.
- 8.3. Unless otherwise agreed in writing by the State, changes to the Contract Exhibit I: *Work Plan* shall not relieve the Contractor from liability to the State for damages resulting from the Contractor's failure to perform its obligations under the Contract, including, without limitation, performance in accordance with the Schedule.
- 8.4. In the event of any delay in the Schedule, the Contractor must immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inactions of the Contractor or the State causing the problem; its estimated duration period to reconciliation; specific actions that need to be taken to correct the problem; and the expected Schedule impact on the Project.
- 8.5. In the event additional time is required by the Contractor to correct Deficiencies, the Schedule shall not change unless previously agreed in writing by the State, except that the Schedule shall automatically extend on a day-to-day basis to the extent that the delay does not result from the Contractor's failure to fulfill its obligations under the Contract. To the extent that the State's execution of its major tasks takes longer than described in the Work Plan, the Schedule shall automatically extend on a day-to-day basis.
- 8.6. Notwithstanding anything to the contrary, the State shall have the option to terminate the Contract for default, at its discretion, if it is dissatisfied with the Vendor's Work Plan or elements within the Work Plan.

**9. CHANGE ORDERS**

---

State of NH Contract 2019-019  
Part 2  
Date 3/21/19   
Contractor's Initials \_\_\_\_\_

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 9.1. The State may make changes or revisions at any time by written Change Order. The State originated changes or revisions shall be approved by the Department of Information Technology. Within five (5) business days of the Contractor's receipt of a Change Order, the Contractor shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan.
- 9.2. The Contractor may request a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, or the Work Plan. The State shall attempt to respond to the Contractor's requested Change Order within five (5) business days. The State Agency, as well as the Department of Information Technology, must approve all Change Orders in writing. The State shall be deemed to have rejected the Change Order if the parties are unable to reach an agreement in writing.
- 9.3. All Change Order requests from the Contractor to the State, and the State acceptance of the Contractor's estimate for a State requested change, will be acknowledged and responded to, either acceptance or rejection, in writing. If accepted, the Change Order(s) shall be subject to the Contract amendment process, as determined to apply by the State.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials: MM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**10. INTELLECTUAL PROPERTY**

**10.1. SOFTWARE TITLE**

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

10.1.2. Upon successful completion and/or termination of the Implementation of the Project, the Contracted Vendor shall own and hold all, title, and rights in any Software modifications developed in connection with performance of obligations under the Contract, or modifications to the Contracted Vendor provided Software, and their associated Documentation including any and all performance enhancing operational plans and the Vendors' special utilities. the Contracted Vendor shall license back to the State the right to produce, publish, or otherwise use such software, source code, object code, modifications, reports, and Documentation developed under the Contract.

10.1.3. In no event shall the Vendor be precluded from developing for itself, or for others, materials that are competitive with, or similar to Custom Software, modifications developed in connection with performance of obligations under the Contract. In addition, the Vendor shall be free to use its general knowledge, skills, experience, and any other ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this agreement.

**10.2. STATE'S DATA AND PROPERTY**

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

10.2.1. All rights, title and interest in State Data shall remain with the State. All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason. The Contractor shall not access State user accounts or State data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the State's written request.

**10.3. CONTRACTOR'S MATERIALS**

10.3.1. Subject to the provisions of this Contract, the Contractor may develop for itself, or for others, materials that are competitive with, or similar to, the Deliverables. In accordance with the provision of this Contract, the Contractor shall not distribute any products containing or disclose any State Confidential Information. The Contractor shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this Contract, provided that such is not obtained as the result of the deliberate memorization of the State Confidential Information by the Contractor employees or third party consultants engaged by the Contractor.

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

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials:

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**10.4. STATE WEBSITE COPYRIGHT**

10.4.1. WWW Copyright and Intellectual Property Rights

10.4.2. All right, title and interest in the State WWW site <NH.GOV., etc.>, including copyright to all Data and information, shall remain with the State. The State shall also retain all right, title and interest in any user interfaces and computer instructions embedded within the WWW pages. All WWW pages and any other Data or information shall, where applicable, display the State's copyright.

**10.5. CUSTOM SOFTWARE SOURCE CODE**

10.5.1. In the event that the State purchases software development services, which results in Custom Software, the Contractor shall provide the State with a copy of the source code for the Custom Software, which shall be subject to the License rights. The State shall receive a worldwide, perpetual, irrevocable, non-exclusive paid -up right and license to use, copy, modify and prepare derivative works of any custom developed software. This section does not apply to the Contractor's proprietary software code.

**10.6. SURVIVAL**

10.6.1. This Contract Agreement Section 10: *Intellectual Property* shall survive the termination of the Contract.

**11. Use of State's information, confidentiality**

**11.1. USE OF STATE'S INFORMATION**

---

State of NH, Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials: DM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

**11.2. STATE CONFIDENTIAL INFORMATION**

11.2.1. The Contractor shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information that becomes available to the Contractor in connection with its performance under the Contract, regardless of its form.

11.2.2. Subject to applicable federal or State laws and regulations, Confidential Information shall not include information which: (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof; (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party; (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party; or (iv) is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

11.2.4. In the event of the unauthorized release of State Confidential Information, the Contractor shall immediately notify the State, and the State may immediately be entitled to pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

**11.3. CONTRACTOR CONFIDENTIAL INFORMATION**

---

State of NH Contract 2019-019  
Part 2  
Date: 9/21/19  
Contractor's Initials pr

**STATE OF NEW HAMPSHIRE  
Department of Health and Human Services  
Qualtrax Compliance Management Software  
SAAS CONTRACT 2019-019**

**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

**11.4. SURVIVAL**

11.4.1. This Contract Agreement Section 11, *Use of State's Information, Confidentiality*, shall survive termination or conclusion of the Contract.

**12. Limitation of Liability**

**12.1. STATE**

---

State of NH, Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to the Contractor shall not exceed the total Contract price set forth in Contract Agreement – General Provisions, Block 1.8.

**12.2. CONTRACTOR**

12.2.1. Subject to applicable laws and regulations, in no event shall the Contractor be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and the Contractor's liability to the State shall not exceed two times (2X) the total Contract price set forth in Contract Agreement – P-37, General Provisions, Block 1.8.

12.2.2. Notwithstanding the foregoing, this limitation of liability shall not apply to the Contractor's indemnification obligations set forth in the Contract Agreement-General Provisions Section 13: *Indemnification* and confidentiality obligations in Contract Agreement-General Provisions Section 11: *Use of State's Information, Confidentiality*, which shall be unlimited.

**12.3. STATE'S IMMUNITY**

Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive termination or Contract conclusion.

**12.4. SURVIVAL:**

This Section 12: *Limitation of Liability* shall survive termination or Contract conclusion.

**13. Termination**

This Section 13 shall survive the termination or Contract Conclusion.

**13.1: TERMINATION FOR DEFAULT**

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

- a. Failure to perform the Services satisfactorily or on schedule;

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials jm

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

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

13.1.1.1. Unless otherwise provided in the Contract, the State shall provide the Contractor written notice of default and require it to be remedied within, in the absence of a greater or lesser specification of time, within thirty (30) days from the date of notice, unless otherwise indicated within by the State ("Cure Period"). If the Contractor fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving the Contractor notice of termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.

13.1.1.2. Give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under the Contract and ordering that the portion of the Contract price which would otherwise accrue to 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.

13.1.1.3. Set off against any other obligations the State may owe to the Vendor any damages the State suffers by reason of any Event of Default;

13.1.1.4. Treat the Contract as breached and pursue any of its remedies at law or in equity, or both.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/11/19  
Contractor's Initials jm

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

13.1.1.5. Procure Services that are the subject of the Contract from another source and the Contractor shall be liable for reimbursing the State for the replacement Services, and all administrative costs directly related to the replacement of the Contract and procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; all of which shall be subject to the limitations of liability set forth in the Contract.

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

**13.2. TERMINATION FOR CONVENIENCE**

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

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

**13.3. TERMINATION FOR CONFLICT OF INTEREST**

---

State of NH Contract 2019-019  
Part 2  
Date: 2/21/19  
Contractor's Initials: 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**

**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 13.3.1. The State may terminate the Contract by written notice if it determines that a conflict of interest exists, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of Contracts.
- 13.3.2. In such case, the State shall be entitled to a pro-rated refund of any current development, support, and maintenance costs. The State shall pay all other contracted payments that would have become due and payable if the Contractor did not know, or reasonably did not know, of the conflict of interest.
- 13.3.3. In the event the Contract is terminated as provided above pursuant to a violation by the Contractor, the State shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a default of the Contract by the Contractor.

**13.4. TERMINATION PROCEDURE**

- 13.4.1. Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require the Contractor to deliver to the State any property, including without limitation, Software and Written Deliverables, for such part of the Contract as has been terminated.
- 13.4.2. After receipt of a notice of termination, and except as otherwise directed by the State, the Contractor shall:
- 13.4.2.1. The State shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the SLA.
- 13.4.2.2. Stop work under the Contract on the date, and to the extent specified, in the notice;

---

State of NH, Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 13.4.2.3. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
- 13.4.2.4. Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession of the Contractor and in which the State has an interest;
- 13.4.2.5. During any period of service suspension, the Contractor shall not take any action to intentionally erase any State data.
- 13.4.3. In the event of termination of any services or agreement in entirety, the Contractor shall not take any action to intentionally erase any State data for a period of:
  - 13.4.3.1. 10 days after the effective date of termination, if the termination is in accordance with the contract period
  - 13.4.3.2. 30 days after the effective date of termination, if the termination is for convenience
  - 13.4.3.3. 60 days after the effective date of termination, if the termination is for cause
- 13.4.4. After such period, the Contractor shall have no obligation to maintain or provide any State data and shall thereafter, unless legally prohibited, delete all State data in its systems or otherwise in its possession or under its control.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/11  
Contractor's Initials JM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 13.4.4.1. Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State; and
- 13.4.4.2. The Contractor shall implement an orderly return of State data in a CSV or another mutually agreeable format at a time agreed to by the parties and the subsequent secure disposal of State data;
- 13.4.4.3. The Contractor shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the State. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the State.
- 13.4.4.4. Provide written Certification to the State that the Contractor has surrendered to the State all said property.

**14. Change of Ownership**

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

**15. Assignment, Delegation and Subcontracts**

15.1. The Contractor shall not assign, delegate, subcontract, or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the State. Such consent shall not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void, and may constitute an event of default at the sole discretion of the State.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials PM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 15.2. The Contractor shall remain wholly responsible for performance of the entire Contract even if assignees, delegates, Subcontractors, or other transferees ("Assigns") are used, unless otherwise agreed to in writing by the State, and the Assigns fully assumes in writing any and all obligations and liabilities under the Contract from the Effective Date. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract, or other transfer shall neither relieve the Contractor of any of its obligations under the Contract nor affect any remedies available to the State against the Contractor that may arise from any event of default of the provisions of the contract. The State shall consider the Contractor to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.
- 15.3. Notwithstanding the foregoing, nothing herein shall prohibit the Contractor from assigning the Contract to the successor of all or substantially all of the assets or business of the Contractor provided that the successor fully assumes in writing all obligations and responsibilities under the Contract. In the event that the Contractor should change ownership, as permitted under Section 15: *Change of Ownership*, the State shall have the option to continue under the Contract with the Contractor, its successors or assigns for the full remaining term of the Contract; continue under the Contract with the Contractor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminating the Contract without liability to the Contractor, its successors or assigns.

**16. Dispute Resolution**

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

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials TM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

16.3. Dispute Resolution Responsibility and Schedule Table

LEVEL	Qualtrax	STATE	CUMULATIVE ALLOTTED TIME
Primary	Kayla Rux Strategic Account Manager	Alma Vazquez State Project Manager (PM)	5 Business Days
First	Deanna Felton Director Customer Experience	Lisa Morris Director	10 Business Days
Second	CJ Page VP Operations	Jeffrey Meyers Commissioner	15 Business Days

State of NH Contract 2019-019  
 Part 2  
 Date: 3/21/19  
 Contractor's Initials MMH

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

**17. SAAS general terms and conditions**

17.1. Regulatory Government Approvals

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

**18. Insurance certificate**

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

18.2. Exhibits

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

18.3. Venue and Jurisdiction

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

18.4. Survival

The terms, conditions and warranties contained in the Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the Contract shall so survive, including, but not limited to, the terms of the Exhibit E Section 3: Records Retention and Access Requirements, Exhibit E Section 4: Accounting Requirements, and General Provisions-Section 11: Use of State's Information, Confidentiality and General Provisions- Section 14: Termination which shall all survive the termination of the Contract.

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials PN

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**18.5. Force Majeure**

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

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

**18.6. Notices**

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

TO the Contractor:

Qualtrax

VP, Operations

105 Roanoke St.

Blacksburg, VA 24060

Tel: (800) 755-1875

E-Mail: cpage@qualtrax.com

TO STATE:

State of New Hampshire

Department of Health and Human Services

129 Pleasant St.

Concord, NH 03301

**19. DATA PROTECTION**

19.1. Protection of personal privacy and data shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the following conditions:

---

State of NH Contract 2019-019  
Part 2  
Date: 5/21/19  
Contractor's Initials: TPM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

- 19.1.1. The Contractor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Contractor applies to its own personal data and non-public data of similar kind.
- 19.1.2. All data obtained by the Contractor in the performance of this contract and all personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Contractor is responsible for encryption of the personal data.
- 19.1.3. Unless otherwise stipulated, the Contractor shall encrypt all non-public data at rest and in transit. The State shall identify data it deems as non-public data to the Contractor. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.
- 19.1.4. At no time shall any data or processes — that either belong to or are intended for the use of the State or its officers, agents or employees — be copied, disclosed or retained by the the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
- 19.1.5. The Contractor shall not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.

**20. DATA LOCATION**

---

State of NH, Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials: 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

20.1. The Contractor shall provide its services to the State and its end users solely from data centers in the U.S. Storage of State data at rest shall be located solely in data centers in the U.S. the Contractor shall not allow its personnel or contractors to store State data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. the Contractor shall permit its personnel and contractors to access State data remotely only as required to provide technical support. the Contractor may provide technical user support on a 24/7 basis using a Follow the Sun model, unless otherwise prohibited in this contract.

**21. SECURITY INCIDENT OR DATA BREACH NOTIFICATION**

The Contractor shall inform the State of any security incident or data breach in accordance with NH RSA 359-C.

21.1. Incident Response: the Contractor may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing security incidents with the State should be handled on an urgent as-needed basis, as part of the Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.

21.2. Security Incident Reporting Requirements: the Contractor shall report a security incident to the appropriate State identified contact immediately as defined in the SLA.

21.3. Breach Reporting Requirements: If the Contractor has actual knowledge of a confirmed data breach that affects the security of any State content that is subject to applicable data breach notification law, the Contractor shall (1) promptly notify the appropriate State identified contact within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

**21.4. BREACH RESPONSIBILITIES**

---

State of NH Contract 2019-019  
Part 2  
Date: 5/11/19  
Contractor's Initials SM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

This section only applies when a data breach occurs with respect to personal data within the possession or control of the Contractor.

21.4.1. The Contractor, unless stipulated otherwise, shall immediately notify the appropriate State identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

21.4.2. The Contractor, unless stipulated otherwise, shall promptly notify the appropriate State identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a data breach. the Contractor shall (1) cooperate with the State as reasonably requested by the State to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

21.4.3. Unless otherwise stipulated, if a data breach is a direct result of the Contractor's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the Contractor shall bear the costs associated with:

21.4.3.1. the investigation and resolution of the data breach;

21.4.3.2. notifications to individuals, regulators or others required by State law;

21.4.3.3. a credit monitoring service required by State (or federal) law;

---

State of NH, Contract 2019-019  
Part 2  
Date: 3/2/19  
Contractor's Initials TAM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

21.4.3.4. a website or a toll-free number and call center for affected individuals required by State law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$201 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute<sup>17</sup> at the time of the data breach; and

21.4.3.5. complete all corrective actions as reasonably determined by the Contractor based on root cause; all [(1) through (5)] subject to this Contract's limitation of liability.

**21.5. NOTIFICATION OF LEGAL REQUESTS**

The Contractor shall contact the State upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the State's data under this contract, or which in any way might reasonably require access to the data of the State. the Contractor shall not respond to subpoenas, service of process and other legal requests related to the State without first notifying the State, unless prohibited by law from providing such notice.

**21.6. ACCESS TO SECURITY LOGS AND REPORTS**

The Contractor shall provide reports to the State in a format as agreed to by both the Contractor and the State. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State files related to this contract.

**21.7. CONTRACT AUDIT**

The Contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion and at the State's expense.

**21.8. DATA CENTER AUDIT**

---

State of NH, Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

The Contractor shall perform an independent audit of its data centers at least annually at its expense, and provide a redacted version of the audit report upon request. The Contractor may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.

**21.9. ADVANCE NOTICE**

The Contractor shall give advance notice (to be determined at the contract time and included in the SLA) to the State of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics. It usually includes a new version number.

**21.10. SECURITY**

The Contractor shall disclose its non-proprietary security processes and technical limitations to the State such that adequate protection and flexibility can be attained between the State and the Contractor. For example: virus checking and port sniffing — the State and the Contractor shall understand each other's roles and responsibilities.

**21.11. NON-DISCLOSURE AND SEPARATION OF DUTIES**

The Contractor shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of State data to that which is absolutely necessary to perform job duties.

**21.12. IMPORT AND EXPORT OF DATA**

The State shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the Contractor. This includes the ability for the State to import or export data to/from other service providers.

**21.13. RESPONSIBILITIES AND UPTIME GUARANTEE**

---

State of NH Contract 2019-019  
Part 2  
Date: 3/21/19  
Contractor's Initials:     *PM*

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

The Contractor shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the Contractor. The system shall be available 24/7/365 (with agreed-upon maintenance downtime), and provide service to customers as defined in the SLA.

**21.14. RIGHT TO REMOVE INDIVIDUALS**

The State shall have the right at any time to require that the Contractor remove from interaction with State any the Contractor representative who the State believes is detrimental to its working relationship with the Contractor. The State shall provide the Contractor with notice of its determination, and the reasons it requests the removal. If the State signifies that a potential security violation exists with respect to the request, the Contractor shall immediately remove such individual. the Contractor shall not assign the person to any aspect of the contract or future work orders without the State's consent.

---

State of NH Contract 2019-019  
Part 2  
Date: 9/21/19  
Contractor's Initials TW

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 – EXHIBIT A**  
**CONTRACT DELIVERABLES**

1. **Problem Statement** - The State of New Hampshire Public Health Laboratories needs access to Qualtrax product upgrades easily and regularly. In addition, it is beneficial to have 24/7 system monitoring, ongoing maintenance of the server, and on-demand access being able to access, manage and maintain Qualtrax documents and processes from anywhere.
2. **Goals** - Provide The State of New Hampshire Public Health Laboratories with a web-based hosted compliance software system reducing department IT involvement, providing a secure, certified network with 100% uptime guarantee, 24/7 system monitoring, transactional data backups taken every 15 minutes, and provide on-demand access to all users without logging into a VPN. All traffic occurs over an SSL connection, ensuring a high level of security to your data.
3. **Project Overview** - The general scope of the project is to provide The State of New Hampshire Public Health Laboratories with a web-based hosted compliance management software for documents and processes.
4. **Statement of Work** - See below for deliverables and milestones to be completed throughout the project.
5. **General Project Assumptions**
  - 5.1. - The Contractor will provide project tracking tools and templates to record and manage Issues, Risks, Change Requests, Requirements, Decision Sheets, and other documents used in the management and tracking of the project. The State of New Hampshire and the Contractor's Project Managers will review these tools and templates and determine which ones will be used for the project. Training on these tools and templates will be conducted at the start of each phase in which they will be used.
  - 5.2. Prior to the commencement of work on Non-Software and Written Deliverables, the Contractor shall provide to the State a template, table of contents, or agenda for Review and prior approval by the State.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 – EXHIBIT A**  
**CONTRACT DELIVERABLES**

- 5.3. The Contractor shall ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of the State's Information Technology resources, information, and services. Security requirements are defined in Appendix C-2 of the Request for Proposal. The Contractor shall provide the State resources, information, and Services on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and to safeguard the confidentiality and integrity of State networks, Systems and Data.
- 5.4. The Deliverables are set forth in the Schedule described below in Section 2. By unconditionally accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.
- 5.5. Qualtrax Quote  
Pricing for Deliverables set forth in Exhibit B: *Price and Payment Schedule*. Pricing will be effective for the Term of this Contract, and any extensions thereof.

6. DELIVERABLES, MILESTONES, AND ACTIVITIES SCHEDULE

---

State of NH Contract 2019-019  
Exhibit A Contract Deliverables – Part 3  
Date: 3/11/19  
Contractor's Initials: TM

**STATE OF NEW HAMPSHIRE**  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software  
**SAAS CONTRACT 2019-019**  
**PART 3 – EXHIBIT A**  
**CONTRACT DELIVERABLES**

	Activity, Deliverable, or Milestone	Responsible Resource	Projected Delivery Date
<b>1 - Overall Business Requirements</b>			
1.1	System shall not store Personal Identifiable Information, Personal Health Information and/or Personal Financial Information	Qualtrax Support Team	Ongoing
1.2	Contractor shall use Rackspace ® certified servers.	Qualtrax Support Team	Ongoing
1.3	Contractor shall not make any modifications to Customer's service settings without approval from Customer's service owner.	Qualtrax Support Team	Ongoing
<b>2 - Software Access and Licenses</b>			
2.1	Enable Qualtrax Compliance Tracking Software for New Hampshire Department of Health and Human Services use	Qualtrax Support Team	
2.2	Provide three (3) Administrator Licenses to Qualtrax Compliance Tracking Software	Qualtrax Support Team	
2.3	Provide six (6) Concurrent Licenses to Qualtrax Compliance Tracking Software	Qualtrax Support Team	
2.4	Provide ten (10) Concurrent Test Licenses to Qualtrax Compliance Tracking Software	Qualtrax Support Team	

State of NH Contract 2019-019  
 Exhibit A - Contract Deliverables - Part 3  
 Date: 3/21/19  
 Contractor's Initials TR

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 – EXHIBIT A**  
**CONTRACT DELIVERABLES**

2.5	Provide Unlimited Read-only access Licenses to Qualtrax Compliance Tracking Software	Qualtrax Support Team	
2.6	Provide storage for unlimited document and compliance tracking storage	Qualtrax Support Team	
<b>3 – Maintenance and Support</b>			
3.1	Provide Maintenance and Support for Qualtrax Hosted solution	Qualtrax Support Team	Ongoing
3.2	Ensure compatibility with state supported software (i.e. Microsoft Office Suite)	Qualtrax Support Team	Ongoing
3.3	Contractor agrees to provide service update 100% of the time, excluding scheduled and emergency maintenance.	Qualtrax Support Team	Ongoing
3.4	Contractor shall ensure a minimum of thirty (30) days' notice in advance of all service upgrades.	Qualtrax Support Team	Ongoing
3.5	Contractor shall notify the Department prior to and following all maintenance, scheduled and emergency and provide a detailed list of items addressed.	Qualtrax Support Team	Ongoing
3.4	Contractor shall provide 24/7 phone support via the following telephone numbers: - 800-755-1875 - 540-260-9961	Qualtrax Support Team	Ongoing

State of NH Contract 2019-019  
Exhibit A – Contract Deliverables – Part 3  
Date: 3/21/19  
Contractor's Initials:

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 – EXHIBIT A**  
**CONTRACT DELIVERABLES**

<b>4 – Reporting</b>			
4.1	Provide monthly report of number of occurrences and duration of system downtime	Qualtrax Support Team	Recurring/Monthly
<b>5 – Migration to Hosted Solution</b>			
5.1	Establish a formal Service Level Agreement	Qualtrax Support Team	
<b>6 – Customer Data</b>			
6.1	Full database backups shall be taken every twenty-four (24) hours.	Qualtrax Support Team	Recurring/Monthly
6.2	Transactional log backups shall be taken every fifteen (15) minutes	Qualtrax Support Team	Recurring/Monthly
6.1	Document backups shall be taken every four (4) hours	Qualtrax Support Team	Recurring/Monthly
<b>6 – Planning and Project Management</b>			
6.1	Pre-installation form set to customer for review	Qualtrax Support Team	Sent upon approval of hosted conversion
6.2	Conduct Project Kickoff Meeting	NH DoIT, DHHS Project Team, Qualtrax Support Team	TBD
6.3	Pre-installation Form Completed	NH DoIT Resource	TBD

State of NH Contract 2019-019  
 Exhibit A – Contract Deliverables – Part 3  
 Date: 3/27/19  
 Contractor's Initials TJM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 – EXHIBIT A**  
**CONTRACT DELIVERABLES**

6.4	Backup of Qualtrax database complete and sent to Qualtrax Operational Engineers	NH DoIT	TBD
6.5	Data import into a Qualtrax test system	Qualtrax OE	TBD
6.6	Testing phase begins-Customer completes the validation checklist	DHHS Project Team	TBD
6.7	When testing is complete, a production conversion date is sent	Qualtrax OE	TBD
6.8	Update software license key is sent and used for the conversion.	Qualtrax OE	TBD
6.9	NH DoIT backs up database with current revision and sends to Qualtrax Operational Engineers	NH DoIT	TBD
6.10	NH DoIT Quality communicates internally the cut over date/time for the existing system	NH DoIT, DHHS Project Team	TBD
6.11	Data is imported into the Qualtrax hosted production system	Qualtrax OE	TBD
6.12	If needed, provide refresher training	Qualtrax Product Consultant	TBD
6.13	Hosted site is now live with production data	Qualtrax OE, DHHS Project Team	TBD
6.14	Conduct Project Exit Meeting	Non-Software	TBD
6.15	Hosting, Support & Maintenance Year 1	Qualtrax OE	

State of NH Contract 2019-019  
 Exhibit A - Contract Deliverables - Part 3  
 Date: 3/21/19  
 Contractor's Initials M

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 – EXHIBIT A**  
**CONTRACT DELIVERABLES**

6.16	Hosting, Support & Maintenance Year 2	Qualtrax OE	
6.17	Hosting, Support & Maintenance Year 3	Qualtrax OE	
6.18	Hosting, Support & Maintenance Year 4	Qualtrax OE	
6.19	Hosting, Support & Maintenance Year 5	Qualtrax OE	

---

State of NH Contract 2019-019  
Exhibit A - Contract Deliverables - Part 3  
Date: 3/21/19  
Contractor's Initials DM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

**1. PAYMENT SCHEDULE**

1.1. Not to Exceed

This is a Not to Exceed (NTE) Contract for the period between the Effective Date through December 31, 2022. The Contractor shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow the Contractor to invoice the State for the following activities, Deliverables, or milestones appearing in the price and payment tables below.

---

State of NH Contract 2019-019  
Exhibit B - Price and Payment Schedule - Part 3  
Date: 3/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

1.2	Activity, Deliverable, or Milestone		\$ Cost
<b>1 - Overall Business Requirements</b>			
1.1	System shall not store Personal Identifiable Information, Personal Health Information and/or Personal Financial Information		Included
1.2	Contractor shall use Rackspace ® certified servers.		Included
1.3	Contractor shall not make any modifications to Customer's service settings without approval from Customer's service owner.		Included
<b>2 - Software Access and Licenses</b>			
2.1	Enable Qualtrax Compliance Tracking Software for New Hampshire Department of Health and Human Services use		Included
2.2	Provide three (3) Administrator Licenses to Qualtrax Compliance Tracking Software		Included
2.3	Provide six (6) Concurrent Licenses to Qualtrax Compliance Tracking Software		Included
2.4	Provide ten (10) Concurrent Test Licenses to Qualtrax Compliance Tracking Software		Included

State of NH Contract 2019-019  
 Exhibit B - Price and Payment Schedule - Part 3  
 Date: 3/21/19  
 Contractor's Initials: JW

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

2.5	Provide Unlimited Read-only access Licenses to Qualtrax Compliance Tracking Software		Included
2.6	Provide storage for unlimited document and compliance tracking storage		Included
<b>3 – Maintenance and Support</b>			
3.1	Provide Maintenance and Support for Qualtrax Hosted solution		Included
3.2	Ensure compatability with state supported software (i.e. Microsoft Office Suite)		Included
3.3	Contractor agrees to provide service update 100% of the time, excluding scheduled and emergency maintenance.		Included
3.4	Contractor shall ensure a minimum of thirty (30) days' notice in advance of all service upgrades.		Included
3.5	Contractor shall notify the Department prior to and following all maintenance, scheduled and emergency and provide a detailed list of items addressed.		Included
3.4	Contractor shall provide 24/7 phone support via the following telephone numbers: - 800-755-1875 - 540-260-9961		Included

State of NH Contract 2019-019  
 Exhibit B – Price and Payment Schedule – Part 3  
 Date: 3/11/19  
 Contractor's Initials: TM

**STATE OF NEW HAMPSHIRE**  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

<b>4 - Reporting</b>			
4.1	Provide monthly report of number of occurrences and duration of system downtime		Included
<b>5 - Migration to Hosted Solution</b>			
5.1	Provide Maintenance and Support for Qualtrax Hosted solution		Included
5.2	Ensure compatibility with state supported software (i.e. Microsoft Office Suite)		Included
5.3	Establish a formal Service Level Agreement		Included
<b>6 - Customer Data</b>			
6.1	Full database backups shall be taken every twenty-four (24) hours.		Included
6.2	Transactional log backups shall be taken every fifteen (15) minutes		Included
6.1	Document backups shall be taken every four (4) hours		Included
<b>6 - Planning and Project Management</b>			
6.1	Pre-installation form set to customer for review	Qualtrax Support Team	Included

State of NH Contract 2019-019  
 Exhibit B - Price and Payment Schedule - Part 3  
 Date: 3/11/19  
 Contractor's Initials TH

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

6.2	Conduct Project Kickoff Meeting	NH DoIT, DHHS Project Team, Qualtrax Support Team	Included
6.3	Pre-installation Form Completed	NH DoIT Resource	Included
6.4	Backup of Qualtrax database complete and sent to Qualtrax Operational Engineers	NH DoIT	Included
6.5	Data import into a Qualtrax test system	Qualtrax OE	Included
6.6	Testing phase begins-Customer completes the validation checklist	DHHS Project Team	Included
6.7	When testing is complete, a production conversion date is sent	Qualtrax OE	Included
6.8	Update software license key is sent and used for the conversion	Qualtrax OE	Included
6.9	NH DoIT backs up database with current revision and sends to Qualtrax Operational Engineers	NH DoIT	Included
6.10	NH DoIT Quality communicates internally the cut over date/time for the existing system	NH DoIT, DHHS Project Team	Included
6.11	Data is imported into the Qualtrax hosted production system	Qualtrax OE	Included

State of NH Contract 2019-019  
Exhibit B - Price and Payment Schedule - Part 3  
Date: 3/21/19  
Contractor's Initials TJH

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

6.12	If needed, provide refresher training	Qualtrax Product Consultant	Included
6.13	Hosted site is now live with production data	Qualtrax OE, DHHS Project Team	Included
6.14	Conduct Project Exit Meeting	Non-Software	Included
6.15	Hosting, Support & Maintenance Year 1	Qualtrax OE	\$10,220
6.16	Hosting, Support & Maintenance Year 2	Qualtrax OE	\$10,220
6.17	Hosting, Support & Maintenance Year 3	Qualtrax OE	\$10,220
6.18	Hosting, Support & Maintenance Year 4	Qualtrax OE	\$10,220
6.19	Hosting, Support & Maintenance Year 5	Qualtrax OE	\$10,220

**2. CONTRACT PRICE**

2.1. Notwithstanding any provision in the Contract to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments made by the State exceed the amount indicated in the P-37 General Provisions Block 1.8 ("Price Limitation"). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to the Contractor for all fees and expenses, of whatever nature, incurred by the Contractor in the performance hereof.

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

State of NH Contract 2019-019  
 Exhibit B - Price and Payment Schedule - Part 3  
 Date: 5/21/19  
 Contractor's Initials TM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

**3. INVOICING**

- 3.1. The Contractor shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State's prior written approval, which shall not be unreasonably withheld. The Contractor shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Deliverable and identification of the Deliverable for which payment is sought, and the Acceptance date triggering such payment; date of delivery and/or installation; monthly maintenance charges; any other Project costs or retention amounts if applicable.
- 3.2. Upon Acceptance of a Deliverable, and a properly documented and undisputed invoice, the State will pay the correct and undisputed invoice within thirty (30) days of invoice receipt. Invoices will not be backdated and shall be promptly dispatched.
- 3.3. Invoices shall be sent to:
- Financial Administrator  
DHHS, State of NH  
129 Pleasant Street  
Concord, NH 03301

**4. PAYMENT ADDRESS**

Payments shall be made via ACH. Use the following link to enroll with the State Treasury for ACH payments: <https://www.nh.gov/treasury/state-vendors/index.htm>

**5. OVERPAYMENTS TO THE CONTRACTOR**

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

**6. CREDITS**

---

State of NH Contract 2019-019  
Exhibit B - Price and Payment Schedule - Part 3  
Date: 3/11/19  
Contractor's Initials TM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**

**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

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

---

State of NH Contract 2019-019  
Exhibit B - Price and Payment Schedule - Part 3  
Date: 8/21/19  
Contractor's Initials JWH

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**SAAS EXHIBIT C**  
**SPECIAL PROVISIONS**

There are no changes to the terms outlined in the General Provisions.

---

State of NH Contract 2019-019  
Exhibit C - Special Provisions - Part 3  
Date: 3/11/19  
Contractor's Initials TM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**SAAS EXHIBIT D**  
**ADMINISTRATIVE SERVICES**

**1. TRAVEL EXPENSES**

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

**2. SHIPPING AND DELIVERY FEE EXEMPTION**

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

**3. ACCESS/COOPERATION**

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

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

**4. STATE-OWNED DOCUMENTS AND COPYRIGHT PRIVILEGES**

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

**5. RECORDS RETENTION AND ACCESS REQUIREMENTS**

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

---

State of NH Contract 2019-019  
Exhibit D - Administrative Services - Part 3  
Date: 3/19/19  
Contractor's Initials

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**SAAS EXHIBIT D**  
**ADMINISTRATIVE SERVICES**

- 5.2. The Contractor and its Subcontractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs invoiced in the performance of their respective obligations under the Contract. The Contractor and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.
- 5.3. Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and federal officials so authorized by law, rule, regulation or Contract, as applicable. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. The Contractor shall include the record retention and review requirements of this section in any of its subcontracts.
- 5.4. The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to the Contractor's cost structure and profit factors shall be excluded from the State's review unless the cost of any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

**6. ACCOUNTING REQUIREMENTS**

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

---

State of NH Contract 2019-019  
Exhibit D - Administrative Services - Part 3  
Date: 3/11/19  
Contractor's Initials JKM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software,**  
**SAAS CONTRACT 2019-019**  
**SAAS EXHIBIT E**  
**IMPLEMENTATION SERVICES**

**1. PROJECT MANAGEMENT**

The State believes that effective communication and reporting are essential to Project success.

The Contractor Key Project Staff shall participate in meetings as requested by the State, in accordance with the requirements and terms of this Contract.

- 1.1. **Introductory Meeting:** Participants will include the Contractor's Key Project Staff and State Project leaders from both Department of Health and Human Services and the Department of Information Technology. This meeting will enable leaders to become acquainted and establish any preliminary Project procedures.
- 1.2. **Kickoff Meeting:** Participants will include the State and the Contractor's Project Team and major stakeholders. This meeting is to establish a sound foundation for activities that will follow.
- 1.3. **Status Meetings:** Participants will include, at the minimum, the Contractor's Project Manager and the State Project Manager. These meetings will be conducted at least bi-weekly and address overall Project status and any additional topics needed to remain on schedule and within budget. A status and error report from the Contractor shall serve as the basis for discussion.
- 1.4. **The Work Plan:** must be reviewed at each Status Meeting and updated, at minimum, on a bi-weekly basis, in accordance with the Contract.
- 1.5. **Special Meetings:** Need may arise for a special meeting with State leaders or Project stakeholders to address specific issues.
- 1.6. **Exit Meeting:** Participants will include Project leaders from the Contractor and the State. Discussion will focus on lessons learned from the Project and on follow up options that the State may wish to consider.
- 1.7. The State expects the Contractor to prepare agendas and background for and minutes of meetings. Background for each status meeting must include an updated Work Plan. Drafting of formal presentations, such as a presentation for the kickoff meeting, will also be the Contractor's responsibility.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**SAAS EXHIBIT E**  
**IMPLEMENTATION SERVICES**

- 1.8. The Contractor's Project Manager or the Contractor's Key Project Staff shall submit monthly status reports in accordance with the Schedule and terms of this Contract. All status reports shall be prepared in formats approved by the State. The Contractor's Project Manager shall assist the State's Project Manager, or itself produce reports related to Project Management as reasonably requested by the State, all at no additional cost to the State. The Contractor shall produce Project status reports, which shall contain, at a minimum, the following:
- 1.8.1. Project status related to the Work Plan;
  - 1.8.2. Deliverable status;
  - 1.8.3. Accomplishments during weeks being reported;
  - 1.8.4. Planned activities for the upcoming two (2) week period;
  - 1.8.5. Future activities; and
  - 1.8.6. Issues and concerns requiring resolution.
  - 1.8.7. Report and remedies in case of falling behind Schedule
- 1.9. As reasonably requested by the State, the Contractor shall provide the State with information or reports regarding the Project. The Contractor shall prepare special reports and presentations relating to Project Management, and shall assist the State in preparing reports and presentations, as reasonably requested by the State, all at no additional cost to the State.

**2. IMPLEMENTATION STRATEGY**

- 2.1. Key Components
- 2.1.1. The Contractor shall employ an industry-standard Implementation strategy with a timeline set forth in accordance with the Work Plan;
  - 2.1.2. The Contractor and the State shall adopt a change management approach to identify and plan key strategies and communication initiatives.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**SAAS EXHIBIT E**  
**IMPLEMENTATION SERVICES**

2.1.3. The Contractor's team will provide training templates as defined in the Training Plan, which will be customized to address the State's specific requirements. Decisions regarding format, content, style, and presentation shall be made early on in the process, by the State, providing sufficient time for development of material as functionality is defined and configured.

2.1.4. The Contractor shall manage Project execution and provide the tools needed to create and manage the Project's Work Plan and tasks, manage and schedule Project staff, track and manage issues, manage changing requirements, maintain communication within the Project Team, and report status.

2.2. Timeline

2.2.1. The timeline is set forth in the Work Plan. During the initial planning period Project task and resource plans will be established for: the preliminary training plan, the change management plan, communication approaches, Project standards and procedures finalized, and team training initiated. Timing will be structured to recognize interdependencies between applications and structure a cost effective and timely execution. Processes will be documented, training established, and the application will be ready for Implementation in accordance with the Work Plan.

2.3. Change Management and Training

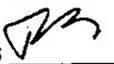
2.3.1. The Contractor's change management and training services shall be focused on developing change management and training strategies and plans. Its approach relies on State resources for the execution of the change management and end user training.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT F**  
**TESTING SERVICES**

The Contractor shall provide the following Products and Services described in this Exhibit F, including but not limited to:

1. Contractor shall bear all responsibilities for following the testing requirements related to application system development and maintenance as defined in Table C-2, Testing.
2. Contractor is responsible for appropriate performance, tuning, load tests and penetration tests for new application releases. In addition, Contractor must provide a report of the results of such tests to the State Technical Lead if requested.
3. Contractor shall bear all responsibilities for implementing a methodology for penetration testing that includes the following:
  - 3.1. Is based on industry-accepted penetration testing approaches (for example, NIST SP800-115)
  - 3.2. Includes coverage for the entire perimeter and critical systems
  - 3.3. Includes testing from both inside and outside the network
  - 3.4. Includes testing to validate any segmentation and scope-reduction controls
  - 3.5. Defines application-layer penetration tests to include, at a minimum, the vulnerabilities listed in Requirement 6.5
  - 3.6. Defines network-layer penetration tests to include components that support network functions as well as operating systems
  - 3.7. Includes review and consideration of threats and vulnerabilities experienced in the last 12 months
  - 3.8. Specifies retention of penetration testing results and remediation activities results.
4. Perform external penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade, a sub-network added to the environment, or a web server added to the environment)
5. Exploitable vulnerabilities found during penetration testing are corrected and testing is repeated to verify the corrections.
6. User Acceptance Testing:
  - 6.1. UAT begins upon completion of the Software configuration as required and user training according to the Work Plan. Testing ends upon issuance of a letter of UAT Acceptance by the State.

---

State of NH Contract 2019-019  
Exhibit F - Testing Services - Part 3  
Date: 3/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT F**  
**TESTING SERVICES**

- 6.2. The User Acceptance Test (UAT) is a verification process performed in a copy of the production environment. The User Acceptance Test verifies System functionality against predefined Acceptance criteria that support the successful execution of approved business processes.
- 6.3. UAT will also serve as a performance and stress test of the System. It may cover any aspect of the new System, including administrative procedures such as backup and recovery. The results of the UAT provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.
- 6.4. The results of the User Acceptance Test provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.
- 6.5. Upon successful conclusion of UAT and successful System deployment, the State will issue a letter of UAT Acceptance and the respective Warranty Period shall commence.

<b>Activity Description</b>	The System User Acceptance Tests verify System functionality against predefined Acceptance criteria that support the successful execution of approved processes.
<b>Contractor Team Responsibilities</b>	<ul style="list-style-type: none"> <li>• Provide the State an Acceptance Test Plan and selection of test scripts for the Acceptance Test.</li> <li>• Monitor the execution of the test scripts and assist as needed during the User Acceptance Test activities.</li> <li>• Work jointly with the State in determining the required actions for problem resolution.</li> </ul>
<b>State Responsibilities</b>	<ul style="list-style-type: none"> <li>• Approve the development of the User Acceptance Test Plan and the set of data for use during the User Acceptance Test.</li> <li>• Validate the Acceptance Test environment.</li> <li>• Execute the test scripts and conduct User Acceptance Test activities.</li> <li>• Document and summarize Acceptance Test results.</li> <li>• Work jointly with the Contractor in determining the required actions for problem resolution.</li> <li>• Provide Acceptance of the validated Systems.</li> </ul>
<b>Work Product Description</b>	The Deliverable for User Acceptance Tests is the User Acceptance Test Results. These results provide evidence that the new System meets the User Acceptance criteria defined in the Work Plan.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT G**  
**MAINTENANCE AND SUPPORT SERVICES**

**1. SYSTEM MAINTENANCE**

The Contractor shall maintain and support the System in all material respects as described in the applicable program Documentation through the contract end date.

**1.1. Contractor's Responsibility**

The Contractor shall maintain the System in accordance with the Contract.

**1.1.1. Maintenance Releases**

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

**1.1.2. Standard Agreement**

The State will adopt the Contractor's standard maintenance agreement modified to address terms and conditions inconsistent with State Statutes and general State information technology practices.

**2. SYSTEM SUPPORT**

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

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

**2.2.1. Class A Deficiencies** – The Contractor shall have available to the Department on-call telephone assistance, with issue tracking available to the Department, during Department business hours (M – F, 8:00 am – 4:30 pm) with an email/telephone response within two (2) hours of request, or the Contractor shall provide support with remote diagnostic Services within four (4) business hours of a request;

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT G**  
**MAINTENANCE AND SUPPORT SERVICES**

2.2.2. **Class B & C Deficiencies** – The Department shall notify the Contractor of such Deficiencies during regular business hours and the Contractor shall respond back within two (2) hours of notification of planned corrective action.

**3. SUPPORT OBLIGATIONS AND TERM**

- 3.1. The Contractor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications and terms and requirements of the Contract, including but not limited to S1.1 through S1.20 of the Support and Maintenance Requirements in Exhibit H *Requirements*, Attachment 1.
- 3.2. The Contractor shall maintain a record of the activities related to warranty repair or maintenance activities performed for the Department.
- 3.3. For all maintenance Service calls, the Contractor shall ensure the following information will be collected and maintained: nature of Deficiency; current status of the Deficiency; action plans, dates and times; expected and actual completion time; Deficiency resolution information; Resolved by; Identifying number i.e. work order number; and Issue identified by.
- 3.4. The Contractor must work with the Department to identify and troubleshoot potentially large scale System failures or Deficiencies by collecting the following information: mean time between reported Deficiencies with the Software; diagnosis of the root cause of the problem; and identification of repeat calls or repeat Software problems.
- 3.5. If the Contractor fails to correct a Deficiency within the allotted period of time stated above, the Contractor shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies in Part 2 Section 13.1.1.2, as well as to return the Contractor's product and receive a refund for all amounts paid to the Contractor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Contractor of the State's refund request

---

State of NH Contract 2019-019  
Exhibit G – Maintenance and Support Services – Part 3  
Date: 3/11/19  
Contractor's Initials:

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT-G**  
**MAINTENANCE AND SUPPORT SERVICES**

- 3.6. If the Contractor fails to correct a Deficiency within the allotted period of time stated above, the Contractor shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies in Part 1 Section 14.

---

State of NH Contract 2019-019  
Exhibit G - Maintenance and Support Services - Part 3  
Date: 3/21/19  
Contractor's Initials MM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**SAAS EXHIBIT H**  
**REQUIREMENTS**

Attachment 1: Project Requirements is hereby incorporated within.

---

State of NH Contract 2019-019  
Exhibit H - Requirements - Part 3  
Date: 3/21/19  
Contractor's Initials JM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

1. The Contractor's Project Manager and the State Project manager shall finalize the Work Plan for Implementation within ten (10) days of the Effective Date and further refine the tasks required to implement the Project. The elements of the preliminary Work Plan are documented in accordance with the Contractor's plan to implement the System. Continued development and management of the Work Plan is a joint effort on the part of the Contractor and State Project Managers.
2. The preliminary Work Plan for Implementation created by the Contractor and the State is set forth at the end of this Exhibit.
3. In conjunction with the Contractor's Project Management methodology, which shall be used to manage the Project's life cycle, the Contractor team and the State shall finalize the Work Plan at the onset of the Project. This plan shall identify the tasks, Deliverables, major milestones, task dependencies, and a payment Schedule required to implement the Project. It shall also address intra-task dependencies, resource allocations (both State and Contractor's team members), refine the Project's scope, and establish the Project's Schedule. The Plan is documented in accordance with the Contractor's Work Plan and shall utilize Qualtrax Workflow to support the ongoing management of the Project.

**4. ASSUMPTIONS**

**4.1. General**

- 4.1.1. The State shall provide team members with decision-making authority to support the Implementation efforts, at the level outlined in the Request for Proposal Document State Staffing Matrix.
- 4.1.2. All State tasks must be performed in accordance with the revised Work Plan.
- 4.1.3. All key decisions will be resolved within five (5) business days. Issues not resolved within this initial period will be escalated to the State Project Manager for resolution.
- 4.1.4. Any activities, decisions or issues taken on by the State that affect the mutually agreed upon Work Plan timeline, scope, resources, and costs shall be subject to the identified Change Control process.
- 4.1.5. The Contractor shall maintain an accounting system in accordance with Generally Accepted Accounting Principles (GAAP).

**4.2. PROJECT MANAGEMENT**

- 4.2.1. The State shall approve the Project Management Methodology used for the Project.
- 4.2.2. The State shall provide the Project Team with reasonable access to the State personnel as needed to complete Project tasks.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

4.2.3. A Project folder created within the State system shall be used for centralized storage and retrieval of Project documents, work products, and other material and information relevant to the success of the Project and required by Project Team members. This central repository is secured by determining which team members have access to the Project folder and granting either view or read/write privileges. The Contractor's Project Manager will establish and maintain this folder. The State Project Manager shall approve access for the State team. Documentation can be stored locally for the Contractor and State team on a "shared" network drive to facilitate ease and speed of access. Final versions of all Documentation shall be loaded to the State System.

4.2.4. The Contractor assumes that an Alternate Project Manager may be appointed from time to time to handle reasonable and ordinary absences of the Project Manager.

**4.3. CONVERSIONS**

4.3.1. The Contractor Team's proposal is based on the assumption that the State's technical team is capable of implementing, with assistance from the Contractor's technical team, a subset of the conversions. The Contractor's Team shall lead the State with the mapping of the legacy Data to the Contractor's applications.

4.3.2. Additionally, the Contractor's Team shall:

4.3.2.1. Provide the State with Contractor's application data requirements and examples, of data mappings, conversion scripts, and data loaders. The Contractor's Team shall identify the APIs the State should use in the design and development of the conversion.

4.3.2.2. Provide guidance and assistance with the use of the data loaders and conversion scripts provided.

4.3.2.3. Lead the review of functional and technical Specifications.

4.3.2.4. Assist with the resolution of problems and issues associated with the development and Implementation of the conversions.

**4.4. PROJECT SCHEDULE**

4.4.1. Deployment is planned to begin ten (10) days following approval, with a planned go-live date to be established with the final work plan.

**4.5. REPORTING**

4.5.1. The Contractor shall conduct weekly status meetings, and provide reports that include, but are not limited to, minutes, action items, test results, and Documentation.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

**4.6. USER TRAINING**

- 4.6.1. The Contractor's Team shall lead the development of the end-user training plan.
- 4.6.2. A train the trainer approach shall be used for the delivery of end-user training.
- 4.6.3. The State is responsible for the delivery of end-user training.
- 4.6.4. The State shall schedule and track attendance on all end-user training classes.

**4.7. PERFORMANCE AND SECURITY TESTING**

- 4.7.1. The Contractor's Team shall provide a performance test workshop to identify the key scenarios to be tested, the approach and tools required, and best practices information on performance testing.
- 4.7.2. The State shall work with the Contractor on all testing as set forth in Contract Exhibit F – *Testing Services*.

**5. ROLES AND RESPONSIBILITIES**

**5.1. Contractor Team Roles and Responsibilities**

**5.1.1. Contractor Team Project Executive**

- 5.1.1.1. The Contractor Team's Project Executives (Contractor and Subcontractor Project Executives) shall be responsible for advising on and monitoring the quality of the Services throughout the Project life cycle. The Project Executive shall advise the Contractor Team Project Manager and the State's Project leadership on the best practices for implementing the Contractor Software Solution within the State. The Project Executive shall participate in the definition of the Project Plan and provide guidance to the State's Team.

**5.1.2. CONTRACTOR TEAM PROJECT MANAGER**

- 5.1.2.1. The Contractor Team Project Manager shall have overall responsibility for the day-to-day management of the Project and shall plan, track, and manage the activities of the Contractor Implementation Team. The Contractor Team Project Manager will have the following responsibilities:

- 5.1.2.1.1. Maintain communications with the State's Project Manager;
- 5.1.2.1.2. Work with the State in planning and conducting a kick-off meeting;
- 5.1.2.1.3. Create and maintain the Work Plan;

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

- 5.1.2.1.4. Assign the Contractor Team consultants to tasks in the Implementation Project according to the scheduled staffing requirements;
- 5.1.2.1.5. Define roles and responsibilities of all the Contractor Team members;
- 5.1.2.1.6. Provide weekly and monthly update progress reports to the State Project Manager;
- 5.1.2.1.7. Notify the State Project Manager of requirements for State resources in order to provide sufficient lead time for resources to be made available;
- 5.1.2.1.8. Review task progress for time, quality, and accuracy in order to achieve progress;
- 5.1.2.1.9. Review requirements and scheduling changes and identify the impact on the Project in order to identify whether the changes may require a change of scope;
- 5.1.2.1.10. Implement scope and Schedule changes as authorized by the State Project Manager and with appropriate Change Control approvals as identified in the Implementation Plan;
- 5.1.2.1.11. Inform the State Project Manager and staff of any urgent issues if and when they arise;
- 5.1.2.1.12. Provide the State completed Project Deliverables and obtain sign-off from the State's Project Manager.
- 5.1.2.1.13. Manage handoff to the Contractor operational staff;
- 5.1.2.1.14. Manage Transition Services as needed.

**5.1.3. CONTRACTOR TEAM ANALYSIS**

5.1.3.1. The Contractor Team shall conduct analysis of requirements, validate the Contractor Team's understanding of the State business requirements by application, and perform business requirements mapping:

- 5.1.3.1.1. Construct and confirm application test case scenarios;
- 5.1.3.1.2. Produce application configuration definitions and configure the applications;
- 5.1.3.1.3. Conduct testing of the configured application;
- 5.1.3.1.4. Produce functional Specifications for extensions, conversions, and interfaces;
- 5.1.3.1.5. Assist the State in the testing of extensions, conversions; and interfaces;
- 5.1.3.1.6. Assist the State in execution of the State's Acceptance Test;
- 5.1.3.1.7. Conduct follow-up meetings to obtain feedback, results, and concurrence/approval from the State;

---

State of NH Contract 2019-019  
Exhibit I, Work Plan - Part 3  
Date: 3/21/19  
Contractor's Initials: MR

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

- 5.1.3.1.8. Assist with the correction of configuration problems identified during system, integration and Acceptance Testing; and
- 5.1.3.1.9. Assist with the transition to production.

**5.1.4. CONTRACTOR TEAM TASKS**

5.1.4.1. The Contractor team shall assume the following tasks:

- 5.1.4.1.1. Development and review of functional and technical Specification to determine that they are at an appropriate level of detail and quality;
- 5.1.4.1.2. Development and Documentation of conversion and interface programs in accordance with functional and technical Specifications;
- 5.1.4.1.3. Development and Documentation of installation procedures; and
- 5.1.4.1.4. Unit testing of conversions and interfaces developed; and
- 5.1.4.1.5. System Integration Testing.

**6. STATE ROLES AND RESPONSIBILITIES**

6.1. The following State resources have been identified for the Project. The time demands on the individual State team members will vary depending on the phase and specific tasks of the Implementation. The demands on the Subject Matter Experts' time will vary based on the need determined by the State Leads and the phase of the Implementation.

**6.1.1. STATE PROJECT MANAGER**

6.1.1.1. The State Project Manager shall work side-by-side with the Contractor Project Manager. The role of the State Project Manager is to manage State resources (IF ANY), facilitate completion of all tasks assigned to State staff, and communicate Project status on a regular basis. The State Project Manager represents the State in all decisions on Implementation Project matters, provides all necessary support in the conduct of the Implementation Project, and provides necessary State resources, as defined by the Work Plan and as otherwise identified throughout the course of the Project. The State Project Manager has the following responsibilities:

- 6.1.1.1.1. Plan and conduct a kick-off meeting with assistance from the Contractor team;
- 6.1.1.1.2. Assist the Contractor Project Manager in the development of a detailed Work Plan;

---

State of NH Contract 2019-019  
Exhibit I - Work Plan - Part 3  
Date: 3/21/19  
Contractor's Initials:

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

- 6.1.1.1.3. Identify and secure the State Project Team members in accordance with the Work Plan;
- 6.1.1.1.4. Define roles and responsibilities of all State Project Team members assigned to the Project;
- 6.1.1.1.5. Identify and secure access to additional State end-user staff as needed to support specific areas of knowledge if and when required to perform certain Implementation tasks;
- 6.1.1.1.6. Communicate issues to State management as necessary to secure resolution of any matter that cannot be addressed at the Project level;
- 6.1.1.1.7. Inform the Contractor Project Manager of any urgent issues if and when they arise; and
- 6.1.1.1.8. Assist the Contractor team staff to obtain requested information if and when required to perform certain Project tasks.
- 6.1.1.1.9. Manage handoff to State operational staff;
- 6.1.1.1.10. Manage State staff during Transition Services as needed.

**6.1.2. STATE SUBJECT MATTER EXPERT(S) (SME)**

- 6.1.2.1. The role of the State SME is to assist application teams with an understanding of the State's current business practices and processes, provide agency knowledge, and participate in the Implementation. Responsibilities of the SME include the following:
  - 6.1.2.1.1. Be the key user and contact for their Agency or Department;
  - 6.1.2.1.2. Attend Project Team training and acquire in-depth functional knowledge of the relevant applications;
  - 6.1.2.1.3. Assist in validating and documenting user requirements, as needed;
  - 6.1.2.1.4. Assist in mapping business requirements;
  - 6.1.2.1.5. Assist in constructing test scripts and data;
  - 6.1.2.1.6. Assist in System Integration, and Acceptance Testing;
  - 6.1.2.1.7. Assist in performing conversion and integration testing and Data verification;
  - 6.1.2.1.8. Attend Project meetings when requested; and
  - 6.1.2.1.9. Assist in training end users in the use of the Contractor Software Solution and the business processes the application supports.

**6.1.3. STATE TECHNICAL LEAD AND ARCHITECT**

State of NH Contract 2019-019  
Exhibit I - Work Plan - Part 3  
Date: 3/11/19  
Contractor's Initials: MM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

6.1.3.1. The State's Technical Lead and Architect reports to the State's Project Manager and is responsible for leading and managing the State's technical tasks. Responsibilities include:

6.1.3.1.1. Attend technical training as necessary to support the Project;

6.1.3.1.2. Assist the State and the Contractor Team Project Managers to establish the detailed Work Plan;

6.1.3.1.3. Manage the day-to-day activities of the State's technical resources assigned to the Project;

6.1.3.1.4. Work with State IT management to obtain State technical resources in accordance with the Work Plan;

6.1.3.1.5. Work in partnership with the Contractor and lead the State technical staff's efforts in documenting the technical operational procedures and processes for the Project. This is a Contractor Deliverable and it will be expected that the Contractor will lead the overall effort with support and assistance from the State; and

6.1.3.1.6. Represent the technical efforts of the State at <WEEKLY or EVERY TWO WEEKS> Project meetings.

**6.1.4. STATE TESTING ADMINISTRATOR**

6.1.4.1. The State's Testing Administrator will coordinate the State's testing efforts. Responsibilities include:

6.1.4.1.1. Coordinating the development of system, integration, performance, and Acceptance Test plans;

6.1.4.1.2. Coordinating system, integration, performance, and Acceptance Tests;

6.1.4.1.3. Chairing test review meetings;

6.1.4.1.4. Coordinating the State's team and external third parties involvement in testing;

6.1.4.1.5. Ensuring that proposed process changes are considered by process owners;

6.1.4.1.6. Establish priorities of Deficiencies requiring resolution; and

6.1.4.1.7. Tracking Deficiencies through resolution.

**7. SOFTWARE APPLICATION**

*Detail what software is required for the Contractor to perform the activities of the Contract.*

**8. CONVERSIONS**

---

State of NH Contract 2019-019  
Exhibit I - Work Plan - Part 3  
Date: 3/21/19  
Contractor's Initials JM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT I**  
**WORK PLAN**

*The only planned conversion within this contract will be to ensure the smooth transition of usernames and passwords from the existing solution to the cloud hosted solution.*

**8.1. CONVERSION TESTING RESPONSIBILITIES**

- 8.1.1. The Contractor Team and the State, based on their assigned conversion responsibilities, as set forth in Contract Exhibit F: *Testing Services* shall identify applicable test scripts and installation instructions, adapt them to the Project specifics, test the business process, and compare with the documented expected results.
- 8.1.2. The Contractor Team and the State, based on their assigned conversion responsibilities, shall execute the applicable test scripts that complete the conversion and compare execution results with the documented expected results.
- 8.1.3. The State is responsible for documenting the technical Specifications of all programs that extract and format Data from the legacy systems for use by the conversion processes.
- 8.1.4. The Contractor Team and the State, based on their assigned conversion responsibilities, shall develop and unit test their assigned conversions.
- 8.1.5. The State and the Contractor Teams shall jointly conduct System and Integration Testing, verifying and validating the accuracy and completeness of the conversions.
- 8.1.6. The State and the Contractor Teams shall jointly verify and validate the accuracy and completeness of the conversions for Acceptance Testing and production.

**9. PRELIMINARY WORK PLAN**

- 9.1. The preliminary agreed upon Work Plan for the Contract is represented within the New Hampshire Public Health Laboratories Proposal Quote of April 15, 2015.

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Procurement Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT J**  
**SOFTWARE AGREEMENT**

**1. LICENSE GRANT**

Under this Contract, the Contractor shall provide Cloud Hosted Software and Maintenance and Support of Software to the State.

---

State of NH Contract 2019-019  
Exhibit J, Software Agreement - Part 3  
Date: 3/5/19  
Contractor's initials: 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT K**  
**WARRANTY & WARRANTY SERVICE**

**1. WARRANTIES**

**1.1. SYSTEM**

1.1.1. The Contractor warrants that the System will operate to conform to the Specifications, terms, and requirements of the Contract.

**1.2. SOFTWARE**

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

1.2.2. For any breach of the above Software warranty, the State's remedy, and the Contractor's entire liability, shall be:

1.2.2.1. the correction of program errors that cause breach of the warranty, or if the Contractor cannot substantially correct such breach in a commercially reasonable manner, the State may end its program license if any and recover the fees paid to the Contractor for the program license and any unused, prepaid technical support fees the State has paid for the program license; or

1.2.2.2. the re-performance of the deficient Services, or

1.2.2.3. if the Contractor cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to the Contractor for the deficient Services.

**1.3. NON-INFRINGEMENT**

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

---

State of NH Contract 2019-019  
Exhibit K - Warranty and Warranty Services - Part 3  
Date: 3/21/19  
Contractor's Initials: JR/ML

**STATE OF NEW HAMPSHIRE  
Department of Health and Human Services  
Qualtrax Compliance Management Software  
SAAS CONTRACT 2019-019  
PART 3 - EXHIBIT K  
WARRANTY & WARRANTY SERVICE**

**1.4. VIRUSES; DESTRUCTIVE PROGRAMMING**

1.4.1. The Contractor warrants that the Software shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

**1.5. COMPATIBILITY**

1.5.1. The Contractor warrants that all System components, including but not limited to the components provided, including any replacement or upgraded System Software components provided by the Contractor to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

**1.6. SERVICES**

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

**2. WARRANTY PERIOD**

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

---

State of NH Contract 2019-019  
Exhibit K - Warranty and Warranty Services - Part 3  
Date: 3/21/19  
Contractor's Initials: SM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**EXHIBIT L**  
**TRAINING SERVICES**

1. The Contractor shall provide the following Training Services.
  - 1.1. Training for the Qualtrax Compliance Software shall include Train-the-Trainer training provided to the implementation team.

---

State of NH Contract 2019-019  
Exhibit L - Training Services - Part 3  
Date: 3/21/19  
Contractor's Initials 

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT M**  
**AGENCY RFP WITH ADDENDUMS, BY REFERENCE**

Exhibit M – Not Applicable to this Contract

---

State of NH Contract 2019-019  
Exhibit M - Agency RFP with Addendums, by Reference – Part 3  
Date: 3/21/19  
Contractor's Initials RM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT N**  
**VENDOR PROPOSAL, BY REFERENCE**

1. Qualtrax Proposal to DHHS-RFP 2019-019 Qualtrax Compliance Management Software dated April 15, 2015 is hereby incorporated by reference as fully set forth herein.

---

State of NH Contract 2019-019  
Exhibit N - Vendor Proposal, by Reference - Part 3  
Date: 3/21/19  
Contractor's Initials TM

**STATE OF NEW HAMPSHIRE**  
**Department of Health and Human Services**  
**Qualtrax Compliance Management Software**  
**SAAS CONTRACT 2019-019**  
**PART 3 - EXHIBIT O**  
**CERTIFICATES AND ATTACHMENTS**

Attached are:

1. New Hampshire DoIT Requirements Spreadsheet – Attachment 1
2. DHHS required Exhibits – Attachment 2
3. Qualtrax Compliance Software Proposal to the State of New Hampshire Division of Public Health Services, April 15, 2015 – Attachment 2
4. Qualtrax Compliance Software Quote, Created 6/28/2018 - Attachment 3
5. Qualtrax Compliance Software Addendum A – Service Level Agreement – Hosted Qualtrax – Attachment 4
6. Qualtrax Compliance Software, Service Level Agreement – Qualtrax Cloud – Attachment 5
7. Qualtrax Compliance Software, Hosted Server Move Data Guide – Attachment 6

---

State of NH Contract 2019-019  
Exhibit O – Certificate and Attachments – Part 3  
Date: 7/21/18  
Contractor's Initials: MM

STATE OF NEW HAMPSHIRE  
Department of Health and Human Services  
Qualtrax Compliance Management Software

**Vendor Instructions**

<b>Vendor Response Column:</b>	<b>Attachment 1</b>
Place a "Yes" if the current release of the software can fully support ALL the functionality described in the row, without special customization. A "Yes" can only be used if the delivery method is Standard (see delivery method instructions below). Otherwise, enter an "No"; A "No" can only be used with delivery method Future, Custom, or Not Available/Not Proposing (see delivery method instructions below).	
<b>Criticality Column:</b> (M) Indicates a requirement that is "Mandatory". The State considers it to be of such great importance that it must be met in order for the proposal to be accepted. If the proposer believes that there is something about their proposal that either obviates the need for this requirement or makes it of less importance this must be explained within the comments. The State retains the right to accept a proposal if the need of the requirement is reduced or eliminated by another feature of the proposal. (P) Indicates a requirement which is "Preferred". This requirement is considered by the State to be of great usefulness but the lack of this feature is not considered serious enough to disqualify the proposal. (O) Indicates a requirement which is "Optional". This requirement is considered by the State to be one which usefull or potentially usefull but not a central feature of the Project.	
<b>Delivery Method Column:</b> Complete the delivery method using a Standard, Future, Custom, or Not Available/Not Proposing (as defined below) that indicates how the requirement will be delivered.  Standard - Feature/Function is included in the proposed system and available in the current software release. Future - Feature/Function will be available in a future release. (Provide anticipated delivery date, version, and service release in the comment area.) Custom - Feature/Function can be provided with custom modifications. (Respondent must provide estimated hours and average billing rate or flat cost for the software modification in the comment area. These cost estimates should add up to the total cost for software modifications found in the cost summary table in Section X of the RFP). Not Available/Not Proposing - Feature/Function has not been proposed by the Vendor. (Provide brief	
<b>Comments Column:</b> For all Delivery Method responses vendors must provide a brief explanation of how the requirement will be met. Free form text can be entered into this column.	

Contractor Initials TRH  
Date 3/21/14

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

BUSINESS REQUIEMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
<b>Overall Business Requirements</b>					
B1.1	System shall not store PII, PHI or other confidential data		Yes	Standard	
B1.2					
B1.3					
<b>Software access and licenses</b>					
B2.1	Enable Qualtrax Compliance Tracking Software for New Hampshire Department of Health and Human Services use		Yes	Standard	
B2.2	Provide three (3) Administrator Licenses to Qualtrax Compliance Tracking Software		Yes	Standard	
B2.3	Provide six (6) Concurrent Licenses to Qualtrax Compliance Tracking Software		Yes	Standard	
B2.4	Provide ten (10) Concurrent Test Licenses to Qualtrax Compliance Tracking Software		Yes	Standard	
B2.5	Provide Unlimited Read-only access Licenses to Qualtrax Compliance Tracking Software		No	Standard	Basic licenses are offered for read-only licenses.
B2.6	Provide storage for unlimited document and compliance tracking storage		Yes	Standard	
B2.7					
B2.8					
<b>Maintenance and support</b>					
B3.1	Provide Maintenance and Support for Qualtrax Hosted solution		Yes	Standard	
B3.2	Ensure compatability with state supported software (i.e. Microsoft Office Suite)		Yes	Standard	
B3.3	Establish a formal Service Level Agreement		Yes	Standard	
B3.4	Ensure document backups are taken every four (4) hours and full database backups are taken every twenty-four (24) hours		Yes	Standard	
B3.5					
B3.6					
<b>Migration to Hosted Solution</b>					
B4.1	Plan for and execute a plan for the migration of documents existing on the current solution to the Qualtrax Hosted solution		Yes	Standard	
B4.2	Plan for and execute a plan for the migration of data used for tracking individual and document compliance and all metadata associated with individual and document compliance		Yes	Standard	
B4.3	Plan for and execute a plan for the migration of user credentials from the current solution to the Qualtrax hosted solution		Yes	Standard	
B4.4					
B4.5					
B4.6					

*JM*  
 3/21/19

STATE OF NEW HAMPSHIRE  
Department of Health and Human Services  
Qualtrax Compliance Management Software

SAS CONTRACT 2019-019

B4.7					
------	--	--	--	--	--

Attachment 1

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

APPLICATION REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
<b>GENERAL SPECIFICATIONS</b>					
A1.1	Ability to access data using open standards access protocol (please specify supported versions in the comments field).	M	No	Partial	Qualtrax provides a Web API to access data in supported areas of the product. Not all product areas can provide data through the API today.
A1.2	Data is available in commonly used format over which no entity has exclusive control, with the exception of National or International standards. Data is not subject to any copyright, patent, trademark or other trade secret regulation.	M	Yes	Standard	
A1.3	Web-based compatible and in conformance with the following W3C standards: HTML5, CSS 2.1, XML 1.1	M	Yes	Standard	
<b>APPLICATION SECURITY</b>					
A2.1	Verify the identity or authenticate all of the system client applications before allowing use of the system to prevent access to inappropriate or confidential data or services.	M	Yes	Standard	
A2.2	Verify the identity and authenticate all of the system's human users before allowing them to use its capabilities to prevent access to inappropriate or confidential data or services.	M	Yes	Standard	
A2.3	Enforce unique user names.	M	Yes	Standard	
A2.4	Enforce complex passwords for Administrator Accounts in accordance with DoIT's statewide User Account and Password Policy	M	Yes	Standard	Password requirements for passwords managed by Qualtrax are configurable to include the number of mixed case and non-alphabetic characters.
A2.5	Enforce the use of complex passwords for general users using capital letters, numbers and special characters in accordance with DoIT's statewide User Account and Password Policy.	M	Yes	Standard	Password requirements for passwords managed by Qualtrax are configurable to include the number of mixed case and non-alphabetic characters.
A2.6	Encrypt passwords in transmission and at rest within the database.	M	Yes	Standard	
A2.7	Establish ability to expire passwords after a definite period of time in accordance with DoIT's statewide User Account and Password Policy	M	Yes	Standard	
A2.8	Provide the ability to limit the number of people that can grant or change authorizations	M	Yes	Standard	

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

SaaS CONTRACT 2019-019

A2.9	Establish ability to enforce session timeouts during periods of inactivity.	Attachment 1	Yes	Standard	
A2.10	The application shall not store authentication credentials or sensitive data in its code.	M	Yes	Standard	
A2.11	Log all attempted accesses that fail identification, authentication and authorization requirements.	M	Yes	Standard	
A2.12	The application shall log all activities to a central server to prevent parties to application transactions from denying that they have taken place.	M	Yes	Standard	Qualtrax stores an audit trail of changes made in the application in the database
A2.13	All logs must be kept for 12 months	M	Yes	Standard	This can be configured by the customer
A2.14	The application must allow a human user to explicitly terminate a session. No remnants of the prior session should then remain.	M	Yes	Standard	
A2.15	Do not use Software and System Services for anything other than they are designed for.	M	Yes	Standard	
A2.16	The application Data shall be protected from unauthorized use when at rest	M	Yes	Standard	
A2.17	The application shall keep any sensitive Data or communications private from unauthorized individuals and programs.	M	Yes	Standard	
A2.18	Subsequent application enhancements or upgrades shall not remove or degrade security requirements	M	Yes	Standard	
A2.19	Utilize change management documentation and procedures	M	Yes	Standard	
A2.20	Web Services : The service provider shall use Web services exclusively to interface with the State's data in near real time when possible.	M	Yes	Standard	

*[Handwritten Signature]*  
 8/21/19

STATE OF NEW HAMPSHIRE  
Department of Health and Human Services  
Qualtrax Compliance Management Software  
SAAS CONTRACT 2019-019  
Attachment 1

Contractor Initials   
Date 

STATE OF NEW HAMPSHIRE  
Department of Health and Human Services  
Qualtrax Compliance Management Software  
SAAS CONTRACT 2019-019  
Attachment 1

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

TESTING					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
<b>APPLICATION SECURITY TESTING</b>					
T1.1	All components of the Software shall be reviewed and tested to ensure they protect the State's web site and its related Data assets.	M	Yes		
T1.2	The Vendor shall be responsible for providing documentation of security testing, as appropriate. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability.	M	Yes		While our process does not explicit create this documentation, we can work with NH DOH to provide any information nessecary about our software development process with does include review and testing of every change.
T1.3	Provide evidence that supports the fact that Identification and Authentication testing has been recently accomplished; supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users	M	Yes		We added support for SSO (SAML v2) this year. As a part of that work the software's login and authentication mechanisms were tested thoroughly.
T1.4	Test for Access Control; supports the management of permissions for logging onto a computer or network	M	Yes		Every software change is reviewed and tested, manually and by automated test, per our SDLC procedure. Any change related to access control falls under that review and testing.
T1.5	Test for encryption; supports the encoding of data for security purposes, and for the ability to access the data in a decrypted format from required tools.	M	Yes		This is a feature of the environment the application is running in rather than the application itself. Our hosted environment encrypts disks using BitLocker and information in transit using TLS best practices.

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

		SAAS CONTRACT	Attachment		
T1.6	Test the Intrusion Detection; supports the detection of illegal entrance into a computer system	M		No	At this time, our hosted environment within Microsoft Azure does not leverage an intrusion detection system.
T1.7	Test the Verification feature; supports the confirmation of authority to enter a computer system, application or network	M		Yes	Every software change is reviewed and tested, manually and by automated test, per our SDLC procedure. Any change related to verification falls under that review and testing.
T1.8	Test the User Management feature; supports the administration of computer, application and network accounts within an organization.	M		Yes	Every software change is reviewed and tested, manually and by automated test, per our SDLC procedure. Any change related to user management falls under that review and testing.
T1.9	Test Role/Privilege Management; supports the granting of abilities to users or groups of users of a computer, application or network	M		Yes	Every software change is reviewed and tested, manually and by automated test, per our SDLC procedure. Any change related to user management falls under that review and testing.
T1.10	Test Audit Trail Capture and Analysis; supports the identification and monitoring of activities within an application or system	M		Yes	Every software change is reviewed and tested, manually and by automated test, per our SDLC procedure. Any change related to user management falls under that review and testing.

Contractor Initials SM  
 Date 3/25/19

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

SAPS CONTRACT

T1.11	Test Input Validation; ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.	Attachment  M	Yes		Qualtrax uses parameterized queries and encodes user input to prevent such attacks. In addition, we currently have a security epic in our 2019 roadmap further addressing these areas with security headers recommended by OWASP.
T.1.12	For web applications, ensure the application has been tested and hardened to prevent critical application security flaws. ( At a minimum, the application shall be tested against all flaws outlined in the Open Web Application Security Project (OWASP) Top Ten ( <a href="http://www.owasp.org/index.php/OWASP_Top_Ten_Project">http://www.owasp.org/index.php/OWASP_Top_Ten_Project</a> ))	M	Yes		Our application was reviewed against OWASP recommendations in 2018. Areas for improvement, such as security headers, have been prioritized within the 2019 roadmap.
T1.13	Provide the State with validation of 3rd party security reviews performed on the application and system environment. The review may include a combination of vulnerability scanning, penetration testing, static analysis of the source code, and expert code review (please specify proposed methodology in the comments field).	M	No		We employ on-site QA that thorough tests all application changes after they have gone through a engineering process that includes code review for every change.
T1.14	Prior to the System being moved into production, the Vendor shall provide results of all security testing to the Department of Information Technology for review and acceptance.	M	No		While our process does not explicitly create this documentation, we can work with NH DOH to provide any information necessary about our software development process which does include review and testing of every change. As a hosted customer your Qualtrax service is managed and always up to date, therefore you do not have to worry about when and if you are upgraded once releases are shipped.

*[Handwritten Signature]*  
 Date 7/21/19

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

S&S CONTRACT

T1.15	Vendor shall provide documented procedure for migrating application modifications from the User Acceptance Test Environment to the Production Environment.	M	Yes		Major application upgrades are communicated with 30 days notice. This communication comes at the conclusion of our SDLC process for creating a release. Every software change is reviewed and tested, manually and by automated test, per our SDLC procedure. Any change related to user management falls under that review and testing.
<b>STANDARD TESTING</b>					
T2.1	The Vendor must test the software and the system using an industry standard and State approved testing methodology as more fully described in Part 3, Exhibit F - Testing Services	M	Yes		Qualtrax uses third party tools to help identify potential security risks, but have not formally submitted to a third party for testing. 8.01
T2.2	The Vendor must perform application stress testing and tuning as more fully described in Part 3, Exhibit F - Testing Services	M	Yes		Qualtrax uses third party tools to help identify potential security risks, but have not formally submitted to a third party for testing. 8.01
T2.3	The Vendor must provide documented procedure for how to sync Production with a specific testing environment.	M	No		Major application upgrades are communicated with 30 days notice. As a hosted customer your Qualtrax service is managed and always up to date, therefore you do not have to worry about when and if you are upgrade once releases are shipped.
T2.4	The vendor must define and test disaster recovery procedures.	M	Yes	Standard	

*MM*  
 Date 3/21/19

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

HOSTING-CLOUD REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
<b>OPERATIONS</b>					
H1.1	Vendor shall provide an ANSI/TIA-942 Tier 3 Data Center or equivalent. A tier 3 data center requires 1) Multiple independent distribution paths serving the IT equipment, 2) All IT equipment must be dual-powered and fully compatible with the topology of a site's architecture and 3) Concurrently maintainable site infrastructure with expected availability of 99.982%	M	Yes		Environmental Controls All of our data centers have the following:  Dual power paths into the facility Uninterruptable power supplies (N+1 or greater) Diesel generators (service agreements with fuel suppliers) Fire suppression, smoke and flood detection
H1.2	Vendor shall maintain a secure hosting environment providing all necessary hardware, software, and Internet bandwidth to manage the application and support users with permission based logins.	M	Yes		
H1.3	The Data Center must be physically secured – restricted access to the site to personnel with controls such as biometric, badge, and others security solutions. Policies for granting access must be in place and followed: Access shall only be granted to those with a need to perform tasks in the Data Center.	M	Yes		Physical Security At all of our data centers:  Access is limited to authorized personnel Badges and biometric scanning control access Security cameras provide video surveillance Independent firms perform annual audits
H1.4	Vendor shall install and update all server patches, updates, and other utilities within 60 days of release from the manufacturer.	M	Yes		OS patching\updating occurs monthly. Qualtrax Major release follows a 30 day notification\release policy.
H1.5	Vendor shall monitor System, security, and application logs.	M	Yes		
H1.6	Vendor shall manage the sharing of data resources.	M	Yes		
H1.7	Vendor shall manage daily backups, off-site data storage, and restore operations.	M	Yes		
H1.8	The Vendor shall monitor physical hardware.	M	Yes		Provider monitors hardware (Rackspace/Azure)
H1.9	Remote access shall be customized to the State's business application. In instances where the State requires access to the application or server resources not in the DMZ, the Vendor shall provide remote desktop connection to the server through secure protocols such as a Virtual Private Network (VPN).	M	No		Qualtrax does not provide server access to customers. Per Bruce not a requirement.

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

2019 CONTRACT 2019-0000					
Attachment 1					
H1.10	The Vendor shall report any breach in security in conformance with State of NH RSA 359-C:20. Any person engaged in trade or commerce that is subject to RSA 358-A:3, I shall also notify the regulator which has primary regulatory authority over such trade or commerce. All other persons shall notify the New Hampshire attorney general's office.	M	Yes		
<b>DISASTER RECOVERY</b>					
H2.1	Vendor shall have documented disaster recovery plans that address the recovery of lost State data as well as their own. Systems shall be architected to meet the defined recovery needs.	M	Yes		
H2.2	The disaster recovery plan shall identify appropriate methods for procuring additional hardware in the event of a component failure. In most instances, systems shall offer a level of redundancy so the loss of a drive or power supply will not be sufficient to terminate services however, these failed components will have to be replaced.	M	Yes		Provider is responsible for hardware level changes.
H2.3	Vendor shall adhere to a defined and documented back-up schedule and procedure.	M	Yes		
H2.4	Back-up copies of data are made for the purpose of facilitating a restore of the data in the event of data loss or System failure.	M	Yes		
H2.5	Scheduled backups of all servers must be completed regularly. The minimum acceptable frequency is differential backup daily, and complete backup weekly.	M	Yes		
H2.6	Tapes or other back-up media tapes must be securely transferred from the site to another secure location to avoid complete data loss with the loss of a facility.	M	Yes		
H2.7	Data recovery – In the event that recovery back to the last backup is not sufficient to recover State Data, the Vendor shall employ the use of database logs in addition to backup media in the restoration of the database(s) to afford a much closer to real-time recovery. To do this, logs must be moved off the volume containing the database with a frequency to match the business needs.	M	Yes		
<b>HOSTING SECURITY</b>					
H3.1	The Vendor shall employ security measures ensure that the State's application and data is protected.	M	Yes		
H3.2	If State data is hosted on multiple servers, data exchanges between and among servers must be encrypted.	M	Yes		
H3.3	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 whole, shall have aggressive intrusion-detection and firewall protection.	M	Yes		While Qualtrax defers to Azure practices for system hardening, we do employ Security Groups that act as a software firewall to the web node network.
H3.4	All components of the infrastructure shall be reviewed and tested to ensure they protect the State's hardware, software, and its related data assets. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide confidentiality, integrity and availability.	M	Yes		

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

SAAS CONTRACT 2019					
		M	Yes		
H3.5	The Vendor shall ensure its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.	M	Yes		
H3.6	The Vendor shall authorize the State to perform scheduled and random security audits, including vulnerability assessments, of the Vendor' hosting infrastructure and/or the application upon request.	M	No		Qualtrax and Microsoft do not provide server access to customers for such assessments. However we are able to work with NH DOH to attain any documentation or questions needed for audits.
H3.7	All servers and devices must have event logging enabled. Logs must be protected with access limited to only authorized administrators. Logs shall include System, Application, Web and Database logs.	M	Yes		
H3.8	Operating Systems (OS) and Databases (DB) shall be built and hardend in accordance with guidelines set forth by CIS, NIST or NSA	M	No		While we have not ensured accordance with CIS, NIST, or NSA, Qualtrax defers to Microsoft Azure for best practices of these technologies.
H3.9	The Vendor shall notify the State's Project Manager of any security breaches within two (2) hours of the time that the Vendor learns of their occurrence.	M	Yes		
<b>SERVICE LEVEL AGREEMENT</b>					
H4.1	The Vendor's System support and maintenance shall commence upon the Effective Date and extend through the end of the Contract term, and any extensions thereof.	M	Yes		
H4.2	The vendor shall maintain the hardware and Software in accordance with the specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M	Yes		
H4.3	The vendor shall repair or replace the hardware or software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	Yes		
H4.4	All hardware and software components of the Vendor hosting infrastructure shall be fully supported by their respective manufacturers at all times. All critical patches for operating systems, databases, web services, etc, shall be applied within sixty (60) days of release by their respective manufacturers.		Yes		
H4.5	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 8:30am to 5:00pm- Monday through Friday EST.	M	Yes		Refer to SLA agreement

Contractor Initials *JM*  
 Date *3/21/19*

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

3840 CONTRACT 2019-019  
 Attachment 1

H4.6	The Vendor shall conform to the specific deficiency class as described: o Class A Deficiency - Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service. o Class B Deficiency - Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the Service. o Class C Deficiency - Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service.	M	Yes		
H4.7	As part of the maintenance agreement, ongoing support issues shall be responded to according to the following: a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request; or the Vendor shall provide support on-site or with remote diagnostic Services, within four (4) business hours of a request; b. Class B & C Deficiencies -The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within four (4) hours of notification of planned corrective action; The Vendor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract;	M	No		Moving to hosted Qualtrax will have no impact on your support level. You will continue to receive the support you do today. We will however be better able to support you as a hosted customer through quicker resolutions and less tickets! Hosted customers tend to have about a third of the tickets of on-premise customers.
H4.8	The hosting server for the State shall be available twenty-four (24) hours a day, 7 days a week except for during scheduled maintenance.	M	Yes		
H4.9	A regularly scheduled maintenance window shall be identified (such as weekly, monthly, or quarterly) at which time all relevant server patches and application upgrades shall be applied.	M	Yes		
H4.10	If The Vendor is unable to meet the uptime requirement, The Vendor shall credit State's account in an amount based upon the following formula: (Total Contract Item Price/365) x Number of Days Contract Item Not Provided. The State must request this credit in writing.	M	No		Qualtrax proactively credits 2% of the monthly fee for each hour, rounded up, of downtime up to 50% of the customer's monthly fee. Please confirm this alternate formula is acceptable.
H4.11	The Vendor shall use a change management policy for notification and tracking of change requests as well as critical outages.	M	Yes		
H4.12	A critical outage will be designated when a business function cannot be met by a nonperforming application and there is no work around to the problem.	M	Yes		

STATE OF NEW HAMPSHIRE  
 Department of Health and Human Services  
 Qualtrax Compliance Management Software

SaaS CONTRACT 2019-019

H4.13	The Vendor shall maintain a record of the activities related to repair or maintenance activities performed for the State and shall report quarterly on the following: Server up-time; All change requests implemented, including operating system patches; All critical outages reported including actual issue and resolution; Number of deficiencies reported by class with initial response time as well as time to close.	M Attachment 1	Yes		
H4.14	The Vendor will give two-business days prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.	M	Yes		30 days advance notice is given prior to changes/updates. Refresher training can be purchased as an additional service.

Contractor Initials                       
 Date

STATE OF NEW HAMPSHIRE  
Department of Health and Human Services  
Qualtrax Compliance Management Software  
SAAS CONTRACT 2019-019  
Attachment 1

Contractor Initials JK  
Date 3/21/19



**SPECIAL PROVISIONS**

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

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

Exhibit C – Special Provisions

Contractor Initials

Date

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

SS-2019-DPHS-06-QUALT  
 New Hampshire Department of Health and Human Services  
 Attachment 2  
 Exhibit C



Exhibits

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

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

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

Exhibit C - Special Provisions

Contractor Initials

Date

SS-2019-DPHS-06-QUALT  
 New Hampshire Department of Health and Human Services  
 Attachment 2  
 Exhibit C



Exhibits

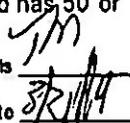
Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

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

Exhibit C - Special Provisions

Contractor Initials

Date

  
 JM  
 SK/11/18

SS-2019-DPHS-06-QUALT  
 New Hampshire Department of Health and Human Services  
 Attachment 2  
 Exhibit C



Exhibits

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

17. **Limited English Proficiency (LEP):** As clarified by Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, Contractors must take reasonable steps to ensure that LEP persons have meaningful access to its programs.
18. **Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:** The following shall apply to all contracts that exceed the Simplified Acquisition Threshold as defined in 48 CFR 2.101 (currently, \$150,000)

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

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

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

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

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

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

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

Exhibit C - Special Provisions

Contractor Initials

Date

*M*  
 2/21/19

SS-2019-DPHS-06-QUALT  
New Hampshire Department of Health and Human Services  
Attachment 2  
Exhibit C



Exhibits

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

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

20. Contract Definitions:

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

Contractor Initials YJM  
Date 5/21/19



**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

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

**ALTERNATIVE I - FOR 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

*Ym*  
Date 5/21/19

SS-2019-DPHS-06-QUALT  
New Hampshire Department of Health and Human Services  
Attachment 2  
Exhibit D



Exhibits

- 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.

3/21/19  
Date

Contractor Name:

*[Signature]*  
Name: Thomas Hays  
Title: (PO)

Contractor Initials *[Signature]*  
Date 3/21/19



CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

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

Contractor Name:

3/21/19  
Date

Name: Thomas Haws  
Title: CFO

Contractor Initials:   
Date: 3/21/19

SS-2019-DPHS-06-QUALT  
 Attachment 2  
 New Hampshire Department of Health and Human Services  
 Exhibit F



Exhibits

**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

Yon  
 2/20/19

SS-2019-DPHS-06-QUALT  
New Hampshire Department of Health and Human Services  
Attachment 2  
Exhibit F



Exhibits

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 (1)(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:

3/20/19  
Date

[Signature]  
Name: Thomas Haas  
Title: (FO)

Contractor Initials [Signature]  
Date 3/20/19



**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

Contractor Initials

*PM*  
*stc/19*

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

SS-2019-DPHS-06-QUALT  
New Hampshire Department of Health and Human Services  
Attachment 2  
Exhibit G



Exhibits

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:

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

3/21/19  
Date

Contractor Name:

[Signature]  
Name: Thomas Hall  
Title: CFO

Exhibit G

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

Contractor Initials TH  
Date 3/21/19



**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.

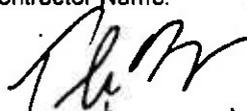
The Contractor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

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:

3/21/19

Date



Name:  
Title:

Thomas Hark  
CFO

Contractor Initials

  
3/21/19

Date



Exhibit I

**HEALTH INSURANCE PORTABILITY ACT  
BUSINESS ASSOCIATE AGREEMENT**

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

(1) **Definitions.**

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

3/2014

Contractor Initials

*DM*  
*3/21/14*

Date



Exhibit I

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

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

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

3/2014

Contractor Initials

*PH*  
*SK/PA*  
Date



Exhibit I

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

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

**(3) Obligations and Activities of Business Associate.**

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

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

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

3/2014

Contractor Initials

*TDH*

Date

3/21/19



Exhibit I

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

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

3/2014

Contractor Initials

*JM*  
*SKM/19*  
Date



## Exhibit I

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

(4) Obligations of Covered Entity

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

(5) Termination for Cause

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

(6) Miscellaneous

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

3/2014

Contractor Initials

Date

TRH  
3/21/14



Exhibit I

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

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

Department of Health and Human Services

The State

Signature of Authorized Representative

LISA MORRIS  
Name of Authorized Representative

DIRECTOR, DPHS  
Title of Authorized Representative

4/15/19  
Date

Qualtrax, Inc.  
Name of the Contractor

Signature of Authorized Representative

Thomas Haws  
Name of Authorized Representative

CPD  
Title of Authorized Representative

3/21/19  
Date

SS-2019-DPHS-06-QUALT  
New Hampshire Department of Health and Human Services  
Attachment 2  
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:

3/21/19  
Date

[Signature]  
Name: Thomas Haus  
Title: CFO

Contractor Initials TMH  
Date 3/21/19

SS-2019-DPHS-06-QUALT  
New Hampshire Department of Health and Human Services  
Attachment 2  
Exhibit J



Exhibits

FORM A

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

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

\_\_\_\_\_ NO                      \_\_\_\_\_ YES

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

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

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

\_\_\_\_\_ NO                      \_\_\_\_\_ YES

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

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

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

Name: _____	Amount: _____

Contractor Initials

JM  
3/21/19

Date



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

JM

SK/19



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

JM  
3/2/19

## 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

*PM*  
5/21/19



## 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

*JM*  
3/11/19



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.).

Contractor Initials THH  
Date 3/21/19



Exhibit K

DHHS Information Security Requirements

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

*PMH*  
3/2/19



Exhibit K

DHHS Information Security Requirements

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.

TAM

3/21/19



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



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

## **Service Level Agreement – Qualtrax Cloud**

The Company Service Level Agreement (SLA) covers the availability of a Customer's Qualtrax service.

### **Service Uptime**

We guarantee that the service will be available 100% of the time in a given month, excluding scheduled and emergency maintenance. All major service upgrades will occur during scheduled maintenance with at least 30 days' notice. Emergency maintenance can occur at any time to ensure service continuity, including hotfixes and system patches. Notification will be provided prior to and after all maintenance, scheduled and emergency, detailing items addressed. Service uptime includes functioning of all our infrastructure, but does not extend to the Customer networks. Downtime exists when the Qualtrax service is inaccessible and is measured from the time of the outage per our monitoring system. Upon experiencing downtime, we will credit the customer 2% of the monthly fee for each hour of downtime (up to 100% of customer's monthly fee). We monitor Customer's service to ensure uptime; however, if downtime is experienced we provide 24/7 phone support via the following numbers: 800-755-1875 and 540-260-9961 dial 1 from the menu.

### **Customer Data**

We utilize Rackspace® certified servers. Rackspace is ISO 27001 accredited, SSAE 16 Type 2 certified and Safe Harbor compliant. Customer data is held in the strictest confidence and will only be accessed for troubleshooting with prior notice to Customer. Further, our personnel will not make any modifications to Customer's service settings without approval from Customer's service owner. To ensure service uptime and improve the service, anonymous statistical data across all systems is collected and monitored. If the Customer cancels subscription, the Customer can retrieve any necessary data prior to the system being disabled during notice period. If the Customer would like assistance, we can extract data from the service at the list billable rate at time of cancellation. We can provide all documents, reports on workflow, and training instances. Typically documents will be in the same format as they were uploaded and data from workflows or trainings will be in excel formats while other formats may be discussed. All information will be transferred or mailed via necessary media to Customer.

### **Backups**

Full database backups are taken every 24 hours, while transactional log backups are taken in between. Document backups are taken every 4 hours. Three copies are made of these backups daily and copied to three different storage devices at the datacenter.

### **Disaster Recovery**

We define a disaster scenario as major data loss of either the Qualtrax database and/or documents. In such a scenario, we aim for an uptime goal of 4 hours from notification of the incident through our monitoring or customer call. Based on our backup scheme, we have a restore point objective of 4 hours prior to the incident.

## **Addendum A – Service Level Agreement – Hosted Qualtrax**

The Company Service Level Agreement (SLA) covers the availability of a Customer's Qualtrax service.

### **Service Uptime**

We guarantee that the service will be available 100% of the time in a given month, excluding scheduled and emergency maintenance. Service uptime includes functioning of all our infrastructure, but does not extend to the Customer networks. Downtime exists when the Qualtrax service is inaccessible and is measured from the time of the outage per our monitoring system. Upon experiencing downtime, we will credit the customer 2% of the monthly fee for each hour of downtime (up to 100% of customer's monthly fee). We monitor Customer's service to ensure uptime; however, if downtime is experienced we provide 24/7 phone support via the following numbers: 800-755-1875 and 540-260-9961 dial 1 from the menu.

### **Customer Data**

We utilize Rackspace® certified servers. Rackspace is ISO 27001 accredited, SSAE 16 Type 2 certified and Safe Harbor compliant. Customer data is held in the strictest confidence and will only be accessed for troubleshooting with prior notice to Customer. Further, our personnel will not make any modifications to Customer's service settings without approval from Customer's service owner. Anonymous statistical data is collected and monitored internally for maintaining and improving the service.

If the Customer chooses not to renew their subscription, the Customer may export any necessary data prior to the system being disabled at the end of their subscription period. If the Customer would like assistance, we can export data from the service at the list billable rate at time of cancellation. We can provide all documents, reports on workflow, and training instances. Typically, documents will be in the same format as they were uploaded and data from workflows or trainings will be in excel formats while other formats may be discussed. All information will be transferred or mailed via necessary media to Customer.

### **Maintenance and Upgrades**

Major Qualtrax upgrades will occur within 45 days of release. Operating system updates and patches will be applied monthly within 10 days of release. A month or 30 days notice will be provided for major Qualtrax upgrades and operating system patches whenever possible. Emergency maintenance can occur at any time to ensure service continuity, including hotfixes and security patches. Notification will be provided prior to and after all maintenance, scheduled and emergency, detailing items addressed.

### **Backups**

Full database backups are taken every 24 hours and transaction log backups are taken every 15 minutes. Document backups are taken every four hours. Three copies are made of these backups daily and copied to three different storage devices at the datacenter. These backups are then retained for 30 days.

### **Disaster Recovery**

We define a disaster scenario as major data loss of either the Qualtrax database and/or documents. In such a scenario, we aim for an uptime goal of 4 hours from notification of the incident through our monitoring or customer call. Based on our backup scheme, we have a restore point objective of 4 hours prior to the incident.

## GENERAL TERMS AND CONDITIONS

### **I. DEFINITIONS**

**"Acceptance"** means that any Hardware, Software, Services, or Deliverable has successfully completed the Acceptance process set forth in Section 4.

**"Affiliate"** means any individual, corporation, partnership, joint venture, limited liability company, proprietorship or other entity which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, a Party. **"Control"** means the power, directly or indirectly, to cause the direction or management of such entity, whether by contract or otherwise.

**"Confidential Information"** means information about a Party's business and financial matters, technical information and any other proprietary information relating to a Party or its Affiliates and their respective operations, businesses, technical know-how and financial affairs, that is obtained by the other Party as a result of the working relationship between the Parties, whether obtained prior to or after the date hereof. Confidential Information shall include, without limitation, trade secrets, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, maps, blueprints, diagrams, flow charts and any other technical, financial, business or proprietary information of any kind or nature whatsoever. Confidential Information shall not include any information that: (a) was previously known to the Parties free of any obligation to keep it confidential; (b) is or has become publicly known, through no wrongful act of either Party; (c) was rightfully received from a third party who is under no obligation of confidence to the receiving Party; (d) was independently developed by the Parties without use of Confidential Information that has been disclosed pursuant to this Agreement; or (e) was required to be disclosed in order to comply with applicable law or regulation (including, without limitation, for securities law purposes) or with any requirement imposed by any governmental or court order, but only to the extent so required.

**"Deliverables"** means the Hardware, Software, Professional Services, Hosting Services, Support and Maintenance Services, and any other deliverable arising out of or relating thereto, or any deliverable specified on a SOW.

**"Documentation"** means all manuals, instructions and other documents (whether in hard copy, soft copy or web-based form) relating to, or necessary for, the use, operation or maintenance of the Hardware, the Software, or any other Deliverable, together with all enhancements, corrections, modifications and amendments to such documents that are furnished to Customer under this Agreement.

**"Hardware"** means any hardware to be provided by Company as specified on a SOW.

**"Purchase Order"** means any purchase order generated by Company or Customer as detailed in Section 3 or any document that the Parties mutually agree upon as the vehicle for procuring Hardware, Software and/or Services pursuant to this Agreement, including, without limitation, an SOW.

**"Services"** means, collectively, Professional Services, Hosting Services and Support and Maintenance Services.

**"Software"** means the proprietary software licensed to Customer by Company, and any third party software required to operate Company's proprietary software, all in machine readable, object code form, together with all enhancements, modifications, corrections and amendments thereto.

**"Specifications"** means the technical requirements for, and performance standards of, the Hardware, Software, or any Deliverable as set forth in the Documentation, this Agreement and any other Company publication made available to Customer from time to time.

**"Support and Maintenance Services"** means the support and maintenance of the Hardware and Software, as provided by Company pursuant to the Maintenance and Support agreement.

## **2. TERM; SCOPE; PURCHASE ORDERS**

**2.1 Term.** This Agreement shall commence on the Effective Date of the Purchase Order; provided that the Term shall be extended until the completion date of any Purchase Order entered into prior to the expiration of this Agreement. This Agreement may be extended upon the mutual written agreement of Company and Customer.

**2.2 General Scope.** This Agreement is being entered into by the Parties in order to evidence the Parties' agreement and understanding with respect to (among other things): (a) the sale of Hardware to Customer; (b) the licensing to Customer of Software; (c) the provision by Company of Services; and (d) the provision of any other Deliverables. Company shall supply to Customer the Hardware, Software, Services and Documentation so ordered by Customer from time to time through the issuance of Purchase Orders in accordance with this Agreement.

### **2.3 Purchase Orders and Change Orders.**

(a) Either party may issue a Purchase Orders in hard copy, by fax or electronically, and such Purchase Order must be signed by an authorized signatory of each Party within thirty (30) days of the issuance thereof. Each Purchase Order issued may set forth (i) the specific Deliverables being ordered, (ii) the applicable quantities, (iii) the unit prices, (iv) the total purchase price, (v) any applicable performance milestones and the respective dates by which such milestones are to be completed, (vi) shipping instructions, including, without limitation, the ship-to address, if applicable, (vii) the bill-to address, (viii) the site(s) where any Services are to be performed, and (ix) any additional special instructions.

(b) Either Party may request that changes be made to an accepted Purchase Order by providing the other Party with a written document (a "Change Order") that: (i) is clearly identified with the term "Change Order" or an equivalent; (ii) describes the requested change(s); and (iii) is signed by an authorized signatory of the requesting Party. If any Change Order results in an increase or decrease in either Party's best estimate of the time or expense required to provide the Deliverables set forth in the applicable Purchase Order, then Customer and Company shall mutually agree on equitable adjustments to the applicable performance schedules and/or the compensation payable pursuant to the applicable Purchase Order

## **3. PRICING AND PAYMENT**

**3.1 Pricing.** The prices and fees for Deliverables shall be as set forth in the Purchase Order. All prices and payments shall be in U.S. dollars.

### **3.2 Payment, Disputes and Invoices.**

(a) Customer will remit to Company all undisputed amounts to within thirty (30) days of Customer's receipt of Company's invoice.

(b) Customer shall notify Company of any disputed charges in writing no later than twenty (20) days after the date of the applicable invoice. Company and Customer shall attempt in good faith to resolve any disputed amounts. If the dispute is resolved in favor of Company, Company may re-invoice the disputed amount, plus any interest thereon (at the rate specified in Section 3.3) that has accrued from the original due date until the date of the reissued invoice, and Customer shall pay all such amounts to Company within ten (10) days of the date of such reissued invoice.

**3.3 Late Payments.** In the event that Customer fails to make any payment of undisputed amounts on or prior to the applicable invoice due date (as determined in accordance with this Section 3), then those undisputed amounts shall accrue interest from the due date at a rate of eight percent (8%) per annum (or such lesser rate as may be the maximum permissible rate allowed under applicable law), calculated from the first day when such amount became due and owing until the date on which such amount is paid.

**3.4 Taxes.** Customer shall pay all federal, state or local sales or use taxes and any other government taxes, fees, duties or charges that are imposed upon the fees and charges paid by Customer to Company pursuant to this Agreement. Company will be responsible for all other taxes arising from the transactions contemplated by this Agreement, including, without limitation, any taxes based upon Company's property, net income or gross receipts. Customer shall pay all such amounts directly to the taxing authority unless the taxing authority requires that Company collect and remit payment, in which event Customer shall pay such amounts to Company and Company shall remit such amounts to the authority and provide Customer with a certificate stating that such amounts were so remitted. Customer and Company shall reasonably cooperate in order to take actions to minimize, or to qualify for exemptions from, any applicable taxes, duties or tariffs. Such cooperation shall include, without limitation, the furnishing of certifications that purchases by Customer are for purposes of resale, if applicable. Customer and Company shall each have the right to protest or appeal any tax or charge assessed against it by any taxing authority with respect to the subject matter of this Agreement.

#### **4. DELIVERY AND ACCEPTANCE**

**4.1 Delivery.** Unless otherwise agreed, prices are ExWorks 105 Industrial Drive, Christiansburg, VA 24073 (INCOTERMS 2010) and any charges Company may be required to pay or collect on the sale, purchase, delivery, storage, use or transportation of the goods shall be paid by Customer. Method of shipment will be at Company's discretion unless otherwise agreed.

**4.2 Title; Risk of Loss.** Unless otherwise agreed, the risk of loss passes to Customer when the goods are delivered to the carrier, as described in INCOTERMS 2010. Where the risk of loss has passed to Customer, Customer must obtain redress for freight losses, shortages or damages from the carrier or its insurer. Company is not responsible for any such losses. Notwithstanding any provision of INCOTERMS 2010 or contained herein, equitable title and accession to the goods shall, where permitted by law, remain with Company until Customer is paid in full. This shall be the case even if legal title to the goods shall be deemed by law to have passed to Customer at the time of delivery and prior to performance of all of Customer's obligations. Customer shall grant, and by acceptance of the goods is deemed to have granted, to Company a first security interest in all goods to secure payment of amounts owed by Customer. Customer agrees to execute a financing statement at Company's request. Company may reclaim any goods delivered or in transit if Customer fails to make payment when due.

**4.3 Inspection and Acceptance.** Customer will evaluate any Deliverable that has been delivered to Customer or performed in accordance with this Agreement to determine whether it complies with all applicable Specifications. Customer shall give Company written notice of Acceptance or rejection within fifteen (15) days after delivery of the applicable Deliverable. During the installation and testing process, and at no additional cost to Customer, Company's specialists shall be available to provide consultation requested by Customer regarding the preparation of the installation and testing environment for each Deliverable provided hereunder. Upon notice of rejection, Customer may (a) direct Company to correct the nonconformity, in which case Company (at no cost to Customer) shall correct the nonconformity within ten (10) days of Customer's request, or (b) upon mutual agreement of the Parties, pay Company a reduced amount for the nonconforming item. Deliverables provided to Customer will be deemed Accepted if Customer does not provide any notice of rejection within fifteen (15) days of receipt of the applicable Deliverable.

## 5. WARRANTIES

**5.1 Hardware and Software Warranties.** All warranties, if any, with respect to Hardware or Software shall be set forth in the applicable Purchase Order or Documentation.

**5.2 Services Warranties.** Company warrants that all Services performed hereunder shall be performed in a timely, professional and workmanlike manner, in conformance with industry practices, and Company warrants the workmanship of such Services for a period of ninety (90) days from the date on which the applicable Services are accepted.

**5.3 Third-Party Products.** Deliverables which are supplied by Company pursuant to this Agreement but which are manufactured by, or developed by, third party vendors will, in addition to (and not in lieu of) the Hardware and Software warranties set forth in Section 7.1 above, carry the warranties specified by the applicable third party vendor, which warranties Company shall extend to Customer to the full extent permissible under such warranties.

**5.4 Additional Representations and Warranties.** Company represents, warrants and covenants to Customer that:

(a) it has full right to enter into and perform according to this Agreement, and Company's performance shall not violate any agreement it has with a third party;

(b) all of the Deliverables delivered hereunder (and Customer's exercise of its rights hereunder with respect thereto) do not, and will not, infringe upon, violate, wrongfully use or misappropriate any foreign or United States patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any third party;

(c) Company has the right to grant to Customer all rights granted by it to Customer under this Agreement, free and clear of any and all agreements, liens, adverse claims, encumbrances or other interests of any third party;

(d) Deliverables delivered hereunder, and any work product resulting therefrom, do not, and will not, contain any copy protection, automatic shut-down, lockout, "time bomb" or other similar mechanisms which could interfere with Customer's exercise of its rights hereunder or Customer's ability to use the Deliverables as contemplated and in accordance with the applicable Specifications; and

(e) none of the Deliverables delivered hereunder, or any work product resulting therefrom, includes or contains, or shall include or contain, any viruses, "trojan horses" or other harmful code of any kind or nature whatsoever.

Company, at no charge to Customer and without limiting any other rights or remedies that may be available to Customer, will promptly correct any Deliverables which do not conform with any of the representations, warranties and covenants contained in this Section 5.4.

Customer represents, warrants and covenants to Company that:

(a) it has full right to enter into and perform according to this Agreement, and Customer's performance shall not violate any agreement it has with a third party;

(b) all of the products, equipment, samples, logos, images, writings, intellectual property or other materials delivered by Customer to Company under this Agreement or in connection with any SOW do not, and will not, infringe upon, violate, wrongfully use or misappropriate any foreign or United States

patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any third party;

**5.5 Limitation of Warranties.** EXCEPT AS OTHERWISE STATED IN THIS AGREEMENT, COMPANY MAKES NO WARRANTIES (EXPRESS OR IMPLIED) WITH RESPECT TO THE PERFORMANCE OF THE DELIVERABLES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **6. CONFIDENTIALITY**

**6.1 Confidentiality.** The Parties acknowledge and agree that each Party may be given access to Confidential Information under this Agreement. Each Party disclosing Confidential Information to the other Party in a tangible medium (e.g., a paper or disk) shall mark such medium as containing Confidential Information. Confidential Information that is disclosed orally shall be identified as confidential at the time of disclosure. Notwithstanding the marking requirement for tangible information and the identification requirement for orally disclosed information, Confidential Information will also include, without limitation, information which, due to its character or nature, reasonable people in a like position and under like circumstances would treat as confidential or understand as being confidential. All Confidential Information will be the sole and exclusive property of the Party providing the Confidential Information, and the receiving Party will not have any ownership interest in the other Party's Confidential Information, and the receiving Party will not engage in any derivative uses of such Confidential Information. Each Party agrees that during the term of this Agreement and for three (3) years thereafter, the receiving Party shall (a) use at least the same degree of care to prevent unauthorized use and disclosure of such Confidential Information as that Party uses with respect to its own Confidential Information (but in no event less than a reasonable degree of care); (b) use such Confidential Information only in the performance of its obligations under this Agreement; and (c) not disclose or grant access to such Confidential Information to any third party without the express prior written consent of the disclosing Party. The existence of this Agreement, and all of the terms and conditions hereof, shall be deemed to be Confidential Information of each of the Parties. In a circumstance in which disclosure of Confidential Information is compelled by a governmental or court order, the Party that is subject to such compelled disclosure shall limit the disclosure to only that Confidential Information which must be disclosed in order to comply with the order and shall give the other Party prompt prior written notice of such compelled disclosure so that the other Party may seek to protect such Confidential Information. The receiving Party shall return, or at the disclosing Party's option, destroy (and certify in writing such return or destruction) any and all Confidential Information to the disclosing Party upon the written request of the disclosing Party. This Section 7.1 shall survive termination of this Agreement.

**6.2 Equitable Relief.** Each party agrees that its breach of any provision in this Section 7 may result in irreparable harm to the other party for which monetary damages may not provide a sufficient remedy. Therefore, the non-breaching party may seek both monetary damages and equitable relief with respect to any such breach. In the event a party commits a material breach of any obligation in this Section 9 and such breach by its nature is not curable or, if curable, the breaching party fails to cure such breach within thirty (30) days after the non-breaching party gives written notice to the breaching party of such breach, the non-breaching party may, in addition to any other remedies it may have, terminate this Agreement, in whole or in part, effective immediately and without liability in connection therewith, by giving separate written notice.

## **7. TERMINATION**

**7.1 Termination for Cause.** Either Party may terminate this Agreement for cause and without penalty in the following circumstances: (i) the other Party applied for, or consents to, the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property, (ii) upon the other Party ceasing to conduct business, becoming or being declared by a federal bankruptcy court to be insolvent or bankrupt, or being the subject of any proceeding under the federal bankruptcy code or under any other law relating to relief from creditors generally that is not

dismissed within sixty (60) days; (iii) upon the appointment of, or application for, a receiver, custodian, trustee or liquidator of the other Party or all or any substantial portion of the other Party's business or operations; (iv) upon the assignment of all or substantially all the assets of the other Party for the benefit of creditors; (v) the other Party's liquidation, dissolution or winding-up; or (vi) upon the other Party's material breach of this Agreement, if the other Party fails to cure such breach within thirty (30) days after receipt of written notice specifying the breach in reasonable detail.

**7.2 Termination by for Convenience.** Either party may terminate this Agreement at any time, with or without cause and without penalty, by giving the other party ninety (90) days' written notice.

**7.3 Payment.** Upon termination, all Purchase Orders completed in compliance with the applicable Purchase Order and this Agreement must be paid in full. In addition, with respect to Purchase Orders not completed, Company shall be paid any amounts owing for Deliverables completed as of such termination date and expenses incurred as of such termination date including non-cancelable expenses and materials on order from, or owed to third parties.

**7.3 Return of Property.** Within ten (10) days of termination of this Agreement, Company will deliver to Customer any and all property of Customer and its Affiliates that is in Company's possession or control.

**7.4 Survival.** Sections 5, 6, 7, 8 and 9 and this Section 7.4 (together with all other provisions hereof, including, without limitation, all Exhibits and other attachments hereto, that may be reasonably interpreted as surviving termination or expiration of this Agreement) will survive the termination or expiration of this Agreement.

## **8. RELATIONSHIP OF THE PARTIES**

Company is an independent contractor, and this Agreement will not be construed to create any partnership, joint venture, agency or employment relationship between Company and Customer. Company will not represent itself to be an employee, representative, partner, joint venturer or agent of Customer. Company will have no authority (a) to enter into any agreement on Customer's behalf or in Customer's name or represent Customer for any purpose whatsoever, or (b) to promote or sell Customer's products or services. Company will retain full control over the manner in which it performs all services provided to Customer and will not be entitled to workers' compensation, retirement, insurance, stock options or other benefits afforded to employees of Customer.

## **9. MISCELLANEOUS**

**9.1 Assignment.** Neither party may assign this Agreement, in whole or in part, without the other party's prior written consent. Upon a valid assignment of this Agreement, all the terms and conditions of this Agreement will be binding upon, will inure to the benefit of, and will be enforceable by, each of the Parties and their respective successors and permitted assigns.

**9.2 Waivers and Remedies.** The failure of either Party to enforce any provision of this Agreement will not constitute a waiver of such Party's rights to subsequently enforce the provision. The remedies specified in this Agreement are in addition to any other remedies that may be available at law or in equity.

**9.3 Governing Law.** This Agreement will be governed in all respects by, and construed and enforced in accordance with, the laws of the Commonwealth of Virginia, without regard to any rules governing conflicts of laws. Notwithstanding the foregoing, the provisions of the Uniform Computer Information Transactions Act do not apply to any transaction to which these terms and conditions apply. The rights and obligations of the parties hereunder shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. To the extent referenced herein, certain terms and conditions are governed by INCOTERMS 2010. Exclusive jurisdiction over and venue of any suit arising out of or relating to this Agreement will be in the state and federal courts of Montgomery County, Virginia and the Western District of Virginia.

**9.4 Construction; Preference.** Whenever the singular form is used in this Agreement, and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa. Each Party signing this Agreement acknowledges that it has had the opportunity to review this Agreement with legal counsel of its choice, and there shall be no presumption that ambiguities shall be construed or interpreted against the drafter. Unless as otherwise specifically agreed to in a writing signed by each of the Parties, in the event of any conflict of inconsistency among the provisions of this Agreement (the "General Terms and Conditions"), any other Attachment, exhibit or annex hereto, and/or any Purchase Order issued hereunder, such conflict or inconsistency shall be resolved by giving precedence (a) first, to the Attachments set forth above, (b) second, to any other exhibits, attachments, statements of work or annexes made a part hereof, (c) third, to the General Terms and Conditions, and (d) fourth, to a Purchase Order.

**9.5 Severability.** If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**9.6 Amendment.** This Agreement may be modified or amended only by a writing signed by duly authorized representatives of both Parties.

**9.7 Entire Agreement.** This Agreement is the complete agreement between the Parties concerning the subject matter of this Agreement and replaces any prior oral or written communications between the Parties. There are no conditions, understandings, agreements, representations or warranties (express or implied) which are not specified herein.