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Lori A. Weaver
Interim Commissioner

L. Todd Bickford
Administrator

**STATE OF NEW HAMPSHIRE**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

***GLENCLIFF HOME***

393 HIGH STREET, PO BOX 76, GLENCLIFF, NH 03238
603-989-3111 Fax: 603-989-3040
TDD Access: 1-800-735-2964 www.dhhs.nh.gov

May 31, 2023

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, Glencliff Home, to enter into a contract with KPH Healthcare Services, Inc. (VC#235667), Governeur, NY, in the amount of $27,000 for provision of pharmaceutical services to the residents of Glencliff Home, with the option to renew for up to four (4) additional years, effective July 1, 2023, upon Governor and Council approval, through June 30, 2025. 22% General Funds. 78% Other Funds (Agency Income).

Funds are anticipated to be available in the following account for State Fiscal Year 2024, and State Fiscal Year 2025, 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.

**05-95-91-9100-57100000 Health and Social Services, Department of Health and Human Services, Glencliff Home, Professional Care**

| State Fiscal Year | Class / Account | Class Title | Job Number | Total Amount |
|---|---|---|---|---|
| 2024 | 101-500729 | Payments to Medical Providers | 91000000 | $13,500 |
| 2025 | 101-500729 | Payments to Medical Providers | 91000000 | $13,500 |
| | | | **Total** | **$27,000** |

## EXPLANATION

The purpose of this request is to allow the Contractor to provide pharmacy services to meet the medication needs of residents who have developmental disabilities and/or mental illness at the Glencliff Home in Benton, New Hampshire. Pharmacy services include delivery, auditing, in-service training, consultations and all billing of third party insurances and Medicare.

Approximately 75 individuals will be served annually.

The Department will monitor services by:

- Quarterly audits for accountability of medication ordered, dispensed, delivered, used, and billed.
- Biannual in-person meetings to discuss service quality and appropriateness.
- Annual performance evaluations.

The Department selected the Contractor through a competitive bid process using a Request for Applications (RFA) that was posted on the Department's website from March 7, 2023 through April 17, 2023. The Department received one (1) response that was reviewed and scored by a team of qualified individuals. The Scoring Sheet is attached.

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

Should the Governor and Council not authorize this request Glencliff Home patients may not receive these critical, physician ordered healthcare services in a timely and financially efficient manner.

Area served: Glencliff Home

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

Respectfully submitted,

Lori A. Weaver
Interim Commissioner

# New Hampshire Department of Health and Human Services
## Division of Finance and Procurement
## Bureau of Contracts and Procurement
## Scoring Sheet

**Project ID #** RFA-2024-GLENCLIFF-01-PHARM

**Project Title** Pharmacy Services for Glencliff Home

| | Maximum Points Available | KPH Healthcare Services, Inc |
|---|---|---|
| **Technical** | | |
| Experience (Q1) | 15 | 14 |
| Data Confidentiality (Q2) | 5 | 4 |
| Capacity (Q3) | 10 | 9 |
| Ability (Q4) | 20 | 19 |
| **TOTAL POINTS** | **50** | **46** |
| **TOTAL PROPOSED VENDOR COST** | | *Not Applicable - No* |

| | Reviewer Name | Title |
|---|---|---|
| 1 | Kevin A. Lincoln | Director of Financial Services |
| 2 | Michelle D. Booker | Director of Nursing Services |
| 3 | Douglas Kenneally | Deputy Administrator for Glencliff |

**FORM NUMBER P-37 (version 12/11/2019)**

**Subject: RFA-2024-GLENCLIFF-01-PHARM-01 (Pharmacy Services for Glencliff Home)**

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<br>New Hampshire Department of Health and Human Services | | 1.2 State Agency Address<br>129 Pleasant Street<br>Concord, NH 03301-3857 | |
| 1.3 Contractor Name<br>KPH Healthcare Services, Inc. | | 1.4 Contractor Address<br>29 East Main Street, Governeur, NY 13642 | |
| 1.5 Contractor Phone Number<br>855-493-3823 | 1.6 Account Number<br>05-95-91-910010-5710-101-500729 | 1.7 Completion Date<br>6/30/2025 | 1.8 Price Limitation<br>$27,000 |
| 1.9 Contracting Officer for State Agency<br>Robert W. Moore, Director | | 1.10 State Agency Telephone Number<br>(603) 271-9631 | |
| 1.11 Contractor Signature<br>DocuSigned by: Gary Nipper 5E8ECA80A61C474... Date: 5/31/2023 | | 1.12 Name and Title of Contractor Signatory<br>Gary Nipper Director of Sales | |
| 1.13 State Agency Signature<br>DocuSigned by: Ellen Marie Lapointe 4S80B801EDE8428... Date: 5/31/2023 | | 1.14 Name and Title of State Agency Signatory<br>Ellen Marie Lapointe Chief Executive Officer | |
| 1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*<br>By: Director, On: | | | |
| 1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)*<br>By: DocuSigned by: Robyn Guarino 748724844941460... On: 5/31/2023 | | | |
| 1.17 Approval by the Governor and Executive Council *(if applicable)*<br>G&C Item number: G&C Meeting Date: | | | |



Contractor Initials DS GM
Date 5/31/2023

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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

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



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**8. EVENT OF DEFAULT/REMEDIES.**

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

**9. TERMINATION.**

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

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

**10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**

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

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

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

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

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

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

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

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



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

**14. INSURANCE.**

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

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

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

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

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

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

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



Contractor Initials DS

Date 5/31/2023

# EXHIBIT A

## Revisions to Standard Agreement Provisions

1. Revisions to Form P-37, General Provisions

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

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

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

   12.3. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions. The Contractor shall have written agreements with all subcontractors, specifying the work to be performed, and if applicable, a Business Associate Agreement in accordance with the Health Insurance Portability and Accountability Act. Written agreements shall specify how corrective action shall be managed. The Contractor shall manage the subcontractor's performance on an ongoing basis and take corrective action as necessary. The Contractor shall annually provide the State with a list of all subcontractors provided for under this Agreement and notify the State of any inadequate subcontractor performance.



DS

Contractor Initials KM

Date 5/31/2023

**New Hampshire Department of Health and Human Services**
**Pharmacy Services for Glencliff Home**

# EXHIBIT B

## Scope of Services

1. **Statement of Work**

1.1. The Contractor must provide pharmacy services in this Agreement for Glencliff Home.

1.2. For the purposes of this Agreement, all references to days mean calendar days, excluding state and federal holidays.

1.3. The Contractor must provide pharmacy services in a safe and secure manner that is in accordance with all standards and requirements of the:

1.3.1. State of New Hampshire Board of Pharmacy, PH 706 Pharmaceutical Care Standards, and;

1.3.2. Centers for Medicare and Medicaid (CMS) 42 CFR 483.

1.4. The Contractor must hold a license issued by the New Hampshire Board of Pharmacy as either a resident or non-residential/mail order pharmacy.

1.5. The Contractor must have a New Hampshire licensed pharmacist available to Glencliff Home twenty-four (24) hours per day, three hundred sixty-five (365) days per year to receive and approve orders or relabeling requests for prescription medications.

1.6. The Contractor must have a New Hampshire licensed pharmacist available by electronic pager or means (with a maximum one hour telephone response) for phone consultation only, twenty-four (24) hours per day three hundred sixty-five (365) days per year.

1.7. The Contractor must provide Glencliff Home with prescribed medications for residents as ordered by physicians, nurse practitioners, and physician assistants under the following terms:

1.7.1. When a prescription order, re-order, or relabeling request is received as described in Paragraph 1.5., the Contractor must ensure deliveries occur within twenty-four (24) hours of receipt;

1.7.2. Medications must be delivered securely to the Director of Nursing or designee in a mutually agreed upon manner such as courier or, express mail, in accordance with the New Hampshire State Board of Pharmacy regulations, and Exhibit K: NH DHHS Information Security Requirements;

1.7.3. When available, the Contractor must substitute generic drugs approved by the federal government that fall into the AB generic drug category. Generic substitution must not occur when the prescriber's order specifically states "Brand Medically Necessary;"

1.7.4. Individual prescriptions must be dispensed as ordered by the

prescribers as follows:

1.7.4.1. Within a patient specific unit dose drug delivery system for the time period specified in the prescription; and

1.7.4.2. Prescriptions must be delivered as ordered.

1.7.5. Individual prescribed solid dosage medication must be provided in a punch card supply as required by Medicare D. Other changes in solid dosage medication packaging must be mutually agreed upon by Glencliff Home and the Contractor;

1.7.6. Solid forms of medications must be unit dosed in a properly sealed package for each resident;

1.7.7. Liquid forms of medications must be provided in individual packaging (bulk or unit dose) that is least expensive to Glencliff Home, unless one method is specifically requested by the Glencliff Home; and,

1.7.8. Cassette exchanges must be completed or approved by a pharmacist.

1.8. The Contractor must supply and maintain four (4) secure medication carts set up for unit dosed package distribution as follows:

1.8.1. Each secured cart must have the capacity to accommodate medication storage for up to forty (40) residents per unit;

1.8.2. Each cart must include individual resident bins with dividers to separate medications alphabetically to ensure the delivery of medication in a safe, accurate and timely manner;

1.8.3. Each cart must have a double locked area for the storage of controlled substances and additional drawers for the storage of external preparations and liquid medications must be combined in this self-contained unit; and

1.8.4. An additional securable cart meeting requirements 1.8. through 1.8.3. must be available upon request by the Glencliff Home.

1.9. The Contractor must provide preventative maintenance and repairs, general "infection control" cleaning and upkeep of the five individual secured medication carts as requested by Glencliff Home. The Contractor is responsible for the cost of maintenance and repairs at no additional cost to the Department.

1.10. The Contractor must provide two (2) secure tamper proof boxes of medications for Emergency/Contingency use. The Contractor must:

1.10.1. Monitor and restock these boxes; and

1.10.2. Supply the quantity and contents of the boxes with prescribed medications as mutually agreed upon by both parties.

1.11. The Contractor must be able to supply psychotropic drugs to Glencliff Home residents who are hospitalized at New Hampshire Hospital at Concord, NH, Dartmouth Hitchcock Medical Center in Lebanon, NH, Cottage Hospital, Woodsville, NH, or any other medical facility designated by Glencliff Home.

1.12. The Contractor must ensure the proper storage and accountability of maintenance medications and/or controlled substances that are dispensed to Glencliff Home residents and/or brought onto Glencliff Home premises.

1.13. The Contractor must destroy and dispose of unused medications and controlled substances that are no longer needed and cannot be returned for credit per applicable law.

1.14. The Contractor must provide containers for the purpose of medication and device disposal such as, but not limited to, Sharps containers for syringes, lancets, etc.

1.15. The Contractor must accept returns of unopened unit dose packaging and credit the patient's billing party for unused medications in accordance with New Hampshire State Board of Pharmacy regulation Ph 704.07.

1.16. The Contractor must complete a Retrospective Drug Utilization Review at least every thirty (30) days by monitoring medications for potential food/drug interactions as well as potential incompatibilities for both prescription and over the counter products. The Contractor must:

1.16.1. Have the review completed by a licensed pharmacist and in accordance with CMS 42 CFR 483;

1.16.2. Complete the review at the Glencliff Home with the Glencliff Home facility staff; and

1.16.3. Submit copies of the completed review, including any irregularities, to the Glencliff Home's attending physician, Medical Director and Director of Nursing within fifteen (15) days from the date of review.

1.17. The Contractor must complete a Prospective/Concurrent Drug Utilization Review every 30 days of each resident's drug regimen, listing potential interactions, incompatibilities, excessive dosages, acceptable indications for use and adequate monitoring (i.e. of every 6 month DISCUS testing, labs, etc.). The Contractor must:

1.17.1. Have the review completed by a licensed pharmacist and in accordance with CMS 42 CFR 483;

1.17.2. Complete the review at the Glencliff Home with the Glencliff Home facility staff; and

1.17.3. Submit copies of the completed review, including any irregularities, to the Glencliff Home's attending physician, Medical Director and

Director of Nursing within fifteen (15) days from the date of review.

1.18. The Contractor must provide Medication Administration Records (MARs) and Physician's Order Sheets monthly to the Director of Nursing. The Contractor must:

1.18.1. Ensure the MARs sheets include necessary special instructions for the proper administration of the medication/substance, such as, "after meals", "with food", "may crush," open capsule and place contents in...", and as required by Glencliff for each individual patient;

1.18.2. Include on both forms special information pertinent to the patient, such as diagnoses, identification number, and other information as required by Glencliff Home's Administrator or Director of Nursing for each individual patient; and

1.18.3. Deliver MARs sheets or make available electronically to Glencliff Home at least five days prior to the beginning of each new month to allow time for review and implementation by the nursing staff.

1.19. The Contractor must have the ability to use the Department contracted web-based MatrixCare Achieve software for:

1.19.1. Receiving prescriber orders by electronic prescribing (the electronic generation, transmission and filling, refilling, or changing of medical prescriptions); and,

1.19.2. Using Glencliff Home's Electronic Medication Administration Record (EMAR).

1.20. The Department may, at its sole expense, conduct reference and screening of the Contractor's Project Manager and Key Project Staff.

1.20.1. Not access or attempt to access information in a manner inconsistent with the approved policies, procedures, and/or agreement relating to system entry/access;

1.20.2. Not copy, share, distribute, sub-license, modify, reverse engineer, rent, or sell software licensed, developed, or being evaluated by the Department, and at all times must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other agreement executed by the Department;

1.20.3. Only use equipment, software, or subscription(s) authorized by the Department's Information Security Office or designee;

1.20.4. Only install authorized software on any Department equipment unless authorized by the Department's Information Security Office or designee;

1.20.5. Agree that email and other electronic communication messages created, sent, and received on a Department-issued email system are the property of the Department of New Hampshire and to be used for business purposes only. Email is defined as "internal email systems" or "Department-funded email systems."

1.20.6. Agree that use of email must follow Department and NH DoIT policies, standards, and/or guidelines; and

1.20.7. Agree when utilizing the Department's email system:

1.20.7.1. To only use a Department email address assigned to them with a "@ affiliate.DHHS.NH.Gov".

1.20.7.2. Include in the signature lines information identifying the End User as a non-Department workforce member; and

1.20.7.3. Ensure the following confidentiality notice is embedded underneath the signature line:

1.20.7.4. CONFIDENTIALITY NOTICE: "This message may contain information that is privileged and confidential and is intended only for the use of the individual(s) to whom it is addressed. If you receive this message in error, please notify the sender immediately and delete this electronic message and any attachments from your system. Thank you for your cooperation."

1.20.8. Contracted End Users with a Department issued email, access or potential access to Confidential Data, and/or a workspace in a Department building/facility, must:

1.20.8.1. Complete the Department's Annual Information Security & Compliance Awareness Training prior to accessing, viewing, handling, hearing, or transmitting Department Data or Confidential Data;

1.20.8.2. Sign the Department's Business Use and Confidentiality Agreement and Asset Use Agreement, and the NH DoIT Department wide Computer Use Agreement upon execution of the awarded Contract and annually throughout the Contract term;

1.20.8.3. Agree End User's will only access the Department' intranet to view the Department's Policies and Procedures and Information Security webpages;

1.20.8.4. Agree, if any End User is found to be in violation of any of the above-Department terms and conditions of the

Contract, said End User may face removal from the Contract, and/or criminal and/or civil prosecution, if the act constitutes a violation of law; and

1.20.8.5. Agree to notify the State a minimum of three business days prior to any upcoming transfers or terminations of End Users who possess State credentials and/or badges or who have system privileges. If End Users who possess State credentials and/or badges or who have system privileges resign or are dismissed without advance notice, the Contractor agrees to notify the State's Information Security Office or designee immediately.

1.20.9. If applicable, the State will work with Contractor to determine requirements for providing necessary workspace and State equipment for its End Users.

1.21. The Contractor must accept medication orders written on physician's order sheets submitted by the Glencliff Home via facsimile machine.

1.22. The Contractor must provide four fax machines to be placed in the nursing units for faxing of prescription orders, reports, etc.

1.23. Pharmaceutical Unit Inspections

1.23.1. The Contractor's licensed pharmacist(s) must complete pharmaceutical unit inspections at least once every thirty (30) days of all medication usage and storage areas within the facility.

1.23.2. The Contractor must provide a report and copies of said inspections to Glencliff Home's Director of Nursing within 10 days from the date of the inspection.

1.23.3. The Contractor must conduct the inspection in compliance and in accordance with CMS requirements, 42 CFR 483 and New Hampshire Board of Pharmacy.

1.24. Documentation and Reference Materials

1.24.1. The Contractor must:

1.24.1.1. Provide a copy of their Policies and Procedures specific to the Glencliff Home's pharmaceutical services;

1.24.1.2. Provide Patient Education Leaflets that include risk/benefit drug information to share with the residents/legal representatives and nursing staff;

1.24.1.3. Provide five (5) reference notebooks that contain at a minimum medication descriptions and side effects, for each nursing unit and the nursing coordinators' office, and keep said reference notebooks up-to-date;

1.24.1.4. Provide Proof of Use sheets for Controlled Substances; and

1.24.1.5. Provide eight (8) Nurses' Drug Review handbooks. The Contractor must provide yearly updates of the Nurses' Drug Review handbooks.

1.25. Education and In-Service Trainings

1.25.1. The Contractor must provide continuing education and in-service trainings. The Contractor must provide at a minimum the following:

1.25.1.1. Within ten (10) days of the contract effective date, provide an in-person overview of the implementation of contracted services to the Glencliff Home's Administrator, Director of Nursing, and other personal designated by the Department that must include:

1.25.1.1.1. A prepared agenda covering the overview topics;

1.25.1.1.2. A draft overview and agenda for approval by the Glencliff Home's Administrator to meet requirement in Section 1.25.1.1.; and,

1.25.1.1.3. Meeting minutes.

1.25.1.2. Within thirty (30) days of the contract effective date, provide an in-person overview as approved in Section 2.4.1.1 of the contracted pharmacy services to Glencliff Home's nursing staff;

1.25.1.3. A minimum of four (4) ongoing education programs as requested by Glencliff Home's Administrator. The Contractor must make arrangements at least one (1) month prior to the scheduled date of the presentation for the mutual agreement of the topic, date and time;

1.25.1.4. Skin care consultations;

1.25.1.5. NH Board of Nursing approved intravenous (IV) certification courses, including pic line training, at least once per year, if requested;

1.25.1.6. Reviews and updates to the JCAHO/CMS Standards and their impact on the Glencliff Home; and,

1.25.1.7. Monthly newsletters regarding new drug updates and other related information as indicated/requested.

1.26. Staffing

1.26.1. The Contractor must provide sufficient licensed and trained staff to provide the services in this Agreement.

1.26.2. The Contractor must provide a copy of said licenses to Glencliff Home's Administrator by July 1 of each year.

1.27. The Contractor must participate in meetings with Glencliff Home on a monthly basis, or as otherwise requested by Glencliff Home's Administrator. In addition, the Contractor must attend Pharmacy and Therapeutics Committee meetings, regulatory agency visits, and quality assurance meetings as necessary.

1.28. Reporting

1.28.1. The Contractor must provide a monthly medication dispensing report within ten (10) days after the close of the month and must include at a minimum the following:

1.28.1.1. Patient Name;

1.28.1.2. Date drug was ordered, date delivered, and who ordered the medication;

1.28.1.3. RX#;

1.28.1.4. Name of Drug;

1.28.1.5. MFG;

1.28.1.6. NDC#;

1.28.1.7. Quantity Dispensed; and,

1.28.1.8. Price billed.

1.28.2. The Contractor must complete a quarterly (every ninety (90) days) audit for the accountability of medication ordered, dispensed, delivered, used and billed and provide a report of said audit to the Glencliff Home's Administrator and Director of Nursing within thirty (30) days from the date of the audit.

1.29. Performance Measures

1.29.1. The Department will monitor Contractor performance by reviewing the reports described in Subsection 1.28.

1.29.2. The Contractor must participate in meetings with Glencliff Home on a monthly basis, or as otherwise requested by Glencliff Home's

Administrator. In addition, the Contractor must attend Pharmacy and Therapeutics Committee meetings, regulatory agency visits, and quality assurance meetings as necessary.

1.29.3. In the event of negative outcomes by a regulatory agency's visit, the Contractor must provide a written correction action plan to Glencliff Home's Administrator within ten (10) days from the date they were informed by the Glencliff Home.

1.30. Background Checks

1.30.1. Prior to permitting any individual to provide services under this Agreement, the Contractor must ensure that said individual has undergone:

1.30.1.1. A criminal background check, at the Contractor's expense, and has no convictions for crimes that represent evidence of behavior that could endanger individuals served. Additionally, the Contractor must not utilize any End Users (as defined in the DHHS Information Security Requirements, Exhibit K) 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 must initiate a criminal background check re- investigation of all employees, volunteers, interns, and subcontractors assigned to this Contract every five (5) years. The five (5) year period will be based on the date of the last Criminal Background Check conducted by the Contractor.

1.30.1.2. A name search of the Department's Bureau of Elderly and Adult Services (BEAS) State Registry, pursuant to RSA 161-F:49, with results indicating no evidence of behavior that could endanger individuals served under this Agreement.

1.31. Privacy Impact Assessment

1.31.1. Upon request, the Contractor must allow and assist the Department in conducting a Privacy Impact Assessment (PIA) of its system(s)/application(s)/web portal(s)/website(s) or Department system(s)/application(s)/web portal(s)/website(s) hosted by the Contractor, if Personally Identifiable Information (PII) is collected, used, accessed, shared, or stored. To conduct the PIA the Contractor

must provide the Department access to applicable systems and documentation sufficient to allow the Department to assess, at minimum, the following:

1.31.1.1. How PII is gathered and stored;

1.31.1.2. Who will have access to PII;

1.31.1.3. How PII will be used in the system;

1.31.1.4. How individual consent will be achieved and revoked; and

1.31.1.5. Privacy practices.

1.31.2. The Department may conduct follow-up PIAs in the event there are either significant process changes or new technologies impacting the collection, processing or storage of PII.

1.32. State Owned Devices, Systems and Network Usage

1.32.1. If the Contractor's End Users, as defined in Exhibit K, DHHS Information Security Requirements, are authorized by the Department's Information Security Office to use a Department issued device (e.g. computer, tablet, mobile telephone) and/or access a Department system, application or subscription, and/or the State's network in the fulfilment of this Agreement, the Contractor must:

1.32.2. Sign and abide by applicable Department and New Hampshire Department of Information Technology (NH DoIT) use agreements, policies, standards, procedures and guidelines including Exhibit K: NH DHHS Information Security Requirements, and complete applicable trainings as required;

1.32.3. Use the information that they have permission to access solely for conducting official Department business and agree that all other use or access is strictly forbidden including, but not limited, to personal or other private and non-Department use, and that at no time shall they access or attempt to access information without having the express authority of the Department to do so;

1.33. Contract End-of-Life Transition Services

1.33.1. If applicable, upon termination or expiration of the Contract the Parties agree to cooperate in good faith to effectuate a smooth secure transition of the Services from the Contractor to the Department and, if applicable, the Contractor engaged by the Department to assume the Services previously performed by the Contractor for this section the new contractor shall be known as "Recipient"). Contract end of life services shall be provided at no additional cost. Ninety (90) days prior

to the end-of the contract or unless otherwise specified by the Department, the Contractor must begin working with the Department and if applicable, the new Recipient to develop a Data Transition Plan (DTP). The Department shall provide the DTP template to the Contractor.

1.33.2. The Contractor must use reasonable efforts to assist the Recipient, in connection with the transition from the performance of Services by the Contractor and their Affiliates to the performance of such Services. This may include assistance with the secure transfer of records (electronic and hard copy), transition of historical data (electronic and hard copy), the transition of any such Service from the hardware, software, network and telecommunications equipment and internet-related information technology infrastructure ("Internal IT Systems") of Contractor to the Internal IT Systems of the Recipient and cooperation with and assistance to any third-party consultants engaged by Recipient in connection with the Transition Services.

1.33.3. If a system, database, hardware, software, and/or software licenses (Tools) was purchased or created to manage, track, and/or store State Data in relationship to this contract said Tools will be inventoried and returned to the Department, along with the inventory document, once transition of State Data is complete.

1.33.4. The internal planning of the Transition Services by the Contractor and its Affiliates shall be provided to the Department and if applicable the Recipient on a timely manner. Any such Transition Services shall be deemed to be Services for purposes of this Contract.

1.33.5. Should the data Transition extend beyond the end of the Contract(s), the Contractor and its affiliates agree Contract Information Security Requirements, and if applicable, the Department's Business Associates Agreement terms and conditions remain in effect until the Data Transition is accepted as complete by the Department.

1.33.6. In the event where the Contractor has comingled Department Data and the destruction or Transition of said data is not feasible, the Department and Contractor will jointly evaluate regulatory and professional standards for retention requirements prior to destruction.

## 2. Exhibits Incorporated

2.1. The Contractor must use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 CFR Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and in

accordance with the attached Exhibit I, Business Associate Agreement, which has been executed by the parties.

2.2. The Contractor must manage all confidential data related to this Agreement in accordance with the terms of Exhibit K, DHHS Information Security Requirements.

2.3. The Contractor must comply with all Exhibits D through K, which are attached hereto and incorporated by reference herein.

**3. Additional Terms**

**3.1. Impacts Resulting from Court Orders or Legislative Changes**

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

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

3.2.1. The Contractor must submit, within ten (10) days of the Agreement Effective Date, a detailed description of the communication access and language assistance services to be provided to ensure meaningful access to programs and/or services to individuals with limited English proficiency; individuals who are deaf or have hearing loss; individuals who are blind or have low vision; and individuals who have speech challenges.

**3.3. Credits and Copyright Ownership**

3.3.1. All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Agreement must include the following statement, "The preparation of this (report, document etc.) was financed under an Contract with the State of New Hampshire, Department of Health and Human Services.

3.3.2. All materials produced or purchased under the Agreement must have prior approval from the Department before printing, production, distribution or use.

3.3.3. The Department must retain copyright ownership for any and all original materials produced, including, but not limited to:

3.3.3.1. Brochures.

3.3.3.2. Resource directories.

3.3.3.3. Protocols or guidelines.

3.3.3.4. Posters.

3.3.3.5. Reports.

3.3.4. The Contractor must not reproduce any materials produced under the Agreement without prior written approval from the Department.

**4. Records**

4.1. The Contractor must keep records that include, but are not limited to:

4.1.1. Books, records, documents and other electronic or physical data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor.

4.1.2. All records must be maintained in accordance with accounting procedures and practices, which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

4.1.3. Statistical, enrollment, attendance or visit records for each recipient of services, which records must 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.

4.1.4. Medical records on each patient/recipient of services.

4.2. During the term of this Agreement and the period for retention hereunder, the Department and any of their designated representatives must have access to all reports and records maintained pursuant to the Agreement for purposes of audit, examination, excerpts and transcripts.

4.3. If, upon review of the Final Expenditure Report the Department must disallow any expenses claimed by the Contractor as costs hereunder, the Department retains the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

# EXHIBIT C

## Payment Terms

1. This Agreement is funded by:
   1.1. 22% General funds.
   1.2. 78% Other funds (Agency Income).
2. For the purposes of this Agreement the Department has identified:
   2.1. The Contractor as a Contractor, based on criteria in 2 CFR 200.331.
3. Payment from the Department shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement.
4. The Department shall pay the Contractor a monthly all-inclusive rate of $15.00 per resident per month, multiplied by the highest number of residents served each month as determined by Glencliff's census. This all-inclusive rate applies to Pharmaceutical Unit Inspections in Exhibit B, Scope of Services, Section 1, Statement of Work, Subsection 1.24, Pharmaceutical Unit Inspections.
5. The Contractor shall directly bill Medicaid, Medicare D and other third party carriers, as well as the responsible party for private pay residents for all fees not covered by the all-inclusive rate described in Paragraph 4. Private pay residents shall be billed the same price as Medicare billed residents. The residents shall be billed for the exact amount utilized, not for the expected usage.
6. The Contractor shall submit an invoice with supporting documentation to the Department no later than the fifteenth (15th) working day of the month following the month in which the services were provided. The Contractor shall ensure each invoice:
   6.1. Includes the Contractor's Vendor Number issued upon registering with New Hampshire Department of Administrative Services.
   6.2. Is submitted in a form that is provided by or otherwise acceptable to the Department.
   6.3. Identifies and requests payment for allowable costs incurred in the previous month.
   6.4. Includes supporting documentation of allowable costs with each invoice that may include, but are not limited to, time sheets, payroll records, receipts for purchases, and proof of expenditures, as applicable.
   6.5. Is completed, dated and returned to the Department with the supporting documentation for allowable expenses to initiate payment.
   6.6. Is assigned an electronic signature, includes supporting documentation, and is emailed to Glencliff.AP@dhhs.nh.gov or mailed to:

      Glencliff Home – Finance Department

PO Box 76
Glencliff, NH 03238

7. The Department shall make payments to the Contractor within thirty (30) days of receipt of each invoice and supporting documentation for authorized expenses, subsequent to approval of the submitted invoice.

8. The final invoice and supporting documentation for authorized expenses shall be due to the Department no later than forty (40) days after the contract completion date specified in Form P-37, General Provisions Block 1.7 Completion Date.

9. Notwithstanding Paragraph 17 of the General Provisions Form P-37, changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years and budget class lines through the Budget Office may be made by written agreement of both parties, without obtaining approval of the Governor and Executive Council, if needed and justified.

10. Audits

    10.1. The Contractor must email an annual audit to dhhs.act@dhhs.nh.gov if any of the following conditions exist:

        10.1.1. Condition A - The Contractor expended $750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.

        10.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of $1,000,000 or more.

        10.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.

    10.2. If Condition A exists, the Contractor shall submit an annual Single Audit performed by an independent Certified Public Accountant (CPA) to dhhs.act@dhhs.nh.gov within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.

        10.2.1. The Contractor shall submit a copy of any Single Audit findings and any associated corrective action plans. The Contractor shall submit quarterly progress reports on the status of implementation of the corrective action plan.

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

10.4. In addition to, and not in any way in limitation of obligations of the Agreement, 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 Agreement to which exception has been taken, or which have been disallowed because of such an exception.

## CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

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

**ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS**

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

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

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

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



Vendor Initials DS
Date 5/31/2023

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

1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted

1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.

2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

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

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

Vendor Name: KPH Healthcare Services, Inc

DocuSigned by:

5/31/2023
Date

Name: Gary Nipper
Title: Director of Sales

**New Hampshire Department of Health and Human Services**
**Exhibit E**

## CERTIFICATION REGARDING LOBBYING

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

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

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

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

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.)

3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Vendor Name: KPH Healthcare Services, Inc

5/31/2023
Date

DocuSigned by:
Gary Nipper
5EBECA3DAB1C471...
Name: Gary Nipper
Title: Director of Sales

DS
Vendor Initials

5/31/2023
Date

## 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



Contractor Initials DS PM
Date 5/31/2023

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

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

PRIMARY COVERED TRANSACTIONS

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

12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
    - 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
    - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).

14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Contractor Name: KPH Healthcare Services, Inc

5/31/2023
Date

DocuSigned by:
Gary Nipper
5EBEC4D0AB1C477...
Name: Gary Nipper
Title: Director of Sales

DS
GN
Contractor Initials
5/31/2023
Date

## 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.

DS

Contractor Initials PM

Date 5/31/2023

**New Hampshire Department of Health and Human Services**
**Exhibit G**

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

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

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

Contractor Name: KPH Healthcare Services, Inc

DocuSigned by:

5/31/2023
Date

Name: Gary Nipper
Title: Director of Sales

**New Hampshire Department of Health and Human Services**
**Exhibit H**

## CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

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

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

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

Contractor Name: KPH Healthcare Services, Inc

5/31/2023
Date

DocuSigned by:
Gary Nipper
Name: Gary Nipper
Title: Director of Sales



DS
Contractor Initials
Date 5/31/2023

# HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT BUSINESS ASSOCIATE AGREEMENT

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

## (1) Definitions.

a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.

b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.

e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.

f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.

g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, TitleXIII, 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.

l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.

m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.

o. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH
Act.

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

a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

b. Business Associate may use or disclose PHI:
   I. For the proper management and administration of the Business Associate;
   II. As required by law, pursuant to the terms set forth in paragraph d. below; or
   III. For data aggregation purposes for the health care operations of Covered Entity.

c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business

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:

- The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
- The unauthorized person used the protected health information or to whom the disclosure was made;
- Whether the protected health information was actually acquired or viewed
- 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

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

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.

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 | KPH Healthcare Services, Inc |
| The State | Name of the Contractor |
| DocuSigned by: Ellen Marie Lapointe 46B96001F0E0420... | DocuSigned by: Gary Nipper 3E8ECA10A81C4F1... |
| Signature of Authorized Representative | Signature of Authorized Representative |
| Ellen Marie Lapointe | Gary Nipper |
| Name of Authorized Representative | Name of Authorized Representative |
| Chief Executive Officer | Director of Sales |
| Title of Authorized Representative | Title of Authorized Representative |
| 5/31/2023 | 5/31/2023 |
| Date | Date |

**New Hampshire Department of Health and Human Services**
**Exhibit J**

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

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than $25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of $25,000 or more. If the initial award is below $25,000 but subsequent grant modifications result in a total award equal to or over $25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.
In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (UEI #)
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: KPH Healthcare Services, Inc

DocuSigned by:

5/31/2023
Date

Name: Gary Nipper
Title: Director of Sales

DS

Contractor Initials

Date 5/31/2023

**New Hampshire Department of Health and Human Services**
**Exhibit J**

## FORM A

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

1. The UEI (SAM.gov) number for your entity is: o0o0o0o0

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

   __X__ NO  _____ YES

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

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

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

   _____ NO  _____ YES

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

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

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

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____



Contractor Initials DS

Date 5/31/2023

# New Hampshire Department of Health and Human Services

Exhibit K

## DHHS Information Security Requirements

A. Definitions

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

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, " Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.

2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.

3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

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

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.

5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.

6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic

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

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

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

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.).

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

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/doit/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.



DS

Contractor Initials

Date 5/31/2023

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

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

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# 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 KPH HEALTHCARE SERVICES, INC. is a New York Profit Corporation registered to transact business in New Hampshire on May 16, 2011. 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: **649696**

Certificate Number: **0006232912**

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 17th day of May A.D. 2023.

David M. Scanlan
Secretary of State

# CERTIFICATE OF AUTHORITY

I, David Adsit, RPh hereby certify that:

1. I am a duly elected Clerk/Secretary/Officer of KPH Healthcare Services, Inc.

2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on May 9, 2023, at which a quorum of the Directors/shareholders were present and voting.

**VOTED:** That Gary Nipper, Director of Sales,

is duly authorized on behalf of KPH Healthcare Services, Inc to enter into contracts or agreements with the State of New Hampshire and any of its agencies or departments and further is authorized to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, which may in his/her judgment be desirable or necessary to effect the purpose of this vote.

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

**DocuSigned by:**

E6456EE9AB864D4...

Dated: May 9, 2023

Signature of Elected Officer
Name: David Adsit, RPh
Title: President

DocuSign Envelope ID: 3701C458-A504-4628-84EB-FC524C9122A3

ACORD

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/16/2023

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).

PRODUCER
OneGroup NY, Inc.
706 N. Clinton St.
Syracuse NY 13204

CONTACT NAME: Cheryl Zuranski
PHONE (A/C, No, Ext): 315-457-1830 FAX (A/C, No): 315-457-7902
E-MAIL ADDRESS: czuranski@onegroup.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Safety National | 15105 |
| INSURER B : Allied World Assurance Co. (US) Inc | 19489 |
| INSURER C : Pharmacists Mutual Ins. Company | 13714 |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED
KPH Healthcare Services, Inc.
29 E Main Street
Gouverneur NY 13642

KINDR

COVERAGES CERTIFICATE NUMBER: 1449309602 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 | X COMMERCIAL GENERAL LIABILITY | Y | Y | GL6676289 | 7/1/2022 | 7/1/2023 | EACH OCCURRENCE | $ 2,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 1,000,000 |
| | X 100,000 | | | | | | MED EXP (Any one person) | $ 5,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 2,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | POLICY PRO-JECT X LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | Deductible | $ $100,000 |
| A | AUTOMOBILE LIABILITY | Y | Y | CA6675660 | 7/1/2022 | 7/1/2023 | COMBINED SINGLE LIMIT (Ea accident) | $ 2,000,000 |
| | X ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | Comp/Collision | $ $5,000 Each |
| B | X UMBRELLA LIAB X OCCUR | Y | Y | 03119229 | 7/1/2022 | 7/1/2023 | EACH OCCURRENCE | $ 10,000,000 |
| | EXCESS LIAB CLAIMS-MADE | | | | | | AGGREGATE | $ 10,000,000 |
| | DED X RETENTION $ 10,000 | | | | | | | $ |
| A<br>A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | Y | LDC4061004<br>PS4061009 | 7/1/2022<br>7/1/2022 | 7/1/2023<br>7/1/2023 | PER STATUTE / OTH-ER | |
| | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) | N / A | | | | | E.L. EACH ACCIDENT | $ 1,000,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |
| C | Pharmacy Svs Prof. Liab-Occurence & Health Care Services Liability | N | N | PSP016009203 | 7/1/2022 | 7/1/2023 | 5,000,000 eac occ | $5,000,000 agg |

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

CERTIFICATE HOLDER

State of New Hampshire, Department of Health and Human Services
129 Pleasant St.
Concord NH 03301-3857

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: KPHHE

LOC #:

# ADDITIONAL REMARKS SCHEDULE



| | |
|---|---|
| AGENCY<br>OneGroup NY, Inc. | NAMED INSURED<br>KPH Healthcare Services, Inc.<br>29 Main Street<br>Gouverneur, NY 13642 |
| POLICY NUMBER | |
| CARRIER / NAIC CODE | EFFECTIVE DATE: |

## ADDITIONAL REMARKS

THIS ADDITIIONAL REMEARS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Coverage applies per form(s):

Commercial General Liability:
CG 20 26 (04/13) - Additional Insured - Designated Person or Organization
CG 20 05 (04/13) - Additional Insured - Controlling Interest
CG 20 11 (04/13) - Additional Insured - Managers or Lessors or Premises
CG 20 15 (04/13) - Additional Insured - Vendors
CG 20 29 (04/13) - Additional Insured - Grantor of Franchise
CG 20 28 (04/13) - Additional Insured - Lessor of Leased Equipment
CG 24 04 (05/09) - Waiver of Transfer of Right of Recovery Against Others To Us

Commercial Auto:
SNCA 026 (10/13) - Designated Additional Insured
SNCA 026 31 (10/13) - New York - Designated Additional Insured
SNCA 027 (10/13) - Waiver of Transfer of Rights of Recovery Against Others To Us

Workers Compensation:
WC 00 03 13 (04/84) - Waiver of Oûr Right To Recover From Others Endorsement
WC 42 03 04 B (06/14) - Texas Waiver of Our Right To Recover From Others Endorsement


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NEW YORK STATE | Workers' Compensation Board

# CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

| | |
|---|---|
| 1a. Legal Name & Address of Insured (use street address only)<br>KPH Healthcare Services, Inc.<br>29 E Main Street<br>Gouverneur, NY 13642<br>Work Location of Insured *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)* | 1b. Business Telephone Number of Insured<br>315-287-1500<br>1c. NYS Unemployment Insurance Employer Registration Number of Insured<br>1d. Federal Employer Identification Number of Insured or Social Security Number<br>150358720 |
| 2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)<br>State of New Hampshire, Department of Health and Human Services<br>129 Pleasant St.<br>Concord, NH 03301-3857 | 3a. Name of Insurance Carrier<br>Safety National<br>3b. Policy Number of Entity Listed in Box "1a"<br>LDC4061004<br>3c. Policy effective period<br>07/01/2022 to 07/01/2023<br>3d. The Proprietor, Partners or Executive Officers are<br>☒ included. (Only check box if all partners/officers included)<br>☐ all excluded or certain partners/officers excluded. |

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

Will the carrier notify the certificate holder within 10 days of a policy being cancelled for non-payment of premium or within 30 days if cancelled for any other reason or if the insured is otherwise eliminated from the coverage indicated on this certificate prior to the end of the policy effective period? ☐ YES ☒ NO

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

**Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.**

**Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.**

Approved by: Pierre Morrisseau
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____ 5/16/2023
(Date)

Title: Chief Executive Officer

Telephone Number of authorized representative or licensed agent of insurance carrier: 315-457-1830

**Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.**

# Workers' Compensation Law

**Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.**

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.