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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

NEW HAMPSHIRE HOSPITAL

Lori A. Weaver
Interim Commissioner

Ellen M. Lapointe
Chief Executive Officer

36 CLINTON STREET, CONCORD, NH 03301
603-271-5300 1-800-852-3345 Ext. 5300
Fax: 603-271-5395 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

June 7, 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, New Hampshire Hospital and Hampstead Hospital and Residential Treatment Facility, to enter into a **Retroactive, Sole Source** amendment to an existing contract with Netsmart Technologies, Inc. (VC #163804), Overland Park, KS, to expand existing Electronic Health Records services to include services for Hampstead Hospital and Residential Treatment Facility, and to add an additional point-of-sale cash register with associated Computrition food services at the Brown Building Cafeteria at the Hugh J. Gallen State Office Park South, by increasing the price limitation by \$206,823.88 from \$2,028,052.12 to \$2,234,876.00 with no change to the contract completion date of August 31, 2024, effective retroactive to September 1, 2022 upon Governor and Council approval. 7.8% General Funds. 92.2% Other Funds (Agency Fees and Intra-Agency Transfers).

The original contract was approved by Governor and Council on December 7, 2022, Item #7.

Funds are available in the following accounts for State Fiscal Year 2023, and are anticipated to be available in State Fiscal Years 2024 and 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.

01-03-030010-7695 General Government, Information Technology Department of, Information Technology Department of, IT for DHHS 100% Other Agency Funds

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2023	038/509038	Technology Software	03950208	\$533,050.53	\$0	\$533,050.53
2023	038/509038	Technology Software	03950374	\$182,441.00	\$174,300	\$356,741
2024	038/509038	Technology Software	03950208	\$917,158.44	\$5,060.47	\$922,218.91
2024	038/509038	Technology Software	03950374	\$8,141.00	\$0	\$8,141.00

2025	038/ 509038	Technology Software	03950208	\$140,674.00	\$5,313.41	\$145,987.41
2025	038/ 509038	Technology Software	03950374	\$8,141.00	\$0	\$8,141.00
			Subtotal	\$1,789,605.97	\$184,673.88	\$1,974,279.85

06-95-094-940010-84100000 Health & Social Services, Department of Health and Human Services, HHS: New Hampshire Hospital, Facilities/Patient Support

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2023	102/ 500731	Contracts for Prog Svc	94026400	\$238,446.15	\$22,150.00	\$260,596.15
			Subtotal	\$238,446.15	\$22,150.00	\$260,596.15
			Total	\$2,028,052.12	\$206,823.88	\$2,234,876.00

EXPLANATION

This request is **Retroactive** to allow the Department to add an additional \$174,300 in Technology Software funds to cover the cost of the completed implementation of Electronic Health Record services at Hampstead Hospital and Residential Treatment Facility. Due to the timing of the Department's acquisition of Hampstead Hospital and Residential Treatment Facility, funding to pay for the implementation of Electronic Health Record services at Hampstead Hospital and Residential Treatment Facility was not included in the original contract. The Department subsequently required additional time to finalize the funding details and revise the scope of work for this amendment, which required more time than anticipated due to the Department needing to identify funding for the services and for the Department to negotiate the revised scope of services with the Contractor.

This request is **Sole Source** because MOP 150 requires all amendments to agreements previously approved as sole source to be identified as sole source. The Contractor is the only identified vendor able to perform the scope of services, which requires the integration of multiple software products, including both electronic health records and food service automation services, with their proprietary products.

The Contractor provides cloud hosting of the electronic medical records, including the medication administration component. This system is the primary medical record for patients at New Hampshire Hospital, and it meets a requirement of the Centers for Medicare & Medicaid Services, CMS.

The purpose of this request is to expand Electronic Health Records System services and components related to the application to provide services for Hampstead Hospital and Residential Treatment Facility, including licensing agreements for hardware, licensed software, and system hosting and professional services. The Contractor will provide services through the Electronic Health Records System that include, but are not limited to:

- Medication management.
- Order filling and processing.
- Patient safety-related features.
- Reporting on patient data.
- Continuity of Operations and Disaster Recovery functions

- Cloud hosting of electronic medical records for Hampstead Hospital and Residential Treatment Facility.

The Electronic Health Records System is a critical component of patient care that helps facilitate the delivery of services such as practice management, treatment planning, pharmaceutical administration and medications, intake, billing and dietary services.

In addition, the Contractor will expand Computrition software services for food service automation to increase diet and menu accuracy, reduce patient risk, and enhance efficiency of operations to include cafeteria services at the Brown Building at the Hugh J. Gallen State Office Park South. The Contractor will install a point of sale cash register to include food services at the Brown Building in the SuitePoint Computrition system.

The Department will monitor services to ensure:

- Successful implementation SuitePoint at the Brown Building
- The Contractor's adherence to all business and technical requirements for the Contractor's expanded services at Hampstead Hospital and Residential Treatment Facility, including reporting capabilities to extract information and patient data, including, but not limited to:
 - Clinical data
 - Administrative reports.
 - Financial reports.
 - Medication usage.

Should the Governor and Council not authorize this request, Hampstead Hospital and Residential Treatment Facility may not have access to the electronic health records services that support practice management, pharmacy, medication administration and billing.

Area served: Hampstead Hospital and Residential Treatment Facility and New Hampshire Hospital.

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



Denis Goulet
DoIT Commissioner



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doiit

Denis Goulet
Commissioner

June 7, 2023

Lori Weaver, Commissioner
Department of Health and Human Services
State of New Hampshire
95 Pleasant Street
Concord, NH 03301

Dear Commissioner Weaver:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract amendment with Netsmart Technologies, Inc., as described below and referenced as DoIT No. 2021-049A.

The purpose of this request is to expand existing Electronic Health Records services to include services for Hampstead Hospital and Residential Treatment Facility.

The Total Price Limitation will increase by \$206,823.88 for a New Total Price Limitation of \$2,234,876.00, effective upon Governor and Council approval retroactive to September 1, 2022 with no change to the contract end date of August 31, 2024.

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

Sincerely,

Denis Goulet

DG/jd
DoIT #2021-049A

cc: Mike Williams, IT Manager



STATE OF NEW HAMPSHIRE

Electronic Health Records (EHR) System

DoIT # 2021-049-A1 DHHS-SS-2022-NHH-01-ELECT-01-A01

AMENDMENT Amend A (1)

STATE OF NEW HAMPSHIRE
Electronic Health Records (EHR) System
DoIT # 2021-049-A DHHS-SS-2022-NHH-01-ELECT-01-A01
AMENDMENT Amend A (1)

INTRODUCTION

WHEREAS, pursuant to an Agreement approved by Governor and Council, as a result of RFP DoIT #2021-049 on December 7, 2022, Item #7 (herein after referred to as the "Agreement"), Netsmart Technologies, Inc. (VC #163804), (hereinafter referred to as "Contractor"), agreed to supply certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the New Hampshire Department of Health and Human Services (hereinafter referred to as the "Department"), certain sums as specified therein;

WHEREAS, pursuant to the Agreement Section 17: Amendment and the provisions of the Agreement, the Agreement may be modified or amended only by a written instrument executed by the parties thereto and approved by the Governor and Executive Council;

WHEREAS, the Department wishes to increase the price limitation and modify the scope of services;

WHEREAS, The Vendor agrees to provide myAvatar Practice Management (PM) electronic health record system services for Hampstead Hospital, and add an additional point of sale register and SuitePoint Computation Maintenance services at the New Hampshire Hospital Brown Building Cafeteria location;

WHEREAS, the Department and the Vendor wish to increase the Contract price by \$206,823.88 to bring the total contract price to \$2,234,876;

WHEREAS, the Department and the Vendor seek to clarify the Agreement.

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties agree as follows:

The Agreement is hereby amended as follows:

1. Amend Section 1.8 of the State of New Hampshire P-37 General Provisions by increasing the Price Limitation by \$206,823.88 from \$2,028,052.12 to \$2,234,876.00.
2. The Agreement is further amended as described in Table 1 (Changes are in bold, italics, and underlined type):

State of NH Contract

Date: 6/1/2023

Contractor's Initials:

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STATE OF NEW HAMPSHIRE
Electronic Health Records (EHR) System
DoIT # 2021-049-A DHHS-SS-2022-NHH-01-ELECT-01-A01
AMENDMENT Amend A (1)

TABLE 1: AMENDMENT DETAILS

Exhibit B Statement of Work (SOW)	AMENDED TEXT
<p>Modify the Introduction to read:</p>	<p>EXHIBIT B – STATEMENT OF WORK (SOW) BUSINESS AND TECHNICAL REQUIREMENTS AND DELIVERABLES</p> <p>The Contractor shall provide services from within their hosted data center, to include, but not limited to, Electronic Health Records operations, Pharmacy services, data movement within the systems modules, revenue stream management, and patient clinical care components.</p> <p>The Contractor shall conduct, in conjunction with the State, an implementation project to <i>install</i> the Computrition software solutions within the Contractor's hosted data center to provide dietary management, food service inventory, menu development and management to be fully integrated with the Electronic Health Records System.</p> <p>Upon completion of the food service inventory software implementation project and integration into the Contractor's hosted solution, such functionality will be operational as services on an ongoing basis for the duration of the contract.</p> <p>The Statement of Work, Business and Technical Requirements, and Deliverables are set forth below:</p>
<p>Modify Section 1, Statement of Work -Introduction to read:</p>	<p>1. STATEMENT OF WORK</p> <p>The Contractor shall provide an Electronic Health Records System (EHR) and components related to the Electronic Medical Records application, including licensing agreements for hardware, licensed software, and cloud hosting of electronic medical records <u>for New Hampshire Hospital (NHH) and Hampstead Hospital and Residential Treatment Facility (HHRTF)</u>. Services provided include but are not limited to: medication management, order filling and processing, patient safety-related features, reporting on patient data, and ensuring continuity of operations and disaster recovery functions. The Contractor shall ensure the EHR includes, but is not limited to, the following functions and features:</p>
<p>Modify Section 2, Food Service Inventory Software Services, Subsection 2.9,</p>	<p>(e) SuitePoint Installation</p> <p>(i) Contractor's Point of Sale (POS) installer shall install and setup all NHH cafeteria <u>and Brown Building</u> registers hardware, based on</p>

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AMENDMENT Amend A (1)

Paragraph e, SuitePoint Installation, to read:	<p>the agreed installation schedule, including all peripheral hardware contracted and ordered.</p> <p>(ii) Contractor's POS installer shall test and ensure proper functionality of all register hardware including peripheral hardware (i.e. printers, scanners, etc.)</p>
Exhibit C Price and Payment Schedule	AMENDED TEXT

Modify Table 10-1, Pricing, to read:

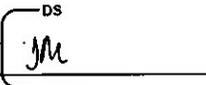
Table 10-1						
Pricing						
Recurring Fees						
myAvatar	Unit	Units Types	Year 1	Year 2	Payment Terms	
Clinician Workstation (CWS) Maintenance	1	Each	\$17,103.39	\$17,958.56	Year 1 - Fees due upon contract approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.	
Electronic Medication Administration (eMAR) Maintenance	1	Each	\$8,618.48	\$9,049.40		
Hosting - Disaster Recovery	201	Concurrent User	\$306,828.90	\$322,170.35		
Practice Management (PM), Client Fund Management System (CFMS), Order Entry (OE) Maintenance	265	Each	\$94,060.17	\$98,763.18		
RADplus Maintenance	899	Named User	\$122,395.91	\$128,515.71		
Additional Root System Code (RSC) Maintenance – Hampstead Hospital	1	Each	\$1,653.75	\$1,736.44		
Scriptlink Hosting	1	Each	\$9,261.00	\$9,724.05		
Web Services Suite Maintenance	1	Each	\$4,630.50	\$4,862.03		
CareConnect						
CareConnect Inbox Subscription	0-1,000	Named User	\$49,592.66	\$52,072.29		Year 1 - Fees due upon contract

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AMENDMENT Amend A (1)

CareConnect Lab Orders (Outbound) Subscription	501 - 1,000	Each	\$3,307.50	\$3,472.88	approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.
CareConnect Lab Results (Inbound) Subscription	501 - 1,000	Each	\$3,307.50	\$3,472.88	
OrderConnect					
OrderConnect Base Fee Subscription	1	Each	\$1,653.75	\$1,736.44	Year 1 - Fees due upon contract approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.
OrderConnect EPCS Subscription	40	Named User	\$9,700.24	\$10,185.25	
OrderConnect Full Suite Subscription	33	Named User	\$45,405.36	\$47,675.63	
OrderConnect Non-Prescriber Subscription	66	Named User	\$18,230.94	\$19,142.49	
RxConnect					
RxConnect Browser, RxConnect ADM Browser Interface, Crystal Reports Developer Version	501+ Beds	Each	\$9,178.93	\$9,637.88	Year 1 - Fees due upon contract approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.
RxConnect Hosting - High Availability	1	Concurrent User	\$27,088.43	\$28,442.85	
PaaS - Food Service Inventory Software					
Platform as a Service - PaaS (CareTrakker Hosting) Concurrent User - for food service inventory software	3	Concurrent User	\$5,328.00	\$5,594.40	Annual fee begins when software becomes accessible in the Netsmart environment. The initial payment will be pro-rated for the remainder of the initial year of the agreement. Subsequent annual payments will be payable on the anniversary date of the Contract Effective Date and are subject to increases as per the Contract.
Platform as a Service - PaaS (SuitePoint Hosting) - for food service inventory software	2	Each	\$3,540.00	\$3,717.00	
Platform as a Service - PaaS (SuitePoint Hosting) - for Food Service Inventory Software	1	Each	\$3,600.00	\$3,780.00	
SaaS - Food Service Inventory Software					

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AMENDMENT Amend A (1)

Avatar HL7 Uni-directional Interface SaaS (for food service inventory software)	1	Each	\$12,300.00	\$12,915.00	Annual fee begins when software becomes accessible in the Netsmart environment. The initial payment will be pro-rated for the remainder of the initial year of the agreement. Subsequent annual payments will be payable on the anniversary date of the Contract Effective Date and are subject to increases as per the Contract.
Third Party					
AMA CPT Code Subscription	899	Named User	\$18,879.00	\$19,822.95	Year 1 - Fees due upon contract approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.
Generic Hardware Maintenance	4	Each	\$4,167.45	\$4,375.82	
Diagnosis Content on Demand Add-On Subscription	5	Each	\$2,505.74	\$2,631.03	
Diagnosis Content on Demand-Not Utilizing DSM	1	Each	\$6,625.19	\$6,956.45	
RxScan NDC Translator Annual Subscription	66	Each	\$33,447.82	\$35,120.21	
Perceptive Hosting - Disaster Recovery	201	Concurrent User	\$36,512.52	\$38,338.15	
POS and Batch Scanning Powered by Perceptive	1	Each	\$4,104.03	\$4,309.23	
Ultimedex Prescriber Subscription	1	Each	\$396.90	\$416.75	
Ultimedex Suite Subscription	1	Each	\$5,454.49	\$5,727.21	
Wiley Subscription	1	Named User	\$4,195.98	\$4,405.78	
Third Party - Food Service Inventory Software					

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CareTrakker Maintenance	1	Each	\$15,303.00	\$16,068.15	Annual fee begins when software becomes accessible in the Netsmart environment. The initial payment will be pro-rated for the remainder of the initial year of the agreement. Subsequent annual payments will be payable on the anniversary date of the Contract Effective Date and are subject to increases as per the Contract.
SuitePoint Maintenance	1	Each	\$4,803.00	\$5,043.15	
SuitePointe Point of Sale Terminal/Register Monthly License Subscription	1	Each	\$1,460.47	\$1,533.41	
Total Recurring Fees			\$894,641.00	\$939,373.00	

One Time Fees - RxScan Translator CD for Additional RxScan Licenses

Hardware	Unit	Units Types	Year 1	Year 2	Payment Terms
Translator CD	1	Each	\$0.00	\$0.00	100% of License fees due upon Contract Effective Date
Total One Time Fees - RxScan			\$0.00	\$0.00	

One Time Fee for Stand-Up of Services at HHRTF

	Year 1	Year 2	Payment Terms
Total One Time Fees - HHRTF Services Implementation	\$174,300.00	\$0.00	

One Time Fees - Additional myAvatar Licenses (Qty. 20)

Hardware	Unit	Units Types	Year 1	Year 2	Payment Terms
Avatar RADplus Named User	20	Named User	\$16,000.00	\$0.00	100% of License fees due upon Contract Effective Date
Total One Time Fees - myAvatar Licenses			\$16,000.00	\$0.00	

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AMENDMENT Amend A (1)

One Time Fees – Food Service Inventory Software					
Third Party License	Unit	Units Types	Year 1	Year 2	Payment Terms
CareTrakker License	1	Each	\$48,689.20	\$0.00	50% Due upon Completion of the Computation Project Kickoff Event
SuitePoint License	1	Each	\$12,788.00	\$0.00	
Third Party Services					
Food Service Inventory Software Implementation Services	1	Hour	\$41,083.52	\$0.00	50% Due upon Completion of the Food Service Inventory system Project Kickoff Event 50% Due at Go-Live
Hardware					
SuitePoint POS Registers	2	Each	\$7,640.00	\$0.00	100% of Hardware fees due upon delivery of Hardware to the State
SuitePoint POS Shipping	1	Each	\$1,000.00	\$0.00	
Hosting					
CareTrakker Hosting Setup	1	Each	\$20,000.00	\$0.00	50% Due upon Completion of the Food Service Inventory system Project Kickoff Event 50% Due at Go-Live
SuitePoint Hosting Setup	1	Each	\$8,000.00	\$0.00	
Professional Services					
Professional Services - Avatar (Netsmart HL7 Services)	1	Fixed Fee	\$25,600.00	\$0.00	50% Due upon Completion of the Food Service Inventory system Project Kickoff Event
Professional Services - Project Management for Third Party (Netsmart PM Services)	1	Fixed Fee	\$12,000.00	\$0.00	

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STATE OF NEW HAMPSHIRE
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AMENDMENT Amend A (1)

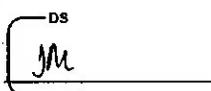
Professional Services - Third Party Services (SuitePoint Services)	1	Fixed Fee	\$11,611.28	\$0.00	50% Due at Go-Live
Sub-total One Time Fees – Food Service Inventory Software Services			\$188,412.00	\$0.00	
One Time Fees - Food Service Inventory Software (Additional Register - Added as part of Amendment #1)					
Hardware	Unit	Units Types	Year 1	Year 2	Payment Terms
SuitePoint POS Register	1	Each	\$5,800.00	\$0.00	100% of Hardware fees due upon execution of this amendment.
Professional Services					
Professional Services – Project Management for Third Party (Netsmart PM Services)	1	Fixed Fee	\$4,000.00	\$0.00	100% of Services fees due upon execution of this amendment.
Professional Services – Third Party Services (SuitePoint Services)	1	Fixed Fee	\$12,350.00	\$0.00	
Sub-Total One Time Fees - Food Service Inventory Software Services-Additional Register			\$22,150.00	\$0.00	
Total One Time Fees - Food Service Inventory Software Services			\$210,562.00	\$0.00	
Grand Total			\$2,234,876.00		

TABLE 2: CONTRACT HISTORY

To read:

CONTRACT AND AMENDMENT NUMBER	AMENDMENT TYPE	G&C APPROVAL DATE	COMPLETION DATE	CONTRACT AMOUNT
DoIT # 2021-049	Original Contract	December 7, 2022, Item #7	August 31, 2024	\$2,028,052.12
DoIT # 2021-049A Amendment 1	1 st Amendment	To Be Determined	August 31, 2024	\$206,823.88
CONTRACT TOTAL				\$2,234,876.00

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AMENDMENT Amend A (1)

CONTRACTOR

Except as provided herein, all provisions of the Agreement shall remain in full force and effect. This modification shall take effect upon the approval date from the Governor and the Executive Council, retroactive to September 1, 2022.

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

DocuSigned by:
Joseph McGovern Date: 6/1/2023
Name and Title Joseph McGovern
Netsmart Technologies, Inc.

STATE OF NEW HAMPSHIRE
DocuSigned by:
Ellen Marie Lapointe Date: 6/5/2023
State of New Hampshire
Department of Health and Human Services

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

Approved by the Attorney General
DocuSigned by:
Polyn Guerin Date: 6/8/2023
State of New Hampshire, Department of Justice

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

Office of the Secretary of State

State of New Hampshire, Department of Administration Date: _____

State of NH Contract
Date: 6/1/2023
Contractor's Initials: JM

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 NETSMART TECHNOLOGIES, INC. is a Delaware Profit Corporation registered to transact business in New Hampshire on December 02, 2009. 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: 622873

Certificate Number: 0006236062



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 23rd day of May A.D. 2023.

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

David M. Scanlan
Secretary of State

CERTIFICATE OF AUTHORITY

I, Lynn Marasco, hereby certify that:
(Name of the elected Officer of the Corporation/LLC; cannot be contract signatory)

1. I am a duly elected Clerk/Secretary/Officer of Netsmart Technologies, Inc.
(Corporation/LLC Name)

2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on July 22, 2010, at which a quorum of the Directors/shareholders were present and voting.
(Date)

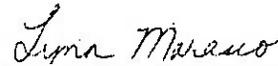
VOTED: That Joseph McGovern, Executive Vice President (may list more than one person)
(Name and Title of Contract Signatory)

is duly authorized on behalf of Netsmart Technologies, Inc. to enter into contracts or agreements with the State
(Name of Corporation/ LLC)

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

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

Dated: 5/23/2023



Signature of Elected Officer

Name: Lynn Marasco

Title: General Counsel and Secretary



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/11/2023 11/10/2022

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

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

PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000 kcasu@lockton.com	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> <tr> <td>INSURER A : Chubb Indemnity Insurance Company</td> <td style="text-align: center;">12777</td> </tr> <tr> <td>INSURER B : Great Northern Insurance Company</td> <td style="text-align: center;">20303</td> </tr> <tr> <td>INSURER C : Federal Insurance Company</td> <td style="text-align: center;">20281</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Chubb Indemnity Insurance Company	12777	INSURER B : Great Northern Insurance Company	20303	INSURER C : Federal Insurance Company	20281	INSURER D :		INSURER E :		INSURER F :	
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INSURER D :															
INSURER E :															
INSURER F :															
INSURED 1358708 NETSMART, INC NETSMART TECHNOLOGIES, INC. 11100 NALL AVE OVERLAND PARK KS 66211															

COVERAGES CERTIFICATE NUMBER: 12281797 REVISION NUMBER: XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> ADD. INDS-VENDORS GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	N	N	36057105	11/11/2022	11/11/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY	N	N	73612093	11/11/2022	11/11/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	N	N	78181817	11/11/2022	11/11/2023	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	71776677	11/11/2022	11/11/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	CYBER/TECHNOLOGY ERRORS AND OMISSIONS	N	N	652167950	11/11/2022	11/11/2023	\$10,000,000 AGGREGATE; ADD'L TERMS AND CONDITIONS APPLY

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

CERTIFICATE HOLDER 12281797 STATE OF NEW HAMPSHIRE DEPT. OF HEALTH AND HUMAN SERVICES ATTN: OFFICE OF THE COMMISSIONER 129 PLEASANT STREET CONCORD NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

ARC

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

NEW HAMPSHIRE HOSPITAL

Leri A. Sibiotta
Commissioner

Ellen M. Lapointe
Chief Executive Officer

36 CLINTON STREET, CONCORD, NH 03301
603-271-5300 1-800-852-3345 Ext. 5300
Fax: 603-271-5395 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

November 18, 2022

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, New Hampshire Hospital, to enter into a **Retroactive, Sole Source** contract with Netsmart Technologies, Inc. (VC #163804), Overland Park, KS, in the amount of \$2,028,052.12 for Electronic Health Records System (EHR) and food service automation services, with the option to renew for up to four (4) additional years, effective retroactive to September 1, 2022, upon Governor and Council approval, through August 31, 2024. 7.8% General Funds. 92.2% Other Agency Funds (Agency Fees and Intra-Agency Transfers).

Funds are available in the following account for State Fiscal Year 2023, and are anticipated to be available in State Fiscal Years 2024 and 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.

01-03-030010-7695 General Government, Information Technology Department of, Information Technology Department of, IT for DHHS 100% Other Agency Funds

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2023	038/509038	Technology Software	03950208	\$533,050.53
2023	038/509038	Technology Software	03950374	182,441.00
2024	038/509038	Technology Software	03950208	\$917,158.44
2024	038/509038	Technology Software	03950374	\$8,141.00
2025	038/509038	Technology Software	03950208	\$140,674.00
2025	038/509038	Technology Software	03950374	\$8,141.00
			Sub Total	\$1,789,605.97

05-95-94-940010-84100000 Health & Social Services, Department of Health and Human Services, HHS: New Hampshire Hospital, Facilities/Patient Support

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2023	102-500731	Contracts for Prog Svc	94026400	\$238,446.15
			Sub Total	\$238,446.15
			Total	\$2,028,052.12

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
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EXPLANATION

The Department began negotiations with the vendor for this contract on September 7, 2021. This request is **Retroactive** because the Department and Contractor required more time to finalize the terms of the contract than was anticipated. As a result, the Department was unable to present this request to the Governor and Council before the previous contract for these services expired on August 31, 2022. The electronic health record and food services are integral to the delivery of services for patients at New Hampshire Hospital. An interruption in the services provided by the Contractor would render the software and all associated equipment and services nonfunctional, and cause a disruption to direct patient care.

This request is **Sole Source** because there are no known viable alternatives to the services provided by the Contractor. The Department published two (2) Requests for Proposals (RFP) to solicit proposals for a food service inventory system, but was unable to reach agreement with any vendor on the provision of services. The Contractor is the only identified vendor able to perform the scope of services, which requires the integration of multiple software products, including both electronic health records and food service automation services, with their proprietary products. Additionally, the Department has had a contract with the Contractor for the Electronic Health Records System and components related to the application since 2015, and the process of changing New Hampshire Hospital's electronic medical record system was determined to be more expensive, time consuming, and highly disruptive to hospital operations and patient care.

The Contractor provides cloud hosting of the electronic medical records, including the medication administration component. This system is the primary medical record for patients at New Hampshire Hospital, and it meets a requirement of the Center for Medicaid Services

The purpose of this request is to provide an Electronic Health Records System (EHR) and components related to the application, including licensing agreements for hardware, licensed software, and system hosting and professional services, as part of the New Hampshire Hospital Electronic Health Record, Pharmacy Management and Health Information Technology Solution. The Contractor will provide services through the Electronic Health Records System that include, but are not limited to:

- Medication management.
- Order filling and processing.
- Patient safety-related features.
- Reporting on patient data.
- Continuity of Operations and Disaster Recovery functions
- Cloud hosting of New Hampshire Hospital's electronic medical records.

New Hampshire Hospital is an acute psychiatric inpatient hospital, helping New Hampshire citizens with acute mental illness to stabilize their conditions and live their best lives. The Electronic Health Records System is a critical component of patient care that helps facilitate the delivery of services such as practice management, treatment planning, pharmaceutical administration and medications, intake, billing and dietary services for patients at New Hampshire Hospital.

In addition, the Contractor will provide Computrition software services for food service automation to increase diet and menu accuracy, reduce patient risk, and enhance efficiency of operations. The Contractor will implement the Computrition system to interface admission, discharge and transfer messages, as well as diet orders and food allergies via the HL7 interface between New Hampshire Hospital's myAvatar electronic medical record and Hospitality Suite (HS). The Computrition system will manage dietary and nutrition information for the Department.

Approximately 1600 individuals will be served through August 2024.

The Department will monitor services to ensure:

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
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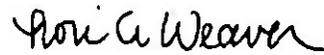
- Implementation of Computrition services.
- The Contractor's adherence to all business and technical requirements for the Contractor's software services.
- The Contractor provides reporting capabilities to extract information and patient data, including, but not limited to:
 - Clinical data
 - Administrative reports.
 - Financial reports.
 - Medication usage.

Should the Governor and Executive Council not authorize this request, the software licenses that allow New Hampshire Hospital to utilize the electronic health records, practice management, pharmacy, medication administration and billing modules of the Contractor's software services will not continue to support the software. All associated equipment and services would be rendered nonfunctional, and the Department would not be in compliance with requirements of the Centers for Medicare and Medicaid Services.

Area served: New Hampshire Hospital.

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

Respectfully submitted,



for:

Lori A. Shabinette
DHHS Commissioner



Denis Goulet
DoIT Commissioner

DOIT #2021-049
RID: 51886
Cc: Michael Williams, IT Manager - DHHS



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doi

Denis Goulet
Commissioner

November 18, 2022

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

Dear Commissioner Shibinette:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with Netsmart Technologies, Inc., as described below and referenced as DoIT No. 2021-049.

The purpose of this request is to continue providing an Electronic Health Records System and components related to the application, including licensing agreements for hardware, licensed software, system hosting, and professional services, as part of the New Hampshire Hospital Electronic Health Record, Pharmacy Management and Health Information Technology Solution.

The Price Limitation will be \$2,028,052.12, effective upon Governor and Executive Council approval retroactive from September 1, 2022 through August 31, 2024.

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

Sincerely,

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

Denis Goulet

DG/jd
RID: 74020
DoIT #2021-049

cc: Mike Williams, IT Manager



STATE OF NEW HAMPSHIRE

The Department of Health and Human Services

Electronic Health Records (EHR) System

DHHS-SS-2022-NHH-01-ELECT-01 - 2021-049

STATE OF NEW HAMPSHIRE
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DHHS-SS-2022-NHH-01-ELECT-01 - 2021-049 - Electronic Health Records (EHR) System
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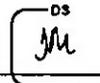
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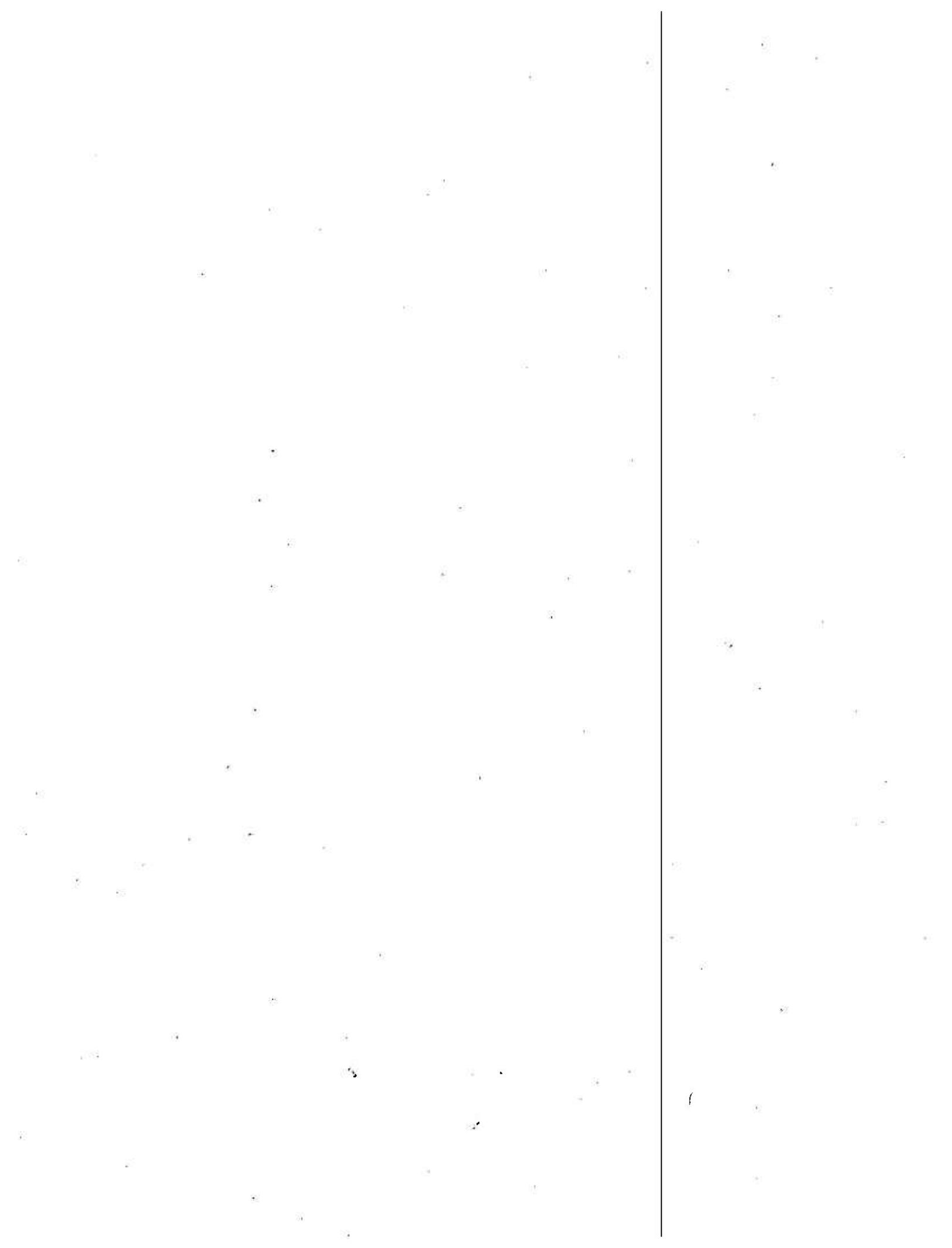
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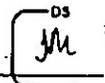
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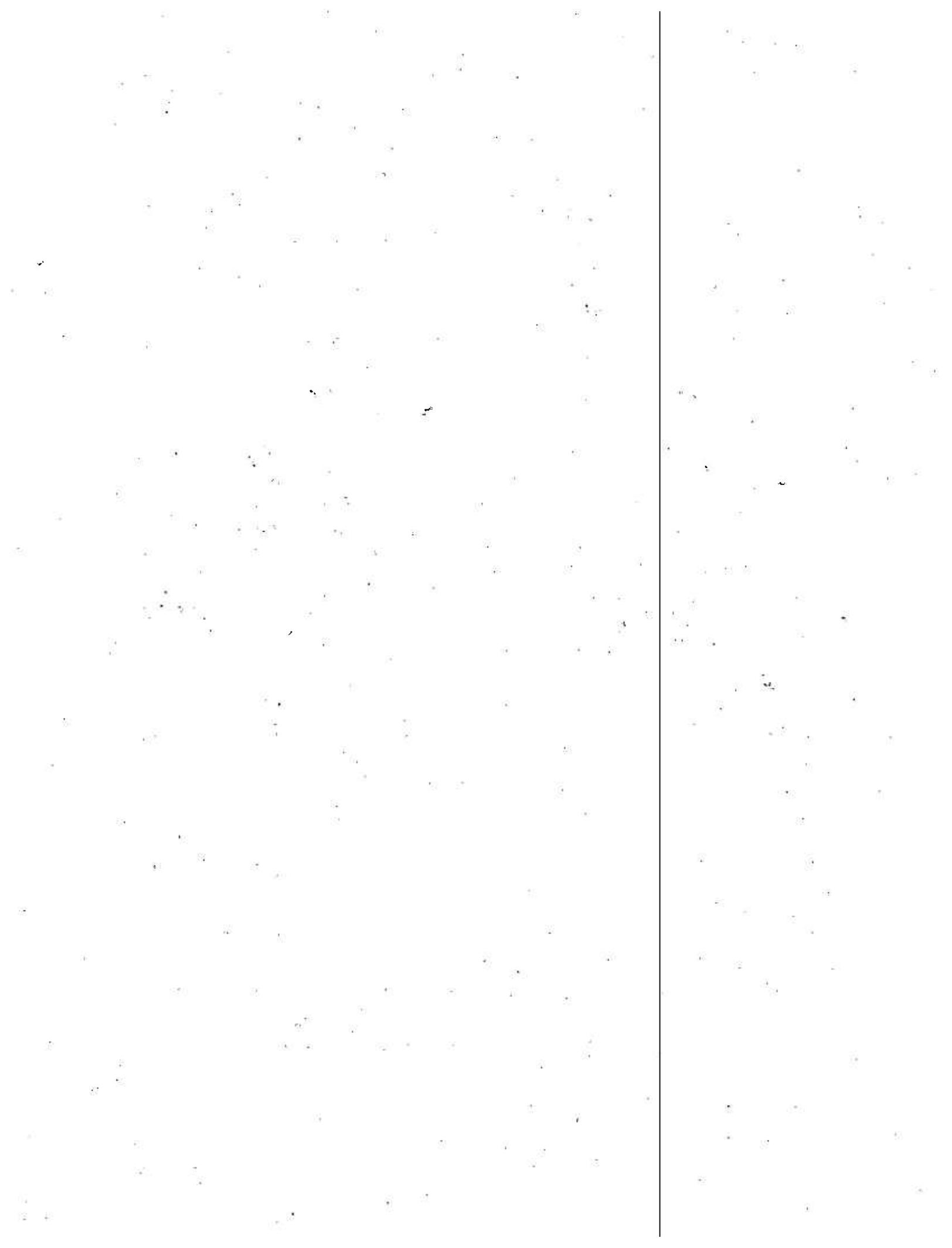
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STATE OF NEW HAMPSHIRE
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
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STATE OF NEW HAMPSHIRE
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
DHHS-SS-2022-NHH-01-ELECT-01 - 2021-049 - Electronic Health Records (EHR) System
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FORM NUMBER P-37 (version 12/11/2019)

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:

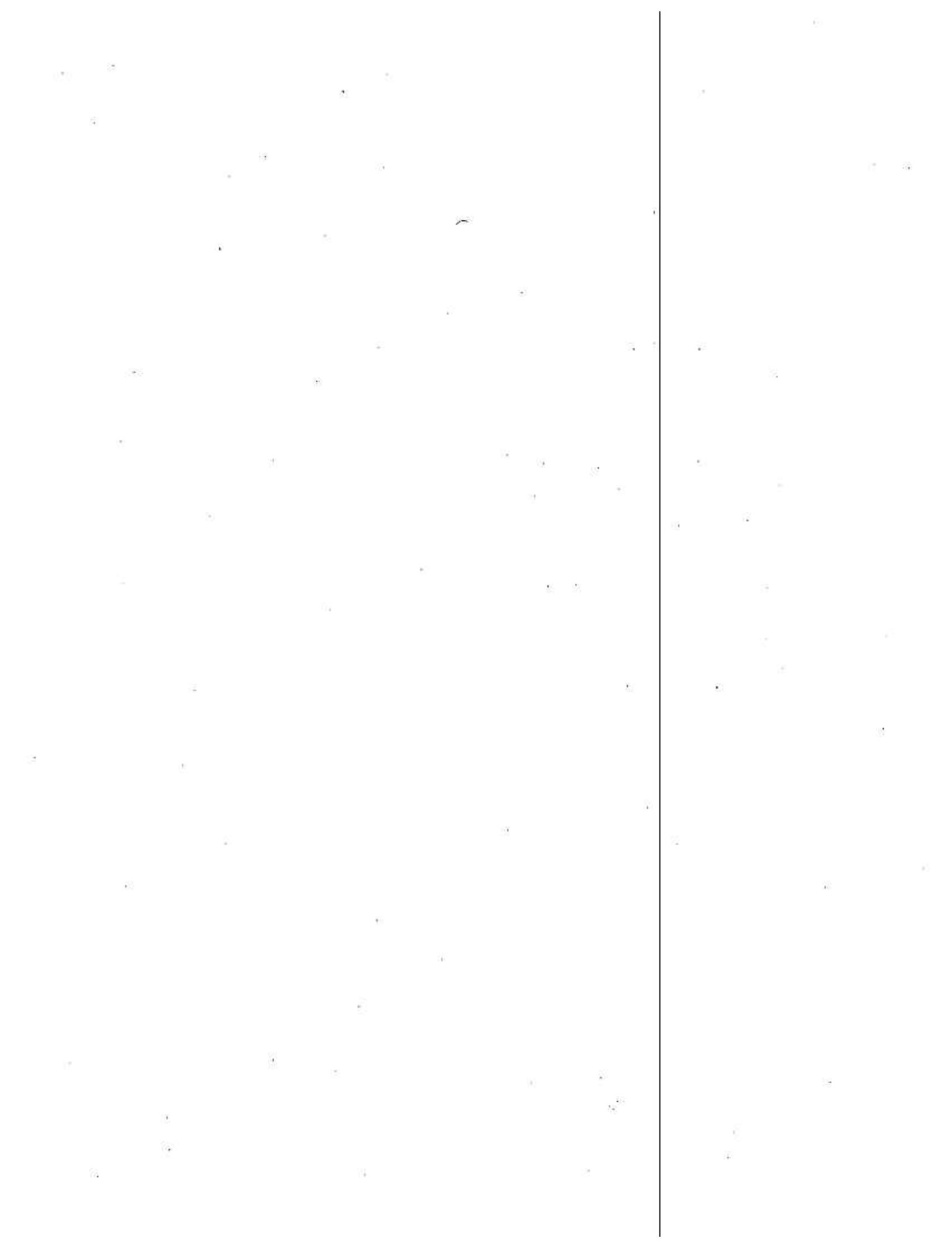
GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name The Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Netsmart Technologies, Inc.		1.4 Contractor Address 11100 Nall Avenue Overland Park, KS 66211	
1.5 Contractor Phone Number 631-968-2000	1.6 Account Number 01-03-03-030010-76950000-038-509038	1.7 Completion Date August 31, 2024	1.8 Price Limitation \$2,028,052.12
1.9 Contracting Officer for State Agency Robert W. Moore, Director		1.10 State Agency Telephone Number (603) 271-9408	
1.11 Contractor Signature DocuSigned by: <i>Joseph McGovern</i> Date: 11/15/2022		1.12 Name and Title of Contractor Signatory Joseph McGovern Executive Vice President	
1.13 State Agency Signature DocuSigned by: <i>Ellen Marie Lapointe</i> Date: 11/16/2022		1.14 Name and Title of State Agency Signatory Ellen Marie Lapointe Chief Executive Officer	
1.15 Approved by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>Robert Quinn</i> On: 11/17/2022			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

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 Contractor Initials: _____
 Date: 11/15/2022

OS

STATE OF NEW HAMPSHIRE
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
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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

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Contractor Initials:
Date: 11/15/2022



STATE OF NEW HAMPSHIRE
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
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Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

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

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

8. EVENT OF DEFAULT/REMEDIES.

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

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

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

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely 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, formulac, 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.

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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 third party claims, liabilities and direct 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 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

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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.

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EXHIBIT A – SPECIAL PROVISIONS

EXHIBIT A - SPECIAL PROVISIONS

The terms outlined in the P-37 General Provisions are modified as set forth below:

A.1 Provision 3, Effective Date/Completion of Services, is updated with the following addition:

3.3 The Term may be extended up to four (4) years, ("Extended Term") at the sole option of the State, subject to the parties prior written Agreement on applicable fees for each extended Term, up to but not beyond August 31, 2028 under the same terms and conditions, subject to approval of the Governor and Executive Council.

A.2 Provision 5, Contract Price/Price Limitation/Payment, is updated with the following additions:

5.5 The State's liability under this Agreement shall be limited to monetary damages not to exceed the contract price pursuant to Paragraph 5.2. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State. Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. 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 paragraph shall survive termination of this Contract.

5.6 The Contractor's liability to the State for any claims, liabilities, or expenses relating to this Agreement shall not exceed two times (2X) the total contract price, General Provisions (P-37), Block 1.8. Subject to applicable laws and regulations, in no event shall the Contractor be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Notwithstanding the foregoing, this limitation of liability shall not apply to: (i) the Contractor's indemnification obligations for patent or copyright infringement claims set forth in paragraph 13 of the General Provisions of this Agreement; (ii) violation of Contractor's obligations under Exhibit I, Business Associate Agreement as they relate to (a) the State's actual out of pocket costs of notice, mitigation or remediation of any breach of PHI or PII to the extent arising out of any negligence by Contractor; and (b) Fines or penalties that are assessed against the State by a state or federal regulatory agency due to the breach of PHI or PII to the extent arising out of any negligence by Contractor; (iii) violation of Contractor's obligations under Exhibit G, Attachment 2, DHHS Compliance Documents, Exhibit K, Section IV, Procedures for Security, Subsection 11, Data Security Breach Liability (iv) Contractor's gross negligence, intentional fraud, or willful misconduct, (v) acts or omissions causing bodily injury or death while performing onsite services. This paragraph shall survive termination of this Contract.

A.3 Provision 8, Event of Default/Remedies, Section 8.2.2 is deleted and replaced with the following:

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8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default;

A.4 Provision 8, Event of Default/Remedies, Section 8.2.3 is deleted and replaced with the following:

8.2.3 reserved.

A.5 Provision 9, Termination, is deleted and replaced with the following:

9. TERMINATION

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, and with written notice, terminate the Agreement for any reason, in whole or in part. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. The State shall be liable for cost of all Services and Deliverables for which Acceptance has been given by the State and all work in process that could not be completed as a result of a termination for convenience provided through the date of termination. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

9.2 Termination Procedure

9.2.1 Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require Contractor to deliver to the State any property, including without limitation, Software and Written Deliverables, for such part of the Contract as has been terminated.

9.2.2 After receipt of a notice of termination, and except as otherwise directed by the State, Contractor shall:

- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
- b. Promptly, but in no event longer than ten (10) days after termination, terminate its orders and subcontracts related to the work which has been terminated, and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
- c. Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession of Contractor and in which the State has an interest;
- d. Take no action to intentionally erase or destroy any State Data or Confidential Data, which includes State Data or Confidential Data held by the Contractor's subcontractors;
- e. Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State;

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- f. Refer to Exhibit G, Attachments and Contractor Certificates, Attachment 2, DHHS Exhibits D-K, Exhibit K- DHHS Information Security Requirements for data destruction;
- g. Work with the State to develop a Services and Data Transition Plan per the "Contract End-of-Life Transition" requirements in the Additional Requirements section of this Contract; and
- h. Provide written Certification to the State that Contractor has surrendered to the State all said property.

9.2.3 If the Contract has expired, or terminated prior to the Completion Date, for any reason, the Contractor shall provide, for a period up to ninety (90) days after the expiration or termination, all transition services requested by the State to allow for the expired or terminated portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees ("Transition Services").

9.2.4 This covenant in paragraph 9 shall survive the termination of this Contract.

A.6 Provision 10, Data/Access/Confidentiality/Preservation, is updated with the following addition:

10.4 In performing its obligations under this Agreement, Contractor may gain access to Confidential Information of the State. Confidential Information is defined in the Department of Health and Human Services' Information Security Requirements Exhibit K.

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

10.5 Subject to applicable federal or State laws and regulations, Confidential Information shall not include information which:

- a. shall have otherwise become publicly available other than as a result of disclosure by the receiving Party in breach hereof;
- b. was disclosed to the receiving Party on a non-confidential basis from a source other than the disclosing Party, which the receiving Party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing Party; or
- c. is disclosed with the written consent of the disclosing Party's Privacy Officer or designee.

10.6 Contractor Confidential Information. Contractor shall clearly identify in writing all information it claims to be confidential or proprietary upon providing such information to the State. For the purposes of complying with its legal obligations, the State is under no obligation to accept the Contractor's designation of material as confidential. Contractor acknowledges that the State is subject to State and federal laws governing disclosure of information including, but not limited to, RSA Chapter

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91-A. In the event the State receives a request for the information identified by Contractor as confidential or proprietary, the State shall notify Contractor and specify the date the State will be releasing the requested information. At the request of the State, Contractor shall cooperate and assist the State with the collection and review of Contractor's information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be Contractor's sole responsibility and at Contractor's sole expense. If Contractor fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to Contractor, without any liability to the State.

10.7 . This covenant in paragraph 10 shall survive the termination of this Contract.

A.7 Provision 12, Assignment/Delegation/Subcontracts, is updated with the following addition:

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. Failure to enter into business associate agreements with its subcontractors that create or receive PHI on the behalf of DHHS through this Contract, and failure to comply with the implementation specifications for such agreements is a direct HIPAA violation by the Contractor.

12.4 In the event that Contractor should change ownership for any reason whatsoever that results in a change of control of the Contractor, the State shall have the option of:

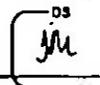
- a. continuing under the Agreement with Contractor, its successors or assigns for the full remaining Term of the Agreement or for such period of time as determined necessary by the State; or
- b. immediately terminate the Agreement without liability to or further compensation owed to Contractor, its successors or assigns.

A.8 The following Provisions are added and made part of the P37:

25. FORCE MAJEURE

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

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

26. EXHIBITS/ATTACHMENTS

The Exhibits and Attachments referred to in and attached to the Contract are incorporated by reference herein, including the Department of Health and Human Services Exhibits D-K referenced in Exhibit G, Attachment 2, DHHS Exhibits D-K of this Agreement.

27. NON-EXCLUSIVE CONTRACT

1. The State reserves the right, at its discretion, to retain other vendors to provide any of the Services or Deliverables identified under this Agreement. Contractor shall make commercially reasonable efforts to coordinate work with all other State vendors performing Services which relate to the work or Deliverables set forth in the Agreement. The State intends to use, whenever possible, existing Software and hardware contracts to acquire supporting Software and hardware.

28. GOVERNMENT APPROVALS

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

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BUSINESS / TECHNICAL REQUIREMENTS AND DELIVERABLES

EXHIBIT B – STATEMENT OF WORK (SOW) BUSINESS AND TECHNICAL REQUIREMENTS AND DELIVERABLES

The Contractor shall provide services from within their hosted data center, to include, but not limited to, Electronic Health Records operations, Pharmacy services, data movement within the systems modules, revenue stream management, and patient clinical care components.

The Contractor shall conduct, in conjunction with the State, an implementation project to instate the Computrition software solutions within the Contractor's hosted data center to provide dietary management, food service inventory, menu development and management to be fully integrated with the Electronic Health Records System.

Upon completion of the food service inventory software implementation project and integration into the Contractor's hosted solution, such functionality will be operational as services on an ongoing basis for the duration of the contract.

The Statement of Work, Business and Technical Requirements, and Deliverables are set forth below:

1. STATEMENT OF WORK

The Contractor shall provide an Electronic Health Records System (EHR) and components related to the Electronic Medical Records application, including licensing agreements for hardware, licensed software, and cloud hosting of New Hampshire Hospital's electronic medical records. Services provided include but are not limited to: medication management, order filling and processing, patient safety-related features, reporting on patient data, and ensuring continuity of operations and disaster recovery functions.

The Contractor shall ensure the EHR includes, but is not limited to, the following functions and features:

1.2.1 Contractor Hosting Service Level Agreement

The Contractor shall provide Hosting Services as described in Section 21, Hosting Scope of Services, below.

This Section sets forth the System Availability commitments for Hosting Services. If monthly System Availability (as defined below) falls below 99.9%, the Contractor shall provide a credit against the State's next monthly Hosting Fees to account for the downtime. The appropriate credit percentage (%) will be determined based on the following table.

System Uptime %	Credit %
>= 99.0% and < 99.9%	5%
98.0 to 98.9%	10%
96.0 to 97.9%	15%
< 95.9 or below	25%

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announcement from the Contractor. The Contractor shall advise the State regarding the layered software enhancements as well as the implications of electing not to implement the layered software enhancements. The Contractor shall perform the technical requirements needed for the State to use the layered software enhancements that the State elects to implement as part of the Hosting Service fees. The Contractor and the State will work together to establish an implementation schedule for the layered software enhancements. If the Contractor provides notice to the State that the System's performance and availability will be adversely affected if the State elects not to implement the layered software enhancements, the State waives its right to any credits set forth above until the State implements the required layered software enhancements.

- f) If the State is operating beyond the Scope of Use limits, the State waives its right to any credits set forth above until the State is in compliance with Scope of Use.
- g) The System will be considered in a System Stabilization Period during the seventy-two (72) hour window following the First Productive Use and following a Major System Change. During a System Stabilization Period, changes to the System may be required to achieve optimal performance and Unscheduled Downtime or Scheduled Downtime minutes do not apply.
- h) Definitions.
 - i. *First Productive Use* means the date that data is being accessed or entered in the Hosted System for processing or review in the State's commercial environment
 - ii. *Major System Change* means a material change to the system, including a backend upgrade, operating system upgrade, new release upgrade, SAN upgrade, database upgrade
 - iii. *Scope of Use (for hosting)* means a metric used to define the limits of the hosting services as provided for in the Master Agreement (i.e. number of named/concurrent users)
 - iv. *Service Package* means software designed to fix identified Problems or Defects in the Licensed Program(s), including documentation and release notes made available with such patch or service pack.
 - v. *System Stabilization Period* is the period during the seventy-two (72) hour window following the First Productive Use and following a Major System Change.

1.2.3 Exceptions

The State will not receive any credits in connection with any failure or deficiency of Hosting Availability caused or associated with:

- a. An event of Force Majeure;
- b. Failure of access circuits to the Contractor's Network, unless such failure is caused solely by the Contractor;

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- c. Scheduled maintenance, scheduled backups, scheduled restores and emergency maintenance and upgrades;
- d. Issues with FTP, POP, or SMTP State access;
- e. the State's acts or omissions (or acts or omissions of others engaged or authorized by the State), including, without limitation, custom scripting or coding (e.g., CGI, Perl, Java, HTML, ASP, etc), any negligence, willful misconduct, or misuse of the Services;
- f. E-mail or webmail delivery and transmission;
- g. Outages elsewhere on the Internet that hinder access to the State's account. The Contractor is not responsible for browser or DNS caching that may make the State's site appear inaccessible when others can still access it. The Contractor guarantees only those areas considered under the control of the Contractor, including, but not limited to, the Contractor's server links to the Internet, the Contractor's routers, and the Contractor's servers.
- h. Use of a VPN or similar connection which is not exclusively within the Contractor's control at both ends of such connection, and where the problem occurs in the part of the VPN which is not under the Contractor's control.

1.2.4 Scheduled Maintenance

The Contractor reserves the right to establish a monthly maintenance window for the purpose of upgrading, patching, modifying, and repairing portions or the entire cloud computing environment. The monthly window is generally scheduled on the 3rd Sunday of the month, from 2:00AM – 6:00AM EST.

1.2.5 Credit Request and Payment Procedures

In order to receive a credit, the State must submit a request for credit to the Contractor at Netsmart Technologies, Inc. Accounting at AR@ntst.com, within ten (10) business days after the incident supporting the request. Each request must include State's account number (per the Contractor's invoice) and the dates and times of the unavailability of the services. If the unavailability is confirmed by the Contractor as an incident eligible for credit, credits will be applied within two billing cycles after the Contractor's receipt of the State's request. Credits are not refundable and can be used only towards future billing charges.

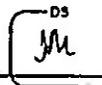
Notwithstanding anything to the contrary herein, the total amount credited to the State in a particular month cannot exceed the total hosting fee paid by the State for the month in which Services were impacted. Credits are exclusive of any applicable taxes charged to the State or collected by the Contractor, and are State's sole and exclusive remedy with respect to any failure or deficiency in level of services if State applied for and received a credit. The State reserves the right to pursue an alternate contract remedy for any future incident that may occur.

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1.2.6 Contractor Support Services Agreement

The Support Services described in this Schedule will be performed by the Contractor subject to the terms and conditions of this Agreement.

- a) The Contractor shall support and maintain the most current version of the Contractor's Program in conformance with applicable Federal and state laws. The State acknowledges and agrees that, in the event the State has chosen to utilize a less than current version of the Contractor's Program or has missed any mandatory upgrades, the State will bring the Contractor's Program up to the Contractor's then-current version in order for the State to be eligible for Support Services described herein.
- b) The State agrees that Priority 1 issues, defined below, must be called in directly to the Contractor's Support department. For all other support concerns, the State reserves the option to report the incident by calling the Contractor, or by using the Contractor's designated support system to log issues specifying a Problem or Defect in the Contractor's Program.
- c) The Contractor shall also provide the State with:
 - (i) updates that are distributed without charge to other similar clients which reflect modifications and incremental improvements;
 - (ii) an opportunity to obtain enhancements to the Contractor's Program for which fees are imposed on the same terms as such enhancements are generally made available to other clients.
- d) The Contractor shall provide a toll-free problem-reporting and support telephone line available from 8:00 a.m. to 5:00 p.m., central time Monday through Friday, exclusive of Federal holidays.
- e) The State agrees to grant the Contractor access to the Contractor's Program on State's system(s) for the sole purpose of performing the Contractor's obligations under this Agreement. The Contractor must ensure all connectivity to the State's system is through a single point of connectivity utility which audits the Contractor's activity on the State's system(s) when the Contractor is connected to the State's system(s). These audit logs are retained for 90 days.
- f) If reasonable analysis by the Contractor indicates that a reported Problem or Defect is caused by a problem related to hardware used by the State, the hardware's system software, or applicable software other than the Contractor's Program, or the State's misuse or modification of the Contractor's Program, the Contractor's responsibility will be limited to the correction of the portion, if any, of the problem caused by a Problem or Defect in the Contractor's Program.
- g) If analysis by the Contractor indicates that a reported problem is caused by a reproducible Problem or Defect, the Contractor shall use commercially reasonable efforts to provide Support Services in accordance with the following prioritization of reported problems:



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Priority	Definition
<p style="text-align: center;">1 - Critical</p>	<p>Priority 1: will be assigned when the Contractor's Program or a material functional component thereof is non-operational as a result of a defect, in the production environment only, such as the production system cannot be accessed or utilized in any capacity, a direct patient safety issue is present, or a HIPAA compliance violation as a result of a server incident or the Contractor's application defect. Best efforts will be made to correct Priority 1 problems, or to provide a plan for such correction, within two (2) business days. Notwithstanding the above, the Contractor shall work continuously toward resolution.</p> <p><u><i>The State's Commitment:</i></u></p> <ul style="list-style-type: none"> • This case Priority must be called in directly to the Contractor's Support department. • The State provides specific, detailed information required for troubleshooting/investigation. • The State provides appropriate staff and resources to sustain continuous communication and work effort as required. • Without appropriate State resources, the case will be downgraded to Priority 2 after three (3) business days.
<p style="text-align: center;">2 – High</p>	<p>Priority 2: will be assigned to defects in the live production environment that have a significant negative impact on daily operations but do not cause a "System Down." A workaround may be available and/or the capacity to maintain daily business functionality. Commercially reasonable efforts will be made to correct Priority 2 problems, or to provide a plan for such correction, within five (5) business days.</p> <p><u><i>The State's Commitment:</i></u></p> <ul style="list-style-type: none"> • The State provides specific, detailed information required for troubleshooting/investigation. • The State provides appropriate staff and resources to sustain continuous communication and work effort as required. • Without appropriate State resources, the case will be downgraded to Priority 3 after six (6) business days.
<p style="text-align: center;">3- Medium</p>	<p>Priority 3: will be assigned for system defects that result in functions that have no major impact on daily operations. An issue that allows the continuation of function, including issues in which a reasonable workaround is available. Commercially reasonable efforts will be made to correct Priority 3 problems, or to provide a plan for such correction, within ten (10) business days.</p> <p><u><i>The State's Commitment:</i></u></p> <ul style="list-style-type: none"> • The State provides specific, detailed information required for troubleshooting/investigation. • The State provides appropriate staff and resources to sustain continuous communication and work effort as required.

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	<ul style="list-style-type: none"> Without appropriate State resources, the case will be downgraded to Priority 4 after eleven (11) business days.
4 – Low	<p>Priority 4: will be assigned to cosmetic defects that do not affect system usability or non-defect related requests including, but not limited to, system set up/configuration, training, functionality questions, documentation, portal access, and upgrade requests. Commercially reasonable efforts will be made to address Priority 4 issues, or to provide a plan for such correction, within fifteen (15) business day.</p> <p><u>The State's Commitment:</u></p> <ul style="list-style-type: none"> The State provides specific, detailed information required for troubleshooting/investigation. The State provides appropriate staff and resources to sustain continuous communication and work effort as required. Without appropriate State resources, the case will be closed following our Case Closure Notification policy.

1.2.7 Data Location

The Contractor shall provide its Services to the State and its end users solely from data centers within the contiguous United States. All storage, processing administration, maintenance, and transmission of State or Confidential Data shall be restricted to information technology systems within the contiguous United States. The Contractor shall not allow its personnel or sub-contractors to store State or Confidential Data on portable devices, including personal computers, unless prior if written exception is provided by the States' Information Security Officer or designee.

1.2.8 Background Checks

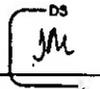
The Contractor shall conduct criminal background checks, at its own expense, and not utilize any staff, including subcontractors, to fulfill the obligations of the Contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony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

Contractor workforce shall not be permitted to handle, access, view, store or discuss the State's Confidential Data until an attestation is received by the State that all Contractor workforce associated with fulfilling the obligations of this Contract are, based on State-provided criteria herein and their job responsibility requirements, eligible to participate in work associated with this Contract. Contractor agrees it will initiate a criminal background check re-investigation of all workforce assigned to this Contract every five years. The five year period will be based on the date of the last Criminal Background Check conducted by the Contractor or its Agent.

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The State may, at its sole expense, conduct reference and background screening of the Contractor's Project Manager and Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Agreement.

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2. FOOD SERVICE INVENTORY SOFTWARE SERVICES

For avoidance of doubt, Computrition will act as a subcontractor to the Contractor for the fulfillment of the implementation of the Computrition Statement of Work.

2.1 The Contractor shall provide Food Service Inventory software services for food service automation to increase diet and menu accuracy and efficiency of operations, including, but not limited to:

- (a) Caretrakker Select (also referred to as Hospitality Suite).
- (b) HL7 ADT/Diet Office Interface.
- (c) SuitePoint! Software system for retail sales.

2.2 The Contractor shall develop a detailed project plan for implementation of the food service inventory software system, and submit it to the State for approval within ninety (90) days of the Contract Effective Date.

2.3 The Contractor shall:

- (a) Implement Caretrakker Select to provide safe, accurate, and timely patient meal service at New Hampshire Hospital.
- (b) Interface admission, discharge, and transfer messages, as well as diet orders and food allergies, via the HL7 interface between New Hampshire Hospital's myAvatar electronic medical record and Hospitality Suite (HS).
- (c)
- (d) Perform Super User and End User Training which includes training agendas, training materials and exercises.
- (e) Deliver admissions, discharge, and transfer, (ADT) and Diet Order HL7 messages that conform to a uniform pattern for all facilities.
- (f) Develop Food Inventory Files that can record weekly price updates that will interface with the system.
- (g) Stay on track with the project timeline and data entry and configuration requirements for the project implementation.
- (h) Complete the following myAvatar Design, Configuration, Testing and Training, including but not limited to:
 - (i) Restrictions.
 - (ii) Supplements.
 - (iii) Snacks.
 - (iv) Tube Feedings.
 - (v) Food Allergies
 - (vi) Height and Weight.

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- (i) Provide a single point-of contact Project Manager to facilitate communication and work with the State to ensure a successful food service inventory software implementation using the following documentation:
 - (i) Project timeline.
 - (ii) Change Logs and Requests.
 - (iii) Status call notes.
 - (iv) Project Evaluation (Transition to Customer Care).
 - (j) Provide a single point-of-contact Implementation Manager to facilitate training and work with New Hampshire Hospital to ensure a successful food service inventory software implementation using the following documentation:
 - (i) Completed Training Reports.
 - (ii) Workflow Development.
 - (k) Provide training to NHH staff in order to build data, run reports, and utilize desired software functions within one (1) year of Contract Effective Date or as further defined in said contract.
 - (l) Assist New Hampshire Hospital to identify hardware needs and establish connectivity. Non-standard State hardware will require written exception from the State's Deputy Information Security Officer or designee prior to implementation.
 - (m) Provide the State with the ADT and Diet Order interface specifications.
 - (n) Provide personnel and resources that parallel the State's resources.
 - (o) Work with the New Hampshire Department of Information Technology (DoIT) and the State for software and printer installations. Non-standard State software will require written exception from the State's Deputy Information Security Officer or designee prior to implementation.
 - (p) Provide the State with the SuitePoint! specifications and diagrams.
- 2.4 The Contractor shall work with the State's designated single point-of-contact to facilitate communication to ensure a successful implementation.
- 2.5 The Contractor shall work with the State's designated clinical point-of-contact to link allergies, restrictions, and exchanges to recipes.
- 2.6 The Contractor shall work with the State's designated food operations point-of-contact to update to maintain item purchasing information and create production menus.
- 2.7 The Contractor's Datafile Development team shall accept and process information from the State in a timeframe consistent with project timeline.
- 2.8 The Contractor shall provide personnel as listed below:
- (q) Project Manager who must:

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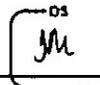
- (i) Contact the State with bi-weekly project status calls, with follow-up documentation (notes, updated project timeline, task lists, etc.)
 - (ii) Order pre-paid hardware consistent with project timeline.
 - (iii) Involve Computrition subject-matter experts consistent with project requirements.
 - (r) Implementation Specialist who must:
 - (i) Provide education and maintenance training sessions consistent with project requirements.
 - (ii) Provide training documentation and educational materials for maintenance training.
 - (iii) Conduct workflow analysis and create proposed patient diet office workflow supported by Hospitality Suite software.
 - (iv) Provide customer Computrition support information for post go-live.
 - (v) Implement payroll deduct process in conjunction with the hospital's HR and payroll source, as needed and with approval from the Department.
- 2.9 The Contractor shall provide the services below, to be approved by the State:
- (a) Data File Development
 - (i) Food and Stock items to be uploaded (up to 1500). Unanswered questions will be used as training material when data is finalized.
 - (ii) Entering nutritional information for items that are not found in Computrition/USDA database when submitted by the State.
 - (b) Interface
 - (i) Install preconfigured HL7 interface image via Virtual Machine.
 - (ii) Provide e-mail or telephone support during and after State testing phases.
 - (iii) Install Hospitality Suite on New Hampshire Hospital's enterprise provided servers.
 - (iv) Correct interface mapping from New Hampshire Hospital's existing hospital information system to the Computrition interface engine.
 - (v) License Interface Server for compliance, security updates, and patches.
 - (vi) Test HL7 interface for all possible ADT and Diet Order situation.
 - (c) Oracle
 - (i) Oracle Silver Service to review server/SQL variables, and provide backup/export solutions in addition to data maintenance.
 - (ii) Provide technical support for any Oracle-related issues if Oracle purchased from Computrition directly.

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- (d) Application Support
 - (i) Application support is available as third-tier during implementation (i.e. contacting the Project Manager and/or Implementation Specialist initially), and as the primary method of support after the implementation is complete in accordance with the implementation plan.
- (e) SuitePoint Installation
 - (i) Contractor's Point of Sale (POS) installer shall install/set-up all NHH cafeteria registers hardware based on the agreed installation schedule including all peripheral hardware contracted and ordered.
 - (ii) Contractor's POS installer shall test and ensure proper functionality of all register hardware including peripheral hardware (i.e. printers, scanners, etc.)
- 2.10 The Contractor shall ensure bi-weekly conference calls with the State are held on an agreed date/time. Conference calls must include, but are not limited to, a review of late, present, and future tasks, and list of open and late action items.
- 2.11 The Contractor shall provide a Status Report on a bi-weekly basis, with an updated timeline.
- 2.12 The Contractor shall ensure that changes in the project scope, including but not limited to, additional implementation services, custom modifications to the system, non-standard interfaces or conversions, adjustments to the project schedule and delays in the project timeline are reviewed and escalated as appropriate.
- 2.13 The Contractor shall ensure software testing and acceptance includes:
 - (a) HL7 Interface testing events coordinated by the State.
 - (b) Patient care scenarios to test interface to its fullest capacity.
 - (c) The State's written sign-off of acceptance as per goals and scope.
- 2.14 The State shall:
 - (a) Complete all tabs in the Data Collection Workbook.
 - (b) Complete data entry for all patient allergies, restrictions, supplements, snacks, and tube feedings.
 - (c) Build and complete data entry for room locations (non-dietary/dietary) tables in Hospitality Suite to be consistent with New Hampshire Hospital's hospital information system in the food service inventory software program.
 - (d) Identify Patient "likes" and "dislikes" and height & weight in the system;
 - (e) Link allergies, restrictions, and exchanges to active recipe records in the system.
 - (f) Assign publishing groups to recipe records.
 - (g) Build diet orders table in Hospitality Suite as gathered from hospital information system.

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- (h) Create dietary menus, define ingredients, textures, yields, and nourishment in the food service inventory software program.
- (i) Define and enter Dietary Orders in Avatar and map to the food service inventory software.
- (j) Define and enter client allergies in Avatar and map to the food service inventory software, inclusive of all ingredients from all recipes across all menus.
- (k) Perform all unit, systems and integration testing which include Testing Plan, Testing Scripts, and Testing Issues Tracking logs.
- (l) Install and update software.
- (m) The State will provide adequate power resources for each register to be installed.
- (n) Build retail menus, items, and back office data to include display settings, customize register screens, etc. prior to onsite go-live.

2.15 The State and Contractor shall be responsible for meeting the Deliverables, Activities and/or Milestones identified in Table B-5: Computation Activity and Task Name for CareTrakker and Table B-6: Computation Activity and Task Name for SuitePoint:

Table B-5 Computation Activity and Task Name for CareTrakker		
ACTIVITY AND TASK NAME	ESTIMATED DELIVERY (In days after Contract Effective Date)	RESOURCE
PROJECT COMMENCEMENT	26	State/Contractor
SERVER ENVIRONMENT	78	State/Contractor
HL7 INTERFACE TESTING	151	State/Contractor
DATA COLLECTION AND BUILD	86	State/Contractor
NUTRITION CARE MANAGEMENT (NCM) TRAINING	185	State/Contractor
FOOD OPERATIONS MANAGEMENT (FOM) TRAINING	150	State/Contractor
NCM END-USER TRAINING	192	State/Contractor
NCM GO-LIVE	204	State/Contractor
PROJECT CLOSING	216	State/Contractor

Table B-6 Computation Activity and Task Name for SuitePoint		
ACTIVITY AND TASK NAME	ESTIMATED DELIVERY	

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	(In days after Contract Effective Date)	RESOURCE
PROJECT COMMENCEMENT	26	State/Contractor
SERVER ENVIRONMENT	16	State/Contractor
HARDWARE	115	State/Contractor
CHARGE ACCOUNTS	121	State/Contractor
TRAINING	48	State/Contractor
SUITEPOINT GO-LIVE PREPARATION	121	State/Contractor
SUITEPOINT GO-LIVE ONSITE EVENTS	123	State/Contractor
PROJECT CLOSING	124	State/Contractor

3. BUSINESS REQUIREMENTS

Contractor shall be responsible for meeting the Business Requirements associated with this project which are identified in Exhibit G, Attachment 1, Business and Technical Requirements.

4. TECHNICAL REQUIREMENTS

Contractor shall be responsible for meeting the Technical and Security Requirements identified in Exhibit G, Attachment 1, Business and Technical Requirements.

5. SERVICES CONTRACT END-OF-LIFE TRANSITION SERVICES

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 State and, if applicable, the Vendor engaged by the State to assume the Services previously performed by the Contractor for this section the new vendor shall be known as ("Recipient"). If the Contract has expired, or terminated prior to the Completion Date, for any reason other than termination pursuant to section 8, the Contractor shall provide, for a period up to ninety (90) days after the expiration or termination at an hourly consulting rate not to exceed \$200 per hour for all transition services requested by the State, at cost to be mutually agreed, to allow for the expired or terminated portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees ("Transition Services"). Ninety (90) days prior to the end-of the contract or unless otherwise specified by the State, the Contractor shall begin working with the State and if applicable, the new Recipient to develop a Data Transition Plan (DTP). The State shall provide the DTP template to the Contractor.

The Contractor shall use reasonable efforts to assist the Recipient, in connection with the transition from the performance of Services by the Contractor and its 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.

If a system, database, hardware, software, and/or software licenses (Tools) was purchased or created to

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manage, track, and/or store State Data in relationship to this contract said Tools will be inventoried and returned to the State, along with the inventory document, once transition of State Data is complete.

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

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

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

6. COMPLETION OF TRANSITION SERVICES

Each service or Transition phase shall be deemed completed (and the Transition process finalized) at the end of 15 business days after the product, resulting from the Service, is delivered to the State and/or the Recipient in accordance with the mutually agreed upon statement of work and Transition plan, unless within said 15 business day term the Contractor notifies the State of an issue requiring additional time to complete said product.

Once all parties agree the data has been migrated the Contractor will have 30 days to destroy the data per the terms and conditions of the State's Information Security Requirements Exhibit, including certificate of data destruction.

7. DISAGREEMENT OVER TRANSITION SERVICES RESULTS

In the event the State is not satisfied with the results of the Transition Services the State shall notify the Contractor, by email, stating the reason for the lack of satisfaction within 15 business days of the final product or at any time during the data Transition process. The Parties shall discuss the actions to be taken to resolve the disagreement or issue. If an agreement is not reached, at any time the State shall be entitled to initiate actions in accordance with this contract.

8. WEBSITE AND SOCIAL MEDIA

Contractor agrees that if performance of services on behalf of the State involve using social media or a website to solicit information of individuals, or Confidential data, the Contractor shall work with the State's Communications Bureau to ensure that any social media or website designed, created, or managed on behalf of the State meets all of the State's and NH DoIT's website and social media requirements and policies.

Contractor agrees protected health information (PHI), personally identifiable information (PII), or other Confidential Information solicited, collected, stored, captured, or maintained either by social media or a website created or maintained on behalf of the State by the Contractor, shall not be further disclosed unless

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expressly provided in the Contract. The solicitation or disclosure of PHI, PII, or other Confidential Information shall be subject to the Information Security Requirements Exhibit, the Business Associates Agreement Exhibit and all applicable state rules and state and federal law. Unless specifically required by the Contract and unless clear notice is provided to users of the website or social media, the Contractor agrees that site visitation will not be tracked, disclosed or used for website or social media analytics or marketing.

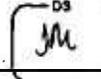
9. STATE OWNED DEVICES, SYSTEMS AND NETWORK USAGE

If Contractor workforce or agent is authorized by the States' Information Security Office to access the States' network or system and/or use a state issued device (e.g. computer, iPad, cell phone) in the fulfillment of this Contract they shall:

- a. Sign and abide by applicable State and NH DoIT use agreements, policies, standards, procedures guidelines, and applicable trainings as required;
- b. Use the information that they have permission to access solely for conducting official state business. All other use or access is strictly forbidden including, but not limited, to personal or other private and non-State use, and that at no time shall Contractor workforce or agents access or attempt to access information without having the express authority of the State to do so;
- c. Not access or attempt to access information in a manner inconsistent with the approved policies, procedures, and/or agreement relating to system entry/access;
- d. Not copy, share, distribute, sub-license, modify, reverse engineer, rent, or sell software licensed, developed, or being evaluated by the state. At all times the Contractor must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other agreement executed by the state. Only equipment or software owned, licensed, or being evaluated by the state can be used by the Contractor. Non-standard software shall not be installed on any equipment unless authorized by the States' Deputy Information Security Officer or designee;
- e. Agree that email and other electronic communication messages created, sent, and received on a state-issued email system are the property of the State of New Hampshire and to be used for business purposes only. Email is defined as "internal email systems" or "state-funded email systems."
- f. Agree that use of email shall follow State and New Hampshire Department of Information Technology (NH DoIT) policies, standards, and/or guidelines; and

When utilizing the State's email system all Contractor workforce members shall:

- a. Only use a state email address assigned to them with a "@ affiliate.DHHS.NH.Gov". If an "@ DHHS.NH.GOV" is assigned to the Contractor they will not use it and report the incorrect email assignment to the State's Bureau of Information Services
- b. Include in the signature lines information identifying the contractor as a non-state

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workforce member; and

- c. Contain the following embedded confidentiality notice underneath the signature line:

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."

The internet/Intranet is to be used for access to and distribution of information in direct support of the business of the State of New Hampshire according to policy. At no time should the internet be used for personal use.

All members of the Contractor's or its subcontractor's workforce, with a State issued email and/or workspace in a State's building/facility, shall:

- a. Complete the State's Annual Information Security & Compliance Awareness Training prior to accessing, viewing, handling or hearing or transmitting State data or Confidential Information.
- b. Sign the State's Business Use and Confidentiality Agreement and Asset Use Agreement, and the NH DoIT Statewide Computer Use Agreement upon execution of the Contract and annually until contract end.
- c. Not access the State' intranet.

Contractor agrees, if a member of its workforce or of its sub-Contractor's workforce is found to be in violation of any of the above-stated terms and conditions of the Contract, said Workforce member may face removal from the State Contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.

10. DELIVERABLE REVIEW AND ACCEPTANCE

10.1. Non-Software and Written Deliverables Review and Acceptance

The Contractor shall provide a written Certification that a non-software, written deliverable (such as the Test Plan) is final, complete, and ready for Review. After receiving such Certification from the Contractor, the State will Review the Deliverable to determine whether it meets the requirements outlined in this Exhibit. The State will notify the Contractor in writing of its Acceptance or rejection of the Deliverable, or its partial or conditional Acceptance of the Deliverable, within five (5) business days of the State's receipt of the Contractor's written Certification; provided that if the State determines that the State needs more than five (5) days, then the State shall be entitled to an extension of up to an additional ten (10) business days. If the State rejects the Deliverable or any portion of the Deliverable, or if any Acceptance by the State is conditioned upon completion of any related matter, then the State shall notify the Contractor of the nature and class of the Deficiency, or the terms of

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the conditional Acceptance, and the Contractor shall correct the Deficiency or resolve the condition to Acceptance within the period identified in the Work Plan. If no period for the Contractor's correction of the Deliverable or resolution of condition is identified, the Contractor shall correct the Deficiency in the Deliverable or resolve the condition within five (5) business days or such longer period as mutually agreed upon. Upon receipt of the corrected Deliverable, the State shall have five (5) business days to review the Deliverable and notify the Contractor of its Acceptance, Acceptance in part, conditional Acceptance, or rejection thereof, with the option to extend the Review Period up to five (5) additional business days, or mutually agreed upon timeframe. If the Contractor fails to correct the Deficiency within the allotted period, the State may, at its option, continue reviewing the Deliverable and require the Contractor to continue until the Deficiency is corrected, or immediately terminate the Contract, declare the Contractor in default, and or pursue its remedies at law and in equity.

10.2. Software Deliverables Review and Acceptance

System/Software Testing and Acceptance shall be performed as set forth in the Test Plan and more particularly described in Acceptance and Testing Services as described in the Computation Implementation Plan.

10.3. Number of Deliverables

Unless the State otherwise specifically agrees in writing, in no event shall the Contractor certify for testing and deliver to the State more than three (3) Deliverables for review or testing at one time. As the State accepts a Deliverable, an additional Deliverable may be presented for review but at no time can the Deliverables exceed three (3) at a time without the authorization of the State.

10.4. Conditional and Unconditional Acceptance

By accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.

11. CHANGE ORDER

- 11.1.** The State may make changes, revisions or request enhancements to the Scope of Work at any time by written Change Order. The State originated changes, revisions or enhancements shall be approved by the NH DoIT. Within five (5) business days of Contractor's receipt of a Change Order, Contractor shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, and the Work Plan.
- 11.2.** Contractor may propose a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, and the Work Plan. The State shall acknowledge receipt of Contractor's requested Change Order within five (5) business days. The State Agency, as well as NH DoIT, must review and approve all Change Orders in writing. The State shall be deemed to have rejected the Change Order if the Parties are unable to reach an agreement in writing within 30 days of receipt of the Change Order.
- 11.3.** Change orders resulting in an increase of Price Limitation, an extension of time for Contract completion or a significant change to the scope of the Contract may require approval by the

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Governor and Council.

- 11.4. A Change Order which is accepted and executed by both Parties, and if applicable approved by Governor and Council, shall amend the terms of this Agreement.

12. FOOD SERVICE INVENTORY SOFTWARE IMPLEMENTATION SERVICES

- 12.1. The Contractor shall employ an industry-standard Implementation strategy with a timeline set forth in accordance with the Work Plan.
- 12.2. The Contractor shall manage Project execution and provide the tools needed to create and manage the Project's Work Plan and tasks, manage and schedule Project staff, track and manage issues, track changing requirements, maintain communication within the Project Team, and Report status.
- 12.3. The Contractor and the State shall adopt a Change Management approach to identify and plan key strategies, communication initiatives, and training plans.

13. PROJECT MANAGEMENT

The Contractor shall provide project tracking tools and templates to record and manage Issues, Risks, Change Requests, Requirements, and other documents used in the management and tracking of the project. The State believes that effective communication and Reporting are essential to Project success. The Contractor shall employ effective communication and Reporting strategies to ensure Project success. The Contractor Key Project Staff shall participate in meetings as requested by the State, in accordance with the requirements and terms of this Contract.

The Project requires the coordinated efforts of a Project Team consisting of both Contractor and State personnel. Contractor shall provide all necessary resources to perform its obligations under the Contract. Contractor is responsible for providing all appropriate resources and personnel to manage this Project to a successful completion.

13.1. The Contractor Key Project Staff

13.1.1. The Contractor's Contract Manager

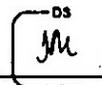
Contractor shall assign a Contract Manager who will be responsible for all Contract authorization and administration, including but not limited to processing Contract documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities. Contractor's Contract Manager is:

Clayton Harrison
916-804-4259
charrison1@ntst.com

13.1.2. The Contractor's Project Manager

Contractor shall assign a Project Manager who is qualified to perform or supervise the Contractor's obligations under this Agreement. Contractor's Project Manager is:

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Luc Favreau
913-951-0811
lfavreau@ntst.com

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

Project Manager must be qualified to perform the obligations required of the position under the Contract, shall have full authority to make binding decisions under the Contract, and shall function as Contractor's representative for all administrative and management matters. Project Manager must be available to promptly respond during normal Business Hours within six (6) hours of inquiries from the State, and be at the site as needed. Project Manager must work diligently and use his/ her best efforts on the Project.

13.1.3. Change of Project Manager

Contractor may not replace the Project Manager or change its assignment of Project Manager without providing the State written notice and obtaining the prior approval of the State of the replacement Project Manager. State approvals for replacement of Project Manager shall not be unreasonably withheld. The replacement Project Manager is subject to the same requirements and Review as set forth above. Contractor shall assign a replacement Project Manager within ten (10) business days of the departure of the prior Project Manager, and Contractor shall continue during the ten (10) business day period to provide competent project management Services through a qualified interim Project Manager.

13.2. The State Key Project Staff

13.2.1. The State Contract Manager

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

Sean P. Hollingsworth
603-271-5752
Sean.P.Hollingsworth@doit.nh.gov

13.2.2. The State Project Manager

The State shall assign a Project Manager. The State's Project Manager is:

Sean P. Hollingsworth
Sean.P.Hollingsworth@doit.nh.gov

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

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

14. WORK PLAN

The Contractor's Project Manager and the State Project manager shall finalize the Work Plan for the food service inventory software implementation in accordance with a mutually agreed upon timeline and further refine the tasks required to implement the Project. Continued development and management of the Food Service Inventory Work Plan is a joint effort on the part of the Contractor and State Project Managers.

In conjunction with the Contractor's Project Management methodology, which shall be used to manage the Project's life cycle, the Contractor's team and the State shall finalize the Work Plan at the onset of the Project. This plan shall identify the tasks, Deliverables, major milestones, task dependencies, required to implement the Project. It shall also address intra-task dependencies, resource allocations (both State and the Contractor's team members), reflect the Project's scope, and establish a work breakdown for the Project's Schedule.

15. ACCEPTANCE & TESTING SERVICES

See Section 2, Food Service Inventory Software Implementation, Subsection 2.13.

16. MAINTENANCE, OPERATIONS AND SUPPORT

16.1. System Maintenance

The Contractor shall maintain and support the System in all material respects as described in the Contract in accordance with the Statement of Work, Section 1, through the Contract Completion Date.

16.2. System Support

The Contractor must perform remote technical support in accordance with the Contract, including without limitation the requirements, terms, and conditions contained herein.

16.3. Contract Warranties and Representations

16.4.1. System

The Contractor warrants that any Systems provided under this Agreement will operate and conform to the Specifications, terms, and requirements of this Agreement pursuant to the Software License Terms set forth in Exhibit D, Software Agreement.

16.4.2. Software

The Contractor warrants that any Software provided as part of this Agreement,

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

For any breach of the above Software warranty, in addition to all its other remedies at law and in equity, at the State's option the Contractor shall:

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

16.4.3. Compatibility

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

16.4.4. Services

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

17. RESERVED
18. SOFTWARE AGREEMENT

The Contractor shall provide the State with access to the Software Licenses and Documentation set forth in the Contract for Electronic Medical Records services and food service inventory software services, and as specified in Exhibit C, Pricing and Exhibit D, Software Agreement.

19. ADMINISTRATIVE SERVICES

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

20. RESERVED
21. HOSTING SCOPE OF SERVICES

Hosting services apply to Electronic Health Records software and services, and will apply to food

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service inventory software services upon completion of the food service inventory implementation described in Section 2, above. The Contractor shall provide Hosting Services for EHR and food service inventory software as described below:

- A. Contractor Data Center Environments. The Netsmart Plexus Data Centers ("NPDC") consist of a 2X primary data center environment and an N+1 secondary datacenter environment, both consisting of dual-fed, redundant data operation facility intended to provide uninterrupted power and service. The NPDC are designed to significantly reduce the State downtime and operates under supervision twenty-four (24) hours per day, seven (7) days per week ("24 x 7"), every day of the year. The NPDC houses all data center equipment, including hosted computing equipment, network equipment, and security equipment. Data center monitoring systems include fire protection (detectors, sprinklers, and dry agent), mechanical systems, camera recording systems, entry alarms, electrical systems, generator operations, water detection systems, and card access control/biometrics access controls. The Contractor's engineers observe systems 24 x 7 and report alarms as needed. The following table sets forth the responsibilities of the Contractor and the State regarding the physical facilities:

No.	Table 1: Network Operations Responsibility Description	Contractor	The State
1.1	Environment		
1.1.1	Provide the NPDC facility required to host the computing and network environment	X	
1.1.2	Provide the NPDC equipment and third party software	X	
1.1.3	Manage, monitor and control the NPDC	X	
1.1.4	Provide any applicable UPS/temperature-controlled environment for The Contractor provided equipment needed at The State site (e.g. network equipment, etc.)		X
1.1.5	Provide appropriate rack space for The Contractor's provided equipment at the State site, if applicable		X
1.2	NPDC Facility Management and Monitoring		

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1.2.1	NPDC power monitoring for generators -	X	
1.2.2	Monitoring of chiller system for pressure, temp, alarm and standby-	X	
1.2.3	Monitoring of electrical room for moisture, UPS availability-	X	
1.2.4	Monitoring of NPDC data center air-conditioning units, including air conditioning, power, moisture, humidity and temperature-	X	
1.2.5	Monitoring of NPDC Auto Transfer Switches. Monitors and activates UPS/generator system as incoming power dictates-	X	
1.2.6	Monitoring and control of the NPDC environment--	X	
1.2.7	Facility operation and maintenance-	X	
1.3	NPDC Physical Security		
1.3.1	Camera monitoring is provided throughout the Data Center and exterior entries. Multiple cameras provide views of the Data Center and all access points, which are visible at all times to the on-site operators. All cameras continuously record to tape for future viewing and investigation-	X	
1.3.2	All primary doors are controlled by card access with biometric readers in high-security areas. Multiple access points must be crossed to access the Data Center floor-	X	
1.3.3	All secured doors are electronic fail-secure strikes. All door hardware and Monitoring are backed by emergency power-	X	
1.3.4	Access to host facility is site-restricted via ACL's which are controlled by The Contractor's security personnel	X	

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1.3.5.	Entry/exit points of service center are monitored via closed-circuit television-	X	
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B. Network Operations. As part of the NPDC Services, the Contractor shall provide and manage many aspects of the communications between the NPDC and the State networks. Each section below describes a unique aspect of the network infrastructure. There are three separate networks that must work together in unison to provide seamless application delivery. In addition, each party agrees to perform their respective network operations responsibilities, as set forth in Table 2 below.

1. NPDC Network Operation. The NPDC Network Operations are the network equipment, software, and console systems that support the servers and databases for the State within a facility or facilities that the Contractor manages. The Contractor shall provide and operate at the NPDC all network equipment, third party software and console systems to host the Licensed Software, equipment, and certain third party software (collectively, the "The Contractor's Environment"). The Contractor shall provide a high-availability network designed to remain fully operational in the event of any single equipment failure. Possible points of equipment failure may include routers, switches, load balancers, and firewalls. The Contractor shall support, manage, and maintain this equipment and third party software in a manner consistent with vendor specifications and The Contractor best practices. The Contractor shall provide network management of all The Contractor-provided network components in the NPDC to maintain the service levels set forth in this The Contractor System Schedule.

2. Contractor/The State provided Internet Communications. The Internet Communications Network Operations are the communications infrastructures that include primary and secondary communications circuits between the NPDC and the Internet, and from the State LAN/WAN to the Internet. The Contractor circuits shall be provisioned in a manner that maximizes existing physical circuit diversity from a variety of Internet backbone providers, at both data center environments. This process does not guarantee physical diversity; but rather provides the best practice for obtaining physical diversity. The Contractor Internet circuits shall be sized in accordance with Contractor best practices for appropriate bandwidth, quality of service and responsiveness. Some metrics that may be used for sizing include active concurrent users, number and volume of interface traffic, number and volume of print activities, etc. All Contractor-side circuit provisioning and management shall be the responsibility of the Contractor in conjunction with the Contractor's third party communications carriers. All communications equipment necessary to terminate these WAN circuits shall be provided and managed by the Contractor. The equipment may include routers, switches, firewalls, out-of-band-management consoles and power reboot switches as well as CSU/DSU circuit termination equipment. All the State-side circuit provisioning and management shall be the responsibility of the State. All communications equipment necessary to terminate

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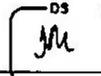

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these Internet circuits shall be provided and managed by the State. The equipment may include routers, switches, firewalls, out-of-band-management consoles and power reboot switches as well as CSU/DSU circuit termination equipment. The Contractor shall assist the State in troubleshooting Internet issues that may involve the State's network or the State's Internet provider.

3. The State-provided LAN/WAN. The State LAN and the State WAN shall consist of any communications circuits, WAN termination equipment and LAN equipment not provided by the Contractor. These circuits and equipment shall be managed and maintained by the State. The Contractor shall assist the State in troubleshooting issues that may involve the State's network; however, The Contractor reserves the right to charge for the time, materials and travel and related expenses involved in resolution of problems that are determined to originate within the State's network.
4. The Contractor Provided MPLS Connectivity. The State location shall be provided (2) routers for connection to the Contractor's Technologies' MPLS network from the State's internal network. An MPLS circuit shall be installed at the State location from (2) diverse carriers. Both circuits shall be identical in capacity and not less than 20MB per circuit.
- C. Systems Management As part of the NPDC Services. The Contractor shall provide systems management services for the management, security and performance of the computing systems required to operate the Licensed Software. The "back-end system" includes third party software, certain Sublicensed Software, and host nodes running the Licensed Software database. This aspect of the back-end system also includes the storage technology and media:

No.	Table 2: Network Operations Responsibility Description	Contractor	The State
2.1	NPDC Network Operations		
2.1.1	All required network equipment within the NPDC, such as routers, switches, load balancers and consoles	X	
2.1.2	Network management of equipment and third party software, including routers, switches, load balancers and firewalls	X	
2.1.3	Redundant power circuits and power distribution	X	
2.1.4	24 x 7 x 365 network support with level 2 and 3 backup available by pager	X	

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2.1.5	Monitoring the Contractor's -provided applications response time, including round trip latency from the Contractor's Internet providers	X	
2.1.6	Network management, support, installation, and configuration of Contractor-provided WAN circuits and WAN equipment	X	
2.2	Contractor/The State provided Internet Communications Network Operations		
2.2.1	Communications circuit(s) from the NPDC to Internet Backbone	X	
2.2.2	Network management including Monitoring systems, device management and polling systems	X	
2.2.3	Monitoring of Contractor-provided network routers, including utilization, memory, exception reporting, syslog, configuration management and ACL hits/denies	X	
2.2.4	Monitoring of Contractor-provided WAN links ups/downs, error thresholds, bandwidth, and CIR packet flow/loss	X	
2.2.5	Communications circuit(s) from the State to Internet Backbone	X	
2.2.6	State network management including Monitoring systems, device management and polling systems		X
2.2.7	Monitoring of the State-provided network routers, including utilization, memory, exception reporting, syslog, configuration management and ACL hits/denies		X
2.2.8	Monitoring of The State Gateway ups/downs, router, switch, power		X
2.3	The State LAN/WAN Operations		
2.3.2	Network management, support, installation, and configuration of The State LAN infrastructure		X
2.3.3	Management of network printers, terminal servers, PCs, terminals or other The State-side equipment		X

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The back end also include the required operating systems ("OS") and layered products necessary for the System to operate. The computing system includes the back-end system and the front-end application server resources necessary to provide access to the System and executes the Licensed Software and server requirements to facilitate printing (excluding the State print servers required for and on the State LAN). The computing system includes management and Monitoring systems and software to monitor and report on system health, security, capacity and availability.

The front-end system includes the required OS and layered-product licenses (necessary for the System to operate. The system management services include the responsibility for the equipment and third party software maintenance of the computing system and associated infrastructure in accordance with manufacturer-recommended and supported practices. In addition, such services include processes and resources to monitor the computing systems and to report and alert on compromised system health, security, capacity, and availability. Furthermore, the Contractor shall:

- Meet or exceed contracted performance, capacity, and System Availability (as defined below) levels using the appropriate management methodologies, resources, and tools for the Contractor's Environments
- Provide System performance Monitoring and tuning
- Provide System capacity analysis and planning
- Provide storage management for all the in-scope environments
- Use and adhere to documented change management processes and procedures
- Use and adhere to documented problem management processes, procedures and escalation guidelines
- Provide and monitor mutually agreed-upon security functions in conjunction with The State's security officer and in accordance with documented security policies

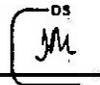
In addition, each party agrees to perform their respective systems management responsibilities, as set forth in Table 3 below:

No.	Table 3: Systems Management Responsibility Description	Contractor	The State
3.1	Equipment and Third Party Software Acquisition and Provisioning		

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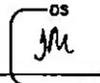
3.1.1	Provide back-end computing systems consisting of CPU, memory and data storage required to operate the in-scope environment(s) Back-end computing systems shall be provided in accordance with obligations set forth in the Contractor's System Schedule and certified by the Contractor's Engineering	X	
3.1.2	Provide OS and layered-product software licenses for back-end systems required to operate the in-scope environment(s)	X	
3.1.3	Purchase of database Sublicensed Software and ongoing Sublicensed Software Maintenance fees	X	
3.1.4	Provide front-end computing systems necessary to facilitate The State access to their specific in-scope environment(s) Front-end computing systems shall be provided in accordance with obligations set forth in the Contractor's System Schedule and certified by the Contractor's Engineering	X	
3.1.5	Provide OS and layered-product software licenses for front-end systems required to operate the in-scope environment(s)	X	
3.1.6	Provide systems and third party software necessary for the Contractor to manage and monitor back-end and front-end systems	X	
3.1.7	Provide front-end servers required to facilitate printing from the in-scope environment(s), excluding The State-specific print servers required for local printing on The State site	X	
3.1.8	Provide systems required for The State local printing from Avatar and non-Avatar applications		X
3.1.9	Provide systems required for The State access to The State's LAN (e.g. local authentication, primary/backup domain controllers) and other non-Avatar functionality		X

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3.1.10	Provide front-end computing systems necessary to facilitate local The State Licensed Software Installation. Computing systems must meet the Contractor's minimum system requirements		X
3.2	Management and Monitoring		
3.2.1	Apply OS and layered-product service packs to front-end and back-end systems as required to maintain system health, security, availability and capacity	X	
3.2.2	Monitor the computing systems (24 x 7) to report and alert on compromised system health, security, availability and capacity	X	
3.2.3	Reboot back-end and front-end computing systems on a recurring schedule to optimize performance of the computing environment	X	
3.2.4	Monitor charting application services (charting and Remote Report Distribution) for successful completion		X
3.2.5	Resubmit and/or reroute any failed print jobs		X
3.2.6	Provide OS and layered-product software licenses for front end systems required for a local Avatar application installation (Windows, Crystal)		X
3.3	Security Administration		
3.3.1	Provide system third party software and equipment security controls	X	
3.3.2	Monitor System security errors, exceptions and attempted violations as dictated by standard procedures	X	
3.3.3	Host facility physical security measures and controls	X	
3.3.4	Secure backup media with check-in and check-out procedures	X	

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3.3.5	Store The State's backup media in a manner that shall protect the confidentiality of the data stored on them and ensure that such data remain The State's property.	X	
3.3.6	Run and monitor continuous Intrusion Detection software on both host and network-based systems	X	
3.3.7	Provide secure environment for on-site and off-site storage for backups	X	
3.3.8	Virus detection and correction as required	X	
3.3.9	Provide corporate IT Security Manager to monitor and enforce security procedures and resolve exception report issues	X	
3.3.10	Provide logical security using lockdown procedures post production	X	
3.3.11	Assign and manage accounts for The State users to access systems		X
3.3.12	Provide an annual Letter of Attestation that is Discrete from SOC2 report verifying performance of a 3rd party penetration test of the entire system and compliance with required security standards.	X	
3.3.13	Designate assigned security representative to ensure personnel have appropriate access and be responsible for review of access controls, etc.		X
3.4	Other Third-Party Software		
3.4.1	Provide adequate licenses for third party products used to augment Avatar functionality Third-party products shall be implemented in accordance with obligations set forth in the contract and certified by the Contractor's Engineering		X
3.5	Miscellaneous Technologies Selection, Deployment and Management		

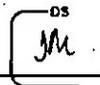
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3.5.1	Provide, configure, host and manage other non-Avatar resources deployed to augment Avatar functionality (excluding those which have not been identified as the Contractor's Avatar technology partners) Resources excluded may consist of, but are not limited to, biometric authentication application and database servers, and medical encoding application and database servers	X	
3.5.2	Select peripheral technologies certified by the Contractor and consult with the Contractor's Technical Project Manager prior to final selection Peripheral technologies consist of PCs, thin the State devices, hand-held devices, printers, document scanners, and barcode scanners the Contractor is responsible for providing The State with a list of validated devices, and The State is responsible for making their selection and verifying with the TPM that it is valid according to the list provided	X	X
3.5.3	Procurement and deployment of peripheral technologies in accordance with the Contractor's certified configurations		X
3.5.4	Peripheral devices configuration, management, and maintenance (Web browser configuration, connectivity, rebooting, paper, toner, paper jam, device offline, etc.)		X
3.5.5	The State site peripheral management (adds, moves and changes--some changes may require NPDC assistance to implement)		X
3.5.6	Provide virtual access to peripherals and interfaces as needed to support The State		X

D. Database Administration. The Contractor shall provide the ability to implement and maintain database access, performance and availability in a consistent and efficient manner across all System environments. The State shall maintain the content and integrity of the database. the Contractor shall:

- Install and maintain Database Management System ("DBMS") software as defined in Table 4 below
- Provide appropriate database management methodologies, resources and tools to manage, troubleshoot, back up and recover the database environments.
- Monitor and report on database performance and capacity

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- Provide DBMS storage management
- Monitor and manage database security
- Maintain offsite backup of the System and the State data (the offsite media backup shall operate and perform in a manner comparable to NPDC with respect to both System and The State data)

In addition, each party agrees to perform their respective database administration responsibilities, as set forth in Table 4 below:

No.	Table 4: Database Administration Responsibility Description	Contractor	The State
4.1	Software Installation and Upgrade		
4.1.1	Installation, management, and upgrading of third party database software necessary to support the Licensed Software.	X	
4.1.2	Certification of application environment after database or other upgrade	X	
4.2	Performance Management and Monitoring		
4.2.1	Monitor database alert logs	X	
4.2.2	Monitor database number of extents remaining	X	
4.2.3	Monitor database freespace	X	
4.2.4	Monitor database freespace deficits	X	
4.2.5	Monitor database instance status	X	
4.2.6	Monitor database lock conflicts	X	
4.2.7	Monitor space available in tablespace	X	
4.2.8	Monitor status of database listeners	X	
4.2.9	Reorg/defragment database objects/tablespace	X	
4.2.10	Analysis and tuning of any custom scripts developed by The State or third-party		X
4.2.11	Monitor basic database performance characteristics such as I/O	X	
4.2.12	Monitor and manage file and tablespace	X	

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4.3	Backup, Restore and Recovery		
4.3.1	Perform system backups as specified in standard backup procedure	X	
4.3.2	Media rotation	X	
4.3.3	Verify backup logs	X	
4.3.4	Maintain and document backup requirements	X	
4.3.5	Coordinate offsite storage functions, including logging, tracking, labeling, ordering, receiving and sending storage media	X	
4.3.6	Restore System data as required	X	
4.3.7	Define System-wide recovery and backup requirements	X	
4.3.8	Schedule and test routine recovery procedures	X	
4.3.9	Perform the required frequency of replacement for all media in storage	X	
4.3.10	Backup of the State-based PCs and servers		X
4.3.11	Verification of restored environment		X

E: Applications Management. Applications Management services are the services required to manage the Licensed Software application level of the System. As part of the NPDC Services, the Contractor's primary function with respect to Applications Management is in the areas of service package management, application server management, and monitoring and reporting on application processes. Each party agrees to perform their respective Applications Management responsibilities, as set forth in Table 5 below. The Contractor shall upgrade the System as required to keep the State on a supportable release; but not more frequently than limit set forth in the scope of use table above. Specific service packages shall be made available as required to address a medical need, financial need or regulatory requirement. The State shall, at its own expense, support, manage and provide training for all Licensed Software, including without limitation all maintenance and build activities related to production financial and clinical applications and Licensed Software upgrades. The State agrees to use "superusers" to provide Licensed Software management support:

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No.	Table 5: Applications Management Responsibility Description	Contractor	The State
5.1	Service Package Management		
5.1.1	Load patches and Service Packages as required to meet contractual agreements	X	
5.1.2	Installation of New Releases on a periodic basis, subject to notice and approval by The State. (Frequency as set forth in the scope of use limit section above)	X	
5.1.3	Perform back-end special instructions for service package loads	X	
5.1.4	Perform front-end special instructions for service package loads	X	
5.1.5	Support applications testing by providing a certification domain to The State as required to support contractual commitments	X	
5.1.6	Monitor Licensed Software notifications for issues related to patient care, financial burden, or performance		X
5.1.7	Request patches & service packages as needed to keep the System at a supportable level (as defined above)		X
5.1.8	Perform application special instructions for service package loads as needed		X
5.1.9	Perform service package certification guidelines as needed		X
5.1.10	Test service packages /application enhancements, fixes and upgrades and assure the integrity of the resulting data. The State is responsible for final		X
5.1.11	Perform and manage the process for local installations of the Licensed Software application on The State PCs		X
5.2	Monitoring tasks		
5.2.1	Monitor Application Servers for appropriate number/ups/downs	X	
5.2.2	Monitor orphaned journal transactions	X	
5.2.3	Monitor Avatar System Access logs and perform maintenance		X
5.2.4	Verify the State record status		X

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5.3	Audit reports and logs		
5.3.1	Review/monitor audit reports and logs		X
5.3.2	Perform The State audits/reports/tools		X
5.4	User accounts		
5.4.1	Establish ongoing setup and maintenance of user accounts for Licensed Software products		X
5.5	Maintenance Activities		
5.5.1	Cycle Application Servers as needed	X	
5.5.2	Perform event code/event set changes as required		X
5.5.3	Provide and maintain application-specific security such as task access, positions, and role setup		X
5.5.4	Train end users on application		X
5.5.5	Maintain change management of all local installations of the Licensed Software applications on The State PCs		X
5.6	Avatar Software Operations		
5.6.1	Perform Daylight Savings Time management	X	
5.6.2	Notify The State help desk of issues found that affect service	X	
5.6.3	Set up and review purges and operations jobs		X
5.6.4	Run/review Licensed Software operations		X
5.6.5	Add/remove operations jobs		X
5.6.6	Monitor operations for successful completion		X
5.6.7	Restart production jobs as required		X

F. Interface Management. Interfaces include both medical device interfaces ("MDI") and foreign system interfaces ("FSI") that reside on the System. Each party agrees to perform their respective Interface Management responsibilities, as set forth in Table 6 below:

No.	Table 6: Interface Management Responsibility Description	Contractor	The State
6.1	Monitoring		
6.1.1	Monitor the Contractor's outbound interface queue counts and over-threshold alarms	X	

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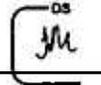
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6.1.2	Monitor and cycle inbound interfaces as required to establish connections or start transactions sending.		X
6.1.3	Monitor the Contractor's inbound cycle times over-threshold alarms	X	
6.2	Management		
6.2.1	Notify The State help desk of issues found that affect service	X	
6.2.2	Notify the Contractor's Hosting Support when cycling interface/VPN's or of known ups/downs		X
6.2.3	Review system access logs		X
6.2.4	Review error logs		X
6.2.5	Notify the Contractor's Hosting Support of issues found that affect service		X

G. Administration. Each party agrees to perform their respective administrations responsibilities, as set forth in Table 7 below.

1. Change Management. The Contractor and the State shall follow a formal process for changes that could affect the hosted System. The Contractor shall provide a copy of the change management procedure to the State. This process (i) ensures that changes occur in a controlled environment so that all parties understand the potential impact of an impending change, and (ii) identifies potentially affected systems and processes prior to implementation of the change(s). The State must authorize all changes that affect production domains as specified in the standard change management procedure. The State agrees to cooperate with the Contractor in connection with providing reasonable and appropriate maintenance windows and participating in the testing as reasonably required.
2. Problem Management. Problem management is the identification, assessment of impact, reporting, tracking, escalation, notification, and resolution of problems that occur in the NPDC. The State is responsible for maintaining a staffed help desk that shall provide the first line of support for users and data coordination calls. This line of support must be able to distinguish application issues versus connectivity or infrastructure issues. In addition, the use of "superusers" at The State site should be maintained to address application-specific issues.
3. Audit. Upon written notice from the State to the Contractor's VP of Hosting/Systems Engineering, the Contractor shall permit access to the NPDC and processing environment for the State's auditors and/or an independent third party retained by the State. The State shall provide the Contractor's VP of Hosting/Systems Engineering an audit agenda two (2) weeks prior to audit date.

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Any such audit conducted by the State auditors and/or an independent third party auditor retained by the State shall be limited to one (1) audit per calendar year. The Contractor shall provide reasonable support and assistance during any such audit(s) to include preparation, pre-audit events and 1 business day of physical NPDC access. The Contractor shall conduct a periodic independent audit (internal or third party) of the NPDC operating environment in accordance with applicable standards. Questions regarding NPDC audits should be directed to the Contractor's VP of Hosting/Systems Engineering:

No.	Table 7: Administration Responsibility Description	Contractor	The State
7.1	Change Management		
7.1.1	Provide and maintain an automated change management system for the centralized reporting and tracking of changes made by the Contractor's personnel	X	
7.1.2	Provide a weekly Avatar patching maintenance window		X
7.1.3	Allow for a monthly global maintenance window		X
7.1.4	Notify the Contractor of planned outages on The State side		X
7.1.5	Designate at least two individuals responsible for signing change forms		X
7.1.6	Notify the Contractor of changes to The State environment		X
7.1.7	Certify ALL changes prior to moving them to		X
7.1.8	Test application enhancements, fixes, and upgrades and assure the integrity of the resulting data		X
7.1.9	Provide sufficient advance notice (6 months) to the Contractor of material changes to The State growth (e.g., order volumes, users)		X
7.2	Problem Management		
7.2.1	Provide and maintain a method for proper escalation of problems within the Contractor's hosting management	X	
7.2.2	Log all incidents and problems in accordance with documented processes.	X	

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7.2.3	Maintain ownership of all problems related to the Contractor's services through closure or until agreement that the problem is not within the Contractor's scope of responsibility	X	
7.2.4	Provide appropriate contact numbers or other information necessary to communicate with key NPDC support staff	X	
7.2.5	Perform post-mortem reviews on problems that affect service level standards, including root cause analysis if possible	X	
7.2.6	Notify the Contractor's hosting support desk of issues found that affect service	X	
7.2.7	Staff operations 24 x 7	X	
7.2.8	Provide on-call technical staff 24 x 7	X	
7.2.9	Ensure proper notification and escalation in accordance with standard operating procedures	X	
7.2.10	Maintain The State help desk to provide first line of support for Users		X
7.2.11	Identify applications issues versus connectivity		X
7.2.12	Provide and maintain a method for proper escalation of problems within The State's management		X
7.2.13	Assign IT Coordinator for primary contact by the Contractor's technology group as per		X
7.3	Service Management		
7.3.1	Provide system availability reporting	X	
7.3.2	Create incident reports for outages	X	
7.3.3	Maintain inventory of installed products	X	
7.3.4	Provide statistics and management reports to The State on a regular basis as detailed in the procedures manual	X	
7.3.5	Provide The State with detailed reporting and statistics on reported problems	X	

22. Terms and Definitions

Term and definitions applicable to this Contract are identified in Exhibit F: Terms and Definitions.

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23. Required Contractor Certificates

Required Contractor certificates are attached in Exhibit G.

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EXHIBIT C – PRICE AND PAYMENT SCHEDULE

EXHIBIT C – PRICE AND PAYMENT SCHEDULE

1. CONTRACT PRICE

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

2. TRAVEL EXPENSES

The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services performed under this Contract. The Contractor must assume all travel and related expenses incurred by Contractor in performance of its obligations. All labor rates in this Agreement will be considered "Fully Loaded", including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and any additional out of pocket expenses.

3. SHIPPING FEES

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

4. INVOICING

The Contractor shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State's prior written approval, which shall not be unreasonably withheld. The Contractor shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Deliverable and identification of the Deliverable for which payment is sought, and the Acceptance date triggering such payment; date of delivery and/or installation; monthly maintenance charges; any other Project costs or retention amounts if applicable.

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

5. INVOICE ADDRESS

The Contractor shall submit an invoice in a form satisfactory to the State by the fifteenth (15th) working day of the following month, which identifies and requests payment for authorized services provided in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the State in order to initiate payment.

In lieu of hard copies, all invoices for New Hampshire Hospital may be assigned an electronic signature and sent by email to NHHFinancialServices@dhhs.nh.gov, or invoices may be mailed to:

Financial Services

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New Hampshire Hospital

121 South Fruit St:

Concord, NH 03301

6. PAYMENT ADDRESS

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

7. OVERPAYMENTS TO THE CONTRACTOR

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

8. CREDITS

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

9. PROJECT HOLDBACK

Not Applicable

10. PAYMENT SCHEDULE

Pricing

This is a Fixed Firm Price Contract. The total Contract value is indicated in P-37 General Provisions - Block 1.8: Price Limitation for the period between the Effective Date through date indicated in P-37 General Provisions - Block 1.7: Completion Date. The Contractor shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow the Contractor to invoice the State for the following activities, Deliverables, or milestones appearing in the price and payment table below:

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Table 10-1		Pricing				
Recurring Fees.						
myAvatar	Unit	Units Types	Year 1	Year 2	Payment Terms	
Clinician Workstation (CWS) Maintenance	1	Each	\$17,103.39	\$17,958.56	Year 1 - Fees due upon contract approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.	
Electronic Medication Administration (eMAR) Maintenance	1	Each	\$8,618.48	\$9,049.40		
Hosting - Disaster Recovery	201	Concurrent User	\$306,828.90	\$322,170.35		
Practice Management (PM), Client Fund Management System (CFMS), Order Entry (OE) Maintenance	265	Each	\$94,060.17	\$98,763.18		
RADplus Maintenance	899	Named User	\$122,395.91	\$128,515.71		
Additional Root System Code (RSC) Maintenance – Hampstead Hospital	1	Each	\$1,653.75	\$1,736.44		
Scriptlink Hosting	1	Each	\$9,261.00	\$9,724.05		
Web Services Suite Maintenance	1	Each	\$4,630.50	\$4,862.03		
CareConnect:						
CareConnect Inbox Subscription	0 -1,000	Named User	\$49,592.66	\$52,072.29		Year 1 - Fees due upon contract approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.
CareConnect Lab Orders (Outbound) Subscription	501 - 1,000	Each	\$3,307.50	\$3,472.88		
CareConnect Lab Results (Inbound) Subscription	501 - 1,000	Each	\$3,307.50	\$3,472.88		

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OrderConnect					
OrderConnect Base Fee Subscription	1	Each	\$1,653.75	\$1,736.44	Year 1 - Fees due upon contract approval for the period 9/1 - 8/31. Subsequent years will be due annually on the anniversary of that date.
OrderConnect EPCS Subscription	40	Named User	\$9,700.24	\$10,185.25	
OrderConnect Full Suite Subscription	33	Named User	\$45,405.36	\$47,675.63	
OrderConnect Non-Prescriber Subscription	66	Named User	\$18,230.94	\$19,142.49	
RxConnect					
RxConnect Browser, RxConnect ADM Browser Interface, Crystal Reports Developer Version	501+ Beds	Each	\$9,178.93	\$9,637.88	Year 1 - Fees due upon contract approval for the period 9/1 - 8/31. Subsequent years will be due annually on the anniversary of that date.
RxConnect Hosting - High Availability	1	Concurrent User	\$27,088.43	\$28,442.85	
PaaS - Food Service Inventory Software					
Platform as a Service - PaaS (CareTrakker Hosting) Concurrent User - for food service inventory software	3	Concurrent User	\$5,328.00	\$5,594.40	Annual fee begins when software becomes accessible in the Netsmart environment. The initial payment will be pro-rated for the remainder of the initial year of the agreement. Subsequent annual payments will be payable on the anniversary date of the Contract Effective Date and are subject to increases as per the Contract.
Platform as a Service - PaaS (SuitePoint Hosting) - for food service inventory software	2	Each	\$3,540.00	\$3,717.00	
SaaS - Food Service Inventory Software					
Avatar HL7 Uni-directional Interface SaaS (for food service inventory software)	1	Each	\$12,300.00	\$12,915.00	Annual fee begins when software becomes accessible in the Netsmart environment. The initial payment will be pro-rated for the remainder of the initial year of the agreement. Subsequent annual payments will be payable on the anniversary date of the Contract

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					Effective Date and are subject to increases as per the Contract.
Third Party:					
AMA CPT Code Subscription	899	Named User	\$18,879.00	\$19,822.95	Year 1 - Fees due upon contract approval for the period 9/1 – 8/31. Subsequent years will be due annually on the anniversary of that date.
Generic Hardware Maintenance	4	Each	\$4,167.45	\$4,375.82	
Diagnosis Content on Demand Add-On Subscription	5	Each	\$2,505.74	\$2,631.03	
Diagnosis Content on Demand-Not Utilizing DSM	1	Each	\$6,625.19	\$6,956.45	
RxScan NDC Translator Annual Subscription	66	Each	\$33,447.82	\$35,120.21	
Perceptive Hosting - Disaster Recovery	201	Concurrent User	\$36,512.52	\$38,338.15	
POS and Batch Scanning Powered by Perceptive	1	Each	\$4,104.03	\$4,309.23	
Ultimedex Prescriber Subscription	1	Each	\$396.90	\$416.75	
Ultimedex Suite Subscription	1	Each	\$5,454.49	\$5,727.21	
Wiley Subscription	1	Named User	\$4,195.98	\$4,405.78	
Third Party - Food Service Inventory Software:					
CareTrakker Maintenance	1	Each	\$15,303.00	\$16,068.15	Annual fee begins when software becomes accessible in the Netsmart environment. The initial payment will be pro-rated for the remainder of the initial year of the agreement. Subsequent annual payments will be payable on the anniversary date of the Contract Effective Date and are subject to increases as per the Contract.
SuitePoint Maintenance	1	Each	\$4,803.00	\$5,043.15	
Total Recurring Fees			\$889,580.53	\$934,059.56	

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One Time Fees - RxScan Translator CD for Additional RxScan Licenses					
Hardware	Unit	Units Types	Year 1	Year 2	Payment Terms
Translator CD	1	Each	\$0.00	\$0.00	100% of License fees due upon Contract Effective Date
Total One Time Fees - RxScan			\$0.00	\$0.00	

One Time Fees - Additional myAvatar Licenses (Qty: 20)					
Hardware	Unit	Units Types	Year 1	Year 2	Payment Terms
Avatar RADplus Named User	20	Named User	\$16,000.00	\$0.00	100% of License fees due upon Contract Effective Date
Total One Time Fees - myAvatar Licenses			\$16,000.00	\$0.00	

One Time Fees - Food Service Inventory Software					
Third Party License	Unit	Units Types	Year 1	Year 2	Payment Terms
CareTrakker License	1	Each	\$48,689.20	\$0.00	50% Due upon Completion of the Computrition Project Kickoff Event
SuitePoint License	1	Each	\$12,788.00	\$0.00	
Third Party Services:					
Food Service Inventory Software Implementation Services	1	Hour	\$41,083.52	\$0.00	50% Due upon Completion of the Food Service Inventory system Project Kickoff Event 50% Due at Go-Live
Hardware					
SuitePoint POS Registers	2	Each	\$7,640.00	\$0.00	100% of Hardware fees due upon delivery of Hardware to the State
SuitePoint POS Shipping	1	Each	\$1,000.00	\$0.00	
Hosting					

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CareTrakker Hosting Setup	1	Each	\$20,000.00	\$0.00	50% Due upon Completion of the Food Service Inventory system Project Kickoff Event
SuitePoint Hosting Setup	1	Each	\$8,000.00	\$0.00	

Professional Services					
Professional Services - Avatar (Netsmart HL7 Services)	1	Fixed Fee	\$25,600.00	\$0.00	50% Due upon Completion of the Food Service Inventory system Project Kickoff Event
Professional Services - Project Management for Third Party (Netsmart PM Services)	1	Fixed Fee	\$12,000.00	\$0.00	
Professional Services - Third Party Services (SuitePoint Services)	1	Fixed Fee	\$11,611.28	\$0.00	
Total One Time Fees - Food Service Inventory Software Services			\$188,412.00	\$0.00	
Grand Total			\$2,028,052.12		

11. ANNUAL INCREASE BEYOND INITIAL TERM

The Parties acknowledge that, at the end of the initial two-year term, the ongoing fees may be increased. At the end of the Initial Term, the Parties shall negotiate in good faith the annual increase amount for the contract renewal period(s) beyond the initial two-year term, subject to agreement of the Parties, available funding, and approval of the Governor and Executive Council.

12. CONTINGENCY FEES

In the event that transition services are required, the Contractor shall bill the State an hourly consulting rate not to exceed \$200 per hour for all transition services requested by the State. Actual scope for the effort based on the future requirements will be determined through mutual agreement between the State and Netsmart. Contingency Fees are not guaranteed to the Contractor, and when approved by the State. Any change(s) to the Contract shall be done using State Change Notice process and must be agreed to and signed by both parties, and shall be automatically incorporated into the Agreement by reference hereto.

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EXHIBIT D – SOFTWARE AGREEMENT

EXHIBIT D – SOFTWARE AGREEMENT

1. LICENSE GRANT

1.1 COTS -Annual License -- Subject to the upfront payment of initial and annual renewal license fees:

The Contractor hereby grants to the State a, perpetual, irrevocable, non-exclusive, non-transferable, limited License to use the Software and its associated Documentation, subject to the terms of the Contract. The State may allow its agents and Contractors to access and use the Software, and in such event, the State shall first obtain written agreement from such agents and Contractors that each shall abide by the terms and conditions set forth herein.

1.2 SAAS

During the Subscription Term, the State will receive a nonexclusive, non-assignable, royalty free, right to access and use the Software solely for the State's internal business operations subject to the terms of this Agreement and up to the number of Licenses documented in the Agreement.

The Parties acknowledge that this Agreement is a Services agreement and Contractor will not be delivering copies of the Software to Customer as part of the Agreement.

Hosted System. The Contractor grants the State a non-transferable, non-exclusive right to access the Hosted System during the initial Term (and any Option Term).

1.3 SUBSCRIPTION -- Subject to the payment of all applicable license fees:

The contractor hereby grants to the State a non-transferable, non-sub licensable, non-exclusive license to use Software and its associated documentation during the applicable subscription term, subject to the terms of the Contract. The State may allow its agents and Contractors to access and use the Software, and in such event, the State shall first obtain written agreement from such agents and Contractors that each shall abide by the terms and conditions set forth herein.

1.4 CUSTOM SOFTWARE

1.4.1. Third Party Products.

Third Party Products are licensed subject to the same restrictions as are set forth in this Agreement. Third Party Products are also subject to and the State agrees to the pass through terms that apply to those Third Party Products at <https://www.ntst.com/lp/pass-through-terms>. Notwithstanding the foregoing, nothing contained in the third party pass through terms will diminish the Contractor's obligations under this Agreement.

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EXHIBIT D – SOFTWARE AGREEMENT

2. SOFTWARE TITLE

Title, right, and interest (including all ownership and intellectual property rights) in the Software provided under this Agreement, and its associated documentation, shall remain with the Contractor.

Software Title. The Licensed Software and Software Services are proprietary to The Contractor and are based upon and contain trade secrets and other Confidential Information. The Contractor reserves title to the Licensed Software and Software Services and all other rights not expressly granted herein.

3. SOFTWARE AND DOCUMENTATION COPIES

The State shall be entitled to copies of any work product upon request to Contractor. At the conclusion of this Agreement, Contractor agrees to provide all copies of the Software for all versions, including related documentation, to the State. Contractor shall not retain any work product associated with this Agreement unless authorized by the State in writing.

4. RESTRICTIONS

Except as otherwise permitted under the Contract, the State agrees not to:

- a. Remove or modify any program markings or any notice of the Contractor's proprietary rights;
- b. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; or
- c. Cause or permit reverse engineering, disassembly or recompilation of the programs.

License Restrictions. Except as expressly stated in this Agreement, no other rights, express, implied or otherwise, are granted to the State and the Contractor reserves all rights not expressly granted herein. The State will not permit the Licensed Software, Third Party Products or the Hosted System (i) to be disassembled or reverse engineered, (ii) to be sold, disclosed, leased, subleased, lent, or otherwise made available to others including third party hosting providers, (iii) to be or attempted to be accessed, modified, make additions to or altered, (iv) make any derivations, adaptations, or translations in whole or in part, and/or (v) to be used to develop functionally similar computer software or to otherwise compete with the Contractor. No copies of the Licensed Software, Third Party Products or the Hosted System may be made by the State without the prior written consent of the Contractor except for backup purposes in accordance with normal data processing practices. The State agrees to reproduce any copyright notices and/or other proprietary legends, regardless of form, contained in, affixed to, or appearing on the Licensed Software and Third Party Products.

5. VIRUSES

The Contractor shall provide Software that is free of viruses, destructive programming, and mechanisms designed to disrupt the performance of the Software in accordance with the Specifications. As a part of its internal development process, Contractor will use reasonable efforts to test the Software for Viruses.

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6. AUDIT

Upon forty-five (45) days written notice, the Contractor may audit the State's use of the programs at the Contractor's sole expense. The State agrees to cooperate with the Contractor's audit and provide reasonable assistance and access to information. The State agrees that the Contractor shall not be responsible for any of the State's reasonable costs incurred in cooperating with the audit. Notwithstanding the foregoing, the Contractor's audit rights are subject to applicable State and federal laws and regulations.

7. SOFTWARE NON-INFRINGEMENT

Contractor warrants that it has good title to, or the right to allow the State to use all Services, equipment, and Software, including any all component parts thereof such as third party Software or programs that may be embedded in the Software ("Contracted Resources") provided under this Contract, and that such Services, equipment, and Software do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third-party.

The Warranty of non-infringement shall be an on-going and perpetual obligation that shall survive termination of the Contract. In the event that someone makes a claim against the State that any Contracted Resources infringe their intellectual property rights, the Contractor shall defend and indemnify the State against the claim provided that the State:

- a. Promptly notifies the Contractor in writing, not later than 30 days after the State receives actual written notice of such claim;
- b. Gives the Contractor control of the defense and any settlement negotiations; and
- c. Gives the Contractor the information, authority, and assistance reasonably needed to defend against or settle the claim.

Notwithstanding the foregoing, the State's counsel may participate in any claim to the extent the State seeks to assert any immunities or defenses applicable to the State.

If the Contractor believes or it is determined that any of the Contracted Resources may have violated someone else's intellectual property rights, the Contractor may choose to either modify the Contracted Resources to be non-infringing or obtain a License to allow for continued use, or if these alternatives are not commercially reasonable, the Contractor may end the License, and require return of the applicable Contracted Resources and refund all fees the State has paid the Contractor for services not yet rendered under the Contract. The Contractor will not indemnify the State if the State alters the Contracted Resources without the Contractor's consent or uses it outside the scope of use identified in the Contractor's User Documentation or if the State uses a version of the Contracted Resources which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Contracted Resources which was provided to the State at no additional cost. The Contractor will not indemnify the State to the extent that an infringement claim is based upon any information design, Specification, instruction, Software,

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Data, or material not furnished by the Contractor. The Contractor will not indemnify the State to the extent that an infringement claim is based upon the combination of any Contracted Resources with any products or Services not provided by the Contractor without the Contractor's consent.

8. CONTROL OF ALL COMPONENT ELEMENTS

Contractor acknowledges and agrees that it is responsible for maintaining all Licenses or permissions to use any third-party Software, equipment, or Services that are component parts of any Deliverable provided under this Agreement for the entire Term of the Contract. Nothing within this provision shall be construed to require Contractor to maintain Licenses and permissions for Software acquired by the State directly or through third-parties which may be integrated with the Contractor's Deliverables.

9. SOFTWARE ESCROW

THIRD PARTY PRODUCTS: Third Party Products are licensed subject to the same restrictions as are set forth in this Agreement. Third Party Products are also subject to and the State agrees to the pass through terms that apply to those Third Party Products. <https://www.ntst.com/lp/pass-through-terms>.

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EXHIBIT E – ADMINISTRATIVE SERVICES

EXHIBIT E – ADMINISTRATIVE SERVICES

1. DISPUTE RESOLUTION

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

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

Table E-1.			
DISPUTE RESOLUTION RESPONSIBILITY AND SCHEDULE TABLE			
LEVEL	CONTRACTOR POINT OF CONTACT	STATE POINT OF CONTACT	CUMULATIVE ALLOTTED TIME
Primary	Contractor Account Manager TBD	NHH Director of Information Services	5 Business Days
First	Contractor Practice Director TBD	Director of DHHS Bureau Information Services	10 Business Days
Second	Executive Vice President TBD	DHHS Commissioner	15 Business Days
Third	Executive Vice President	NH DoIT Commissioner	25 Business Days

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

2. ACCESS AND COOPERATION

Subject to the terms of this Agreement and applicable laws, regulations, and policies, the State will provide the Contractor with access to all program files, libraries, personal computer-based Systems, Software packages, Network Systems, security Systems, and hardware as required to complete the contracted Services.

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3. RECORD RETENTION

Contractor and its Subcontractors shall maintain all Project records including but not limited to books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs invoiced in the performance of their respective obligations under the Contract. Contractor and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.

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

4. ACCOUNTING

Contractor shall maintain an accounting System in accordance with Generally Accepted Accounting Principles (GAAP). The costs applicable to the Contract shall be ascertainable from the accounting System.

5. AUDIT

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

6. MISCELLANEOUS WORK REQUIREMENTS

6.1 State Website Copyright

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

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EXHIBIT F – TERMS AND CONDITIONS

EXHIBIT F – TERMS AND DEFINITIONS

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

TERM	DEFINITION
Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Agreement	A Contract duly executed and legally binding.
Access Control	Supports the management of permissions for logging onto a computer or network
Commercial Off The Shelf Software	Software that is purchased from a vendor and is ready for use with little or no change.
CM	Configuration Management
Confidential Information or Confidential Data	The definition for this term is located in Exhibit G, Attachment 2, Exhibit K, DHHS Information Security Requirements.
Contract	An Agreement between the State of New Hampshire and a Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contractor Confidential Information	Information the Contractor has clearly identified in writing to the State it claims to be confidential or proprietary.
Data	State records, files, forms, electronic information and other documents or information, in either electronic or paper form, that will be used /converted by the Vendor during the contract term.
Data Breach	The definition for this term is located in the Information Security Requirements Exhibit.
Deficiency (-ies)/Defects	A failure, shortcoming or error in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.

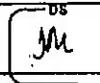
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Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, code, or other), provided by the Contractor to the State or under the terms of a Contract requirement.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
Enhancements	Updates, additions, modifications to, and new releases for the Software or System, and all changes to the Documentation as a result of improvement in quality, value, or extent.
Hosted Services	Applications, IT infrastructure components or functions that organizations access from external service providers, typically through an internet connection.
Hosted System	The combination of hardware, software and networking components used by the Application Service Provider to deliver the Hosted Services.
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users.
Implementation	The process for making the System fully Operational for processing the Data.
Infrastructure as a Service (IaaS)	The Contractor is responsible for ownership and management of the hardware that support the software, including servers, networking and storage.
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Open Source Software	Software that guarantees the user unrestricted use of the Software as defined in RSA chapter 21-R:10 and RSA chapter 21-R:11.
Operational	Operational means that the System is ready for use and fully functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued Acceptance.
Personal Information	The definition for this term is located in the Information Security Requirements Exhibit G, Attachment 2, – Exhibit K, DHHS Information Security Requirements.
Project	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.
Proposal	The submission from a Vendor in response to the Request for a Proposal.

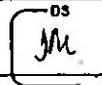
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Security Incident	The definition for this term is located in the Information Security Requirements Exhibit.
Services	The implementation, training, Software Services, Support Services and other services to be provided by the Contractor.
Software	All Custom, SAAS and COTS computer programs and applications provided by the Contractor under the Contract.
Software Deliverables	All Custom, SAAS and COTS Software and Enhancements.
Software License	Licenses provided to the State under this Contract.
Software-as-a-Service (SaaS)	The capability provided to the State to use the Contractor's applications running on a cloud infrastructure. The applications are accessible from various State devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The State does not manage or control the underlying cloud infrastructure including network, servers, Operating Systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
Specifications	Written details that set forth the requirements which include, without limitation, the RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
State Data	All Data created or in any way originating with the State, and all Data that is the output of computer processing of or other electronic manipulation of any Data that was created by or in any way originated with the State, whether such Data or output is stored on the State's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Contractor, and not defined as "Confidential Data" within Attachment 2 – Exhibit K: DHHS Information Security Requirements.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year (SFY) runs from July 1 of the preceding calendar year through June 30 of the applicable calendar year.

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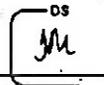
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Subcontractor	A person, partnership, or company not in the employment of, or owned by, the Contractor which is performing Services under this Contract under a separate Contract with or on behalf of the Contractor.
Subscriptions	A signed Agreement between a supplier and the State that the State will receive and provide payment for regular products or services, for a set period of time identified within the Agreement.
Support Services	The Contractor's application maintenance and support services provided for the Licensed Software and Software Services.
System	All Software, specified hardware, interfaces and extensions, integrated and functioning together in accordance with the Specifications.
Test Plan	A plan, integrated in the Work Plan, to verify the code (New or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Third Party Products	Any commercial software product acquired by the Contractor from an outside vendor on behalf of the State.
User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
User Management	Supports the administration of computer, application and network accounts within an organization
Verification	Supports the confirmation of authority to enter a computer system application or network.
Warranty	The conditions under, and period during, which the Contractor will repair, replace, or other compensate for, the defective item without cost to the buyer or user. It also delineates the rights and obligations of both parties in case of a claim or dispute.
Warranty Period	A period of coverage during which the Contractor is responsible for providing a guarantee for products and Services delivered as defined in the Contract.

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Work Plan	Documentation that details the activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities, and events to be performed and Deliverables to be produced under the Project as specified in Appendix B: <i>Business/Technical Requirements and Deliverables</i> . The Work Plan must include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.
Work Product	Any commercial software product acquired by the Contractor from an outside vendor on behalf of the State.

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EXHIBIT G – ATTACHMENTS AND CONTRACTOR CERTIFICATES**

EXHIBIT G – ATTACHMENTS AND CONTRACTOR CERTIFICATES

1. **ATTACHMENTS**
 - a. Business and Technical Requirements – Attachment 1
 - b. DHHS Exhibits D-K, – Attachment 2

2. **CONTRACTOR CERTIFICATES**
 - a. Contractor's Certificate of Good Standing
 - b. Contractor's Certificate of Vote/Authority
 - c. - Contractor's Certificate of Insurance

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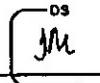
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Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

APPLICATION REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
GENERAL SPECIFICATIONS					
A1.1	Ability to access data using open standards access protocol (please specify supported versions in the comments field).	M	YES	Standard	myAvatar supports the integrated exchange of data between organizations through Health Level Seven (HL7), Clinical Context Object Workgroup (CCOW), Continuity of Care Documents (CCD), APIs, Web services, XML, and FHIR. Netsmart's CareConnect interoperability platform can also be leveraged, supporting a variety of interfacing standards: XCA, ADT, ORM, HL7, ORU, ANSI, XCPD, IHE, API, VPN, FHIR, eFax and Direct security messaging.
A1.2	Data is available in commonly used format over which no entity has exclusive control, with the exception of National or International standards. Data is not subject to any copyright, patent, trademark or other trade secret regulation.	M	YES	Standard	myAvatar supports the integrated exchange of data between organizations through Health Level Seven (HL7), Clinical Context Object Workgroup (CCOW), Continuity of Care Documents (CCD), APIs, Web services, XML, and FHIR. Netsmart's CareConnect interoperability platform can also be leveraged, supporting a variety of interfacing standards: XCA, ADT, ORM, HL7, ORU, ANSI, XCPD, IHE, API, VPN, FHIR, eFax and Direct security messaging.

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

A1.3	Web-based compatible and in conformance with the following W3C standards: HTML5, CSS 2.1, XML 1.1	M	YES	Not Proposing	<p>myAvatar NX can be used for seamless documentation with your tablet, computer, laptop or iPad. This innovative EHR platform brings knowledge and quality to you at the point of care. It focuses on user experience and has a modern look and feel and intuitive interface. myAvatar NX utilizes HTML5 and CSS3 standards to make it fully web based.</p> <p>New Hampshire Hospital would need to upgrade to myAvatar NX to achieve this level of functionality via a separate professional services contract with Netsmart.</p>
APPLICATION SECURITY					
A2.1	Verify the identity or authenticate all of the system client applications before allowing use of the system to prevent access to inappropriate or confidential data or services.	M	YES	N/A	N/A
A2.2	Verify the identity and authenticate all of the system's human users before allowing them to use its capabilities to prevent access to inappropriate or confidential data or services.	M	YES	N/A	N/A
A2.3	Enforce unique user names.	M	YES	N/A	N/A
A2.4	Enforce complex passwords for Administrator Accounts in accordance with DoIT's statewide User Account and Password Policy.	M	YES	N/A	N/A
A2.5	Enforce the use of complex passwords for general users using capital letters, numbers and special characters in accordance with DoIT's statewide User Account and Password Policy.	M	YES	N/A	N/A

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

A2.6	Encrypt passwords in transmission and at rest within the database.	M	YES	N/A	With the exception of one-time use password communication, all user passwords are encrypted with cryptography in transit and at rest on Netsmart systems. Valid user identifier and password combinations are encrypted via TLS while in transit.
A2.7	Establish ability to expire passwords after a definite period of time in accordance with DoIT's statewide User Account and Password Policy.	M	YES	N/A	N/A
A2.8	Provide the ability to limit the number of people that can grant or change authorizations.	M	YES	N/A	N/A
A2.9	Establish ability to enforce session timeouts during periods of inactivity.	M	YES	N/A	N/A
A2.10	The application shall not store authentication credentials or sensitive data in its code.	M	YES	Standard	Authentication credentials and data are encrypted in motion with SSL/TLS and at rest with TDE (Transparent Data Encryption).
A2.11	Log all attempted accesses that fail identification, authentication and authorization requirements.	M	YES	N/A	N/A
A2.12	The application shall log all activities to a central server to prevent parties to application transactions from denying that they have taken place.	M	YES	N/A	N/A
A2.13	All logs must be kept for 90 days.	M	YES	N/A	90-DAYS
A2.14	The application must allow a human user to explicitly terminate a session. No remnants of the prior session should then remain.	M	YES	Standard	myAvatar includes a Force User Logoff feature that immediately ends the session. System administrators select the user account and click the Force Logoff button. The Deactivate User feature prevents additional logins without removing the user profile. myAvatar includes the Force Terminal Logoff feature to automatically log off all users and prevent subsequent logons for a user-defined period of time. The subsequent log-ins open to the user's dashboard and not the previous session.

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

A2.15	Do not use Software and System Services for anything other than they are designed for.	M	YES	N/A	N/A
A2.16	The application Data shall be protected from unauthorized use when at rest.	M	YES	N/A	N/A
A2.17	The application shall keep any sensitive Data or communications private from unauthorized individuals and programs.	M	YES	N/A	N/A
A2.18	Subsequent application enhancements or upgrades shall not remove or degrade security requirements.	M	YES	N/A	N/A
A2.19	Utilize change management documentation and procedures.	M	YES	N/A	N/A
A2.20	Web Services : The service provider shall use Web services exclusively to interface with the State's data in near real time when possible.	M	YES	Custom	Imports/exports between myAvatar and external systems can be facilitated through native database feeds or via application programming interfaces (API), such as a web service that can be utilized for real-time data transfers.
A2.21	<p>Logs must be configured using "fail-safe" configuration. Audit logs must contain the following minimum information:</p> <ol style="list-style-type: none"> 1. User IDs (of all users who have access to the system) 2. Date and time stamps 3. Changes made to system configurations 4. Addition of new users 5. New users level of access 6. Files accessed (including users) 7. Access to systems, applications and data 8. Access trail to systems and applications (successful and unsuccessful attempts) 9. Security events 	M	YES	N/A	N/A

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

TESTING REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
APPLICATION SECURITY TESTING.					
T1.1	All components of the Software shall be reviewed and tested to ensure they protect the State's web site and its related Data assets.	M	YES	Standard	The Netsmart System Security Plan ("NSSP") has been developed to support our clients using Netsmart Plexus Cloud Hosting Services. Netsmart undergoes accredited third party SOC2 and HIPAA audits annually. These audits provide an independent, unbiased attestation that Netsmart has the appropriate controls, policies and procedures in place and is operating in accordance. These audits along with other internal processes and procedures allow for continuous improvements to the NSSP. Netsmart can make available the latest NSSP upon request and signed NDA.
T1.2	The Vendor shall be responsible for providing documentation of security testing, as appropriate. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability.	M	YES	Standard	Please see our response to T1.1, above.
T1.3	Provide evidence that supports the fact that Identification and Authentication testing has been recently accomplished; supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users.	M	YES	Standard	The audit trail table collects the user name, time and date of submission, deletion, movement, or access. New submissions, i.e., field-by-field changes to data, do not erase original entries. History is retained in the database along with the audit trail information, thereby giving the ability to recover the information. The core reports include non-caseload access, failed login, event log, report of system usage, and current system status.

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

<p>T1.4</p>	<p>Test for Access Control; supports the management of permissions for logging onto a computer or network.</p>	<p>M</p>	<p>YES</p>	<p>Standard</p>	<p>User security to all solutions is based on user role definitions defined by New Hampshire System Administrators. (i.e., managers, administrator, clinician, intake, etc.). Access can be assigned down to the individual screen and table row. User role configurations provide the means to create standard user role templates for various user role definitions. The templates reduce the time to assign discrete access levels to individual users and to make global access level changes. Staff can be linked to client records directly or via workgroup (care team) assignments. User role parameters include role name; security level (four user-defined security levels); restrict client access – none, client only, or only the user's assigned client list; access to change printer font; prevent user from application logout; permit Start Up role; permit user to have multiple application sessions; permit user to access the system database using third party SQL reporting software and additional datasets; and define the system idle time for automatic logoff.</p>
<p>T1.5</p>	<p>Test for encryption; supports the encoding of data for security purposes, and for the ability to access the data in a decrypted format from required tools.</p>	<p>M</p>	<p>YES</p>	<p>Standard</p>	<p>Yes. The system maintains compliance with all HIPAA regulations, including, but not limited to, transaction standards, database security, and electronic/digital signatures. Netsmart uses industry standard products to protect patient data for secure data transmission, including SSL/TLS (Transport Layer Security) 1.2 encryption and 168-bit Triple DES IPsec VPN connections. Your data is stored in the database at rest using TDE (Transparent Data Encryption), which meets HIPAA requirements for Encryption and Decryption Specification—§ 164.312(a)(2)(iv).</p>

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

T1.6	Test the Intrusion Detection; supports the detection of illegal entrance into a computer system.	M	YES	Standard	Our defense-in-depth network security architecture is designed to meet the security and performance needs of the platform. We have leveraged multiple complementary layers of network and application firewalls, as well as multiple intrusion detection and prevention systems. Information assets are classified and segregated based on the data they process and the devices with which they are required to communicate. All packets entering and exiting the data center, as well as packets traversing security zones, are secured using TLS 1.2 encryption with 2048-bit client specific encryption keys and are inspected for validity.
T1.7	Test the Verification feature; supports the confirmation of authority to enter a computer system, application or network.	M	YES	Standard	Proper Access Control policies and procedures are in place and attested to in our SOC2
T1.8	Test the User Management feature; supports the administration of computer, application and network accounts within an organization.	M	YES	Standard	Proper Access Control policies and procedures are in place and attested to in our SOC3
T1.9	Test Role/Privilege Management; supports the granting of abilities to users or groups of users of a computer, application or network.	M	YES	Standard	Proper Access Control policies and procedures are in place and attested to in our SOC4
T1.10	Test Audit Trail Capture and Analysis; supports the identification and monitoring of activities within an application or system.	M	YES	Standard	All activity is audited within myAvatar. All audits drill down to the field level. Therefore, whether a user has read-only or read/write access to a screen, myAvatar provides a complete audit trail for all datasets so discrepancies can be evaluated and explained. Data entry screens, interfaces and reports are included.

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

T1.11	Test Input Validation; ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.	M	YES	Standard	Our solution uses industry accepted and HIPAA compliant privacy and security features including those related to multi-factor authentication, authorization, non-repudiation, encryption in transit, encryption at rest and secure coding practices that prevent common application level attacks such as SQL-injection and/or buffer override.
T.1.12	For web applications, ensure the application has been tested and hardened to prevent critical application security flaws. (At a minimum, the application shall be tested against all flaws outlined in the Open Web Application Security Project (OWASP) Top Ten (http://www.owasp.org/index.php/OWASP_Top_Ten_Project).	M	YES	Standard	Yes. Netsmart's applications require a valid system code, user name, and password combination. Following Open Web Application Security Project (OWASP) best practices, passwords are stored appended to the salt and hashed with SHA-512. System codes, usernames, and passwords are encrypted via SSL/TLS or IPSEC while in transmission.
T1.13	Provide the State with validation of 3rd party security reviews performed on the application and system environment. The review may include a combination of vulnerability scanning, penetration testing, static analysis of the source code, and expert code review (please specify proposed methodology in the comments field).	M	YES	Standard	Netsmart complies with HIPAA, HITECH, and will comply with CMS MARS-E requirements. Netsmart completes annual HIPAA risk assessment validation and undergoes a minimum of annual penetration test and regular vulnerability analysis. Netsmart will provide results from these validations with New Hampshire Hospital under mutual NDA. Netsmart has extensive expertise with federal security certifications and the certification process.
T1.14	Prior to the System being moved into production;the Vendor shall provide results of all security testing to the Department of Information Technology for review and acceptance.	M	N/A	N/A	Due to the proprietary and sensitive information, we can not provide testing results. However we have the proper SDLC policies and procedures in place. Please see SOC2 for attestation

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

T1.15	Vendor shall provide documented procedure for migrating application modifications from the User Acceptance Test Environment to the Production Environment.	M	N/A	N/A	Due to the proprietary and sensitive information, we can not provide policies and procedures. However we have the proper SDLC policies and procedures in place. Please see SOC2 for attestation
STANDARD TESTING					
T2.1	The Vendor must test the software and the system using an industry standard and State approved testing methodology.	M	YES	Standard	Netsmart uses a structured and disciplined implementation methodology based on the nationally recognized Project Management Institute's (PMI) standards and the Project Management Body of Knowledge (PMBOK) to minimize project risk and improve timely delivery for projects. Netsmart's branded methodology is called the Plexus™ Foundation
T2.2	The Vendor must perform application stress testing and tuning.	M	YES	Standard	Performance Testing (Load and System Testing or LaST) is performed by Netsmart. All servers, network connections, and workstations must be installed and ready to test prior to Netsmart initiating LaST. During LaST, Netsmart utilizes a software named Silk Performer. Silk Performer is an easy-to-use load and stress testing solution for optimizing business application performance. The tests isolate issues and bottlenecks that could impact reliability and performance. To conclude the testing process, Netsmart will provide an analysis report of the test findings. This report provides diagnostics measures as well as recommendations for NHH on any identified issues.
T2.3	The Vendor must provide documented procedure for how to sync Production with a specific testing environment.	M	YES	Standard	Part of the Service Delivery Manager Role

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

T2.4	The vendor must define and test disaster recovery procedures.	M	YES	Standard	<p>Netsmart maintains a business continuity and disaster recovery program. Policies and procedures are in place to provide Plexus Cloud Services and Client Support Services with minimal interruptions. This includes disaster recovery planning/testing capabilities, recovery site management, and standard backup/recovery procedures. As part of a SOC 2 performed by auditors, the existence and annual testing of the appropriate Business Continuity and Disaster Recovery Plan is attested. The SOC 2 report can be provided to Client under a signed Non-Disclosure Agreement.</p>
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Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

HOSTING-CLOUD REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
OPERATIONS					
H1.1	Vendor shall provide an ANSI/TIA-942 Tier 3 Data Center or equivalent. A tier 3 data center requires 1) Multiple independent distribution paths serving the IT equipment, 2) All IT equipment must be dual-powered and fully compatible with the topology of a site's architecture and 3) Concurrently maintainable site infrastructure with expected availability of 99.982%.	M	YES	N/A	See SOC2.
H1.2	Vendor shall maintain a secure hosting environment providing all necessary hardware, software, and Internet bandwidth to manage the application and support users with permission based logins.	M	YES	N/A	See SOC2.
H1.3	The Data Center must be physically secured – restricted access to the site to personnel with controls such as biometric, badge, and others security solutions. Policies for granting access must be in place and followed. Access shall only be granted to those with a need to perform tasks in the Data Center.	M	YES	N/A	See SOC2.
H1.4	Vendor shall install and update all server patches, updates, and other utilities within 60 days of release from the manufacturer.	M	YES	N/A	See SOC2.
H1.5	Vendor shall monitor System, security, and application logs.	M	YES	N/A	See SOC2.
H1.6	Vendor shall manage the sharing of data resources.	M	YES	N/A	See SOC2.
H1.7	Vendor shall manage daily backups, off-site data storage, and restore operations.	M	YES	N/A	See SOC2.
H1.8	The Vendor shall monitor physical hardware.	M	YES	N/A	See SOC2.
H1.9	Remote access shall be customized to the State's business application. In instances where the State requires access to the application or server resources not in the DMZ, the Vendor shall provide remote desktop connection to the server through secure protocols such as a Virtual Private Network (VPN).	M	YES	N/A	See SOC2.
DISASTER RECOVERY					
H2.1	Vendor shall have documented disaster recovery plans that address the recovery of lost State data as well as their own. Systems shall be architected to meet the defined recovery needs.	M	YES	N/A	See Business Continuity & Disaster Recovery Plan.

**Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1**

H2.2	The disaster recovery plan shall identify appropriate methods for procuring additional hardware in the event of a component failure. In most instances, systems shall offer a level of redundancy so the loss of a drive or power supply will not be sufficient to terminate services however, these failed components will have to be replaced.	M	YES	N/A	See Business Continuity & Disaster Recovery Plan.
H2.3	Vendor shall adhere to a defined and documented back-up schedule and procedure.	M	YES	N/A	See Business Continuity & Disaster Recovery Plan.
H2.4	Back-up copies of data are made for the purpose of facilitating a restore of the data in the event of data loss or System failure.	M	YES	N/A	See Business Continuity & Disaster Recovery Plan.
H2.5	Scheduled backups of all servers must be completed regularly. The minimum acceptable frequency is differential backup daily, and complete backup weekly.	M	YES	N/A	See Business Continuity & Disaster Recovery Plan.
H2.6	Tapes or other back-up media tapes must be securely transferred from the site to another secure location to avoid complete data loss with the loss of a facility.	M	YES	N/A	See Business Continuity & Disaster Recovery Plan.
H2.7	Data recovery – In the event that recovery back to the last backup is not sufficient to recover State Data, the Vendor shall employ the use of database logs in addition to backup media in the restoration of the database(s) to afford a much closer to real-time recovery. To do this, logs must be moved off the volume containing the database with a frequency to match the business needs.	M	YES	N/A	See Business Continuity & Disaster Recovery Plan.
HOSTING SECURITY					
H3.1	If State data is hosted on multiple servers, data exchanges between and among servers must be encrypted.	M	YES	N/A	See SOC2.
H3.2	All components of the infrastructure shall be reviewed and tested to ensure they protect the State's hardware, software, and its related data assets. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide confidentiality, integrity and availability.	M	YES	N/A	See SOC2.
H3.3	All servers and devices must have event logging enabled. Logs must be protected with access limited to only authorized administrators. Logs shall include System, Application, Web and Database logs.	M	YES	N/A	See SOC2.
H3.4	Operating Systems (OS) and Databases (DB) shall be built and hardened in accordance with guidelines set forth by CIS, NIST or NSA.	M	YES	N/A	See SOC2.
SERVICE LEVEL AGREEMENT					
H4.1	The Vendor's System support and maintenance shall commence upon the Effective Date and extend through the end of the Contract term, and any extensions thereof.	M	YES	Standard	Netsmart Support satisfies this requirement.

Contractor Initials:
Date: 11/15/2022

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

H4.2	The vendor shall maintain the hardware and Software in accordance with the specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M	YES	Standard	Netsmart Support satisfies this requirement.
H4.3	The vendor shall repair or replace the hardware or software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	YES	Standard	Netsmart Support satisfies this requirement.
H4.4	All hardware and software components of the Vendor hosting infrastructure shall be fully supported by their respective manufacturers at all times. All critical patches for operating systems, databases, web services, etc., shall be applied within sixty (60) days of release by their respective manufacturers.		YES	Standard	Netsmart systems implement and maintain software designed to detect and prevent malicious code that may perform unauthorized functions or permit unauthorized access to any Netsmart system, including computer viruses, Trojan horses, worms, and time bombs. All critical and high vendor security patches are applied within thirty (30) days of release date. All medium vendor security patches are applied within six (6) months of release date.
H4.5	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 8:30am to 5:00pm- Monday through Friday EST.	M	YES	Standard	The Netsmart Client Portal is available 24x7x365 via web access. Support tickets can be logged by the client help desk and users can also gain access to our Solutions Knowledge Base and Innovations submission portal. Netsmart staffs a toll-free problem reporting and support telephone line from 8:00a.m. - 5:00p.m. Central time, Monday through Friday, exclusive of federal holidays.

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

<p>H4.6</p>	<p>The Vendor shall conform to the specific deficiency class as described:</p> <ul style="list-style-type: none"> o Class A Deficiency - Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service. o Class B Deficiency - Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the Service. o Class C Deficiency - Software -no major impact on daily operations. An issue that allows the continuation of function, including issues in which a reasonable workaround is available. o Class D Deficiency - Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service. 	<p>M</p>	<p>NO</p>	<p>N/A</p>	<p>See Schedule A: Support Services included in the contract</p>
<p>H4.7</p>	<p>As part of the maintenance agreement, ongoing support issues shall be responded to according to the following:</p> <ul style="list-style-type: none"> a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request; or the Vendor shall provide support on-site or with remote diagnostic Services, within four (4) business hours of a request; b. Class B, C, and D Deficiencies –The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within twenty-four (24) hours of notification of planned corrective action; The Vendor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract. 	<p>M</p>	<p>NO</p>	<p>N/A</p>	<p>See Schedule A: Support Services included in the contract</p>
<p>H4.8</p>	<p>The hosting server for the State shall be available twenty-four (24) hours a day, 7 days a week except for during scheduled maintenance.</p>	<p>M</p>	<p>YES</p>	<p>Standard</p>	<p>Netsmart Support satisfies this requirement.</p>

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

H4.9	A regularly scheduled maintenance window shall be identified (such as weekly, monthly, or quarterly) at which time all relevant server patches and application upgrades shall be applied.	M	YES	Standard	
H4.10	If The Vendor is unable to meet the uptime requirement, The Vendor shall credit State's account in an amount based upon the following formula: (Total Contract Item Price/365) x Number of Days Contract Item Not Provided. The State must request this credit in writing.	M	YES	Standard	The service level agreement we guarantee is 99.9% uptime accessibility to your data. Netsmart's overall average annual uptime consistently exceeds this level. If monthly system availability falls below 99.9% exclusive of scheduled downtime, Netsmart will provide a credit against the next monthly hosting fees to account for the downtime. The appropriate credit percentage will be determined based on the following table: System Uptime % Credit % > = 99.0% and < 99.9% Credit = 5% 98.0 to 98.9% Credit = 10% 96.0 to 97.9% Credit = 15% < 95.9 or below Credit = 25%
H4.11	The Vendor shall use a change management policy for notification and tracking of change requests as well as critical outages.	M	YES	Standard	Netsmart maintains a change management process with separation of duties and appropriate approvals required for modification to Netsmart systems, including patch management for the Plexus Cloud Services. Netsmart uses risk-based criteria with remediation objectives for critical and high vulnerabilities. Netsmart recommends that you also use tools such as computer-based training, drop-in computer labs, monthly newsletters, and share point sites to drive communication during and after the project to assist with change management

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

SUPPORT & MAINTENANCE REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
SUPPORT & MAINTENANCE REQUIREMENTS					
S1.1	The Vendor's System support and maintenance shall commence upon the Effective Date and extend through the end of the Contract term, and any extensions thereof.	M	YES	Standard	Netsmart Support satisfies this requirement.
S1.2	Maintain the hardware and Software in accordance with the Specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M	YES	Standard	Netsmart Support satisfies this requirement.
S1.3	Repair Software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	YES	Standard	Netsmart Support satisfies this requirement.
S1.4	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 7:30am to 4:00pm- Monday through Friday EST.	M	YES	Standard	Netsmart staffs a toll-free problem reporting and support telephone line from 8:00a.m. - 5:00p.m. Central time, Monday through Friday, exclusive of federal holidays.
S1.5	The Vendor response time for support shall conform to the specific deficiency class as described below or as agreed to by the parties: o Class A Deficiency - Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service. o Class B Deficiency - Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the Service. o Class C Deficiency - Software -no major impact on daily operations. An issue that allows the continuation of function, including issues in which a reasonable workaround is available. o Class D Deficiency - Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature;	M	YES	Standard	Plan Critical Class A Response: Within 30 minutes on a 24x7x365 basis*. Must be called into Support. Resolution: 2 business days, exclusive of Netsmart holidays High Class B Response: Within 2 business hours when called into Support. Resolution: 5 business days, exclusive of Netsmart holidays Medium Class C Response: Within 8 business hours Resolution: 10 business days, exclusive of Netsmart holidays Low Class D Response: As support staff are available. Resolution: 15 business days, exclusive of Netsmart

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

S1.6	The Vendor shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.	M	YES	Standard	Netsmart Support satisfies this requirement.
S1.7	For all maintenance Services calls, The Vendor shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information, 6) Resolved by, 7) identifying number i.e. work order number, 8) Issue identified by;	P	YES	Standard	N/A
S1.8	The Vendor must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.	P	YES	Standard	N/A

Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1

S1.9	<p>As part of the Software maintenance agreement, ongoing software maintenance and support issues, shall be responded to according to the following or as agreed to by the parties:</p> <p>a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within four (4) hours of request; or the Vendor shall provide support on-site or with remote diagnostic Services, within four (4) business hours of a request;</p> <p>b. Class B, C and D Deficiencies –The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within twenty-four (24) hours of notification of planned corrective action; The Vendor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract; or as agreed between the parties.</p>	M	NO	N/A	See Schedule A: Support Services included in the contract
S1.10	The Vendor shall use a change management policy for notification and tracking of change requests as well as critical outages.	M	YES	Standard	We follow ITIL practices
S1.11	A critical outage will be designated when a business function cannot be met by a nonperforming application and there is no work around to the problem.	M	YES	Standard	We follow a mature ITIL based incident process
S1.12	The Vendor shall maintain a record of the activities related to repair or maintenance activities performed for the State and shall report quarterly on the following: All change requests implemented; All critical outages reported including actual issue and resolution; Number of deficiencies reported by class with initial response time as well as time to close.	M	YES	Standard	Netsmart's Cloud team will facilitate the record of activities related to maintenance, change and outages. Through the Service Delivery Manager, we would record downtime and currency reports.
S1.13	A regularly scheduled maintenance window shall be identified (such as weekly, monthly, or quarterly) at which time all relevant server patches and application upgrades shall be applied.	M	YES	Standard	We follow a standard monthly maintenance schedule

**Exhibit G, Attachments and Contractor Certificates
Business and Technical Requirements-Attachment 1**

S1.14	The Vendor shall give two-business days prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.	M	NO	N/A	Netsmart provides client with a personal and secure FTP site
S1.15	The State shall provide the Vendor with a personal secure FTP site to be used by the State for uploading and downloading files if applicable.	M	NO	N/A	Netsmart provides client with a personal and secure FTP site
S1.16	The Vendor shall give two-business days prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.	M	N/A	N/A	See S1.14
S1.17	The State shall provide the Vendor with a personal secure FTP site to be used by the State for uploading and downloading files if applicable.	M	N/A	N/A	See S1.15
S1.18	The hosting server for the State shall be available twenty-four (24) hours a day, 7 days a week except for during scheduled maintenance.	M	YES	Standard	N/A
S1.19	The Contractor will guide the State with possible solutions to resolve issues to maintain a fully functioning, hosted System.	M	YES	Standard	Part of the Service Delivery Manager Role

Exhibit G, Attachments and Contractor Certificates
 Business and Technical Requirements-Attachment 1

PROJECT MANAGEMENT					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
PROJECT MANAGEMENT					
P1.1	Vendor shall participate in an initial kick-off meeting to initiate the Project.	M	N/A	N/A	N/A
P1.2	Vendor shall provide Project Staff as specified in the RFP.	M	N/A	N/A	N/A
P1.3	Vendor shall submit a finalized Work Plan within ten (10) days after Contract award and approval by Governor and Council. The Work Plan shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, milestones/critical events, task dependencies, vendors and state resources required and payment Schedule. The plan shall be updated no less than every two weeks	M	N/A	N/A	N/A
P1.4	Vendor shall provide detailed <bi-weekly status reports on the progress of the Project, which will include expenses incurred year to date.	M	N/A	N/A	N/A
P1.5	All user, technical, and System Documentation as well as Project Schedules, plans, status reports, and correspondence must be maintained online as project documentation.	M	N/A	N/A	N/A
P1.6	Vendor shall provide a full time Project Manager assigned to the project.	M	N/A	N/A	N/A
P1.7	The Vendor Project Manager, and relevant key staff, shall every three (3) months, beginning in the first month of the Contract, travel to Concord, NH to meet with project representatives from DHHS and the NHID to review past quarter performance and upcoming quarter Plan of Operations. Virtual meetings may be permitted if approved by DHHS.	M	N/A	N/A	N/A
P1.8	The Vendor's project manager is also expected to host other important meetings, assign contractor staff to those meetings as appropriate and provide an agenda for each meeting.	M	N/A	N/A	N/A

**Exhibit G, Attachments and Contractor Certificates
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P1.9	Meeting minutes will be documented and maintained electronically by the contractor and distributed within 24 hours after the meeting. Key decisions along with Closed, Active and Pending issues will be included in this document as well.	M	N/A	N/A	N/A
P1.10	The Project Manager must participate in all other State, provider, and stakeholder meetings as requested by the State.	M	N/A	N/A	N/A
P1.11	For the first three (3) months of the Contract, the Vendor shall provide written progress reports, to be submitted to DHHS every two (2) weeks. The reports should be keyed to the implementation portion of the Plan of Operations and include, at a minimum, an assessment of progress made, difficulties encountered, recommendations for addressing the problems, and changes needed to the Plan of Operations.	M	N/A	N/A	N/A
P1.12	For the fourth through eighth month of the Contract, the Vendor shall provide a bi-monthly report of the status of progress, it must be received by the tenth business day of the following month. This report must be tied to the performance section of the Plan of Operations and contain at least the following information:	M	N/A	N/A	N/A
WEBSITE AND SOCIAL MEDIA MANAGEMENT					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
PROJECT MANAGEMENT					
W1.1	The Vendor shall work with the Department's Communications Bureau to ensure that any social media or website designed, created, or managed on behalf of the Department meets all of the Department's and NH Department of Information Technology's website and social media requirements and policies.	M	N/A	N/A	N/A

New Hampshire Department of Health and Human Services

Exhibit G, Attachment 2



DHHS Agency Compliance Documents

- **DHHS Exhibit D, CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**
- **DHHS Exhibit E, CERTIFICATION REGARDING LOBBYING**
- **DHHS Exhibit F, CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**
- **DHHS Exhibit G, CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND WHISTLEBLOWER PROTECTIONS**
- **DHHS Exhibit H, CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**
- **DHHS Exhibit I, HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT BUSINESS ASSOCIATE AGREEMENT**
- **DHHS Exhibit J, CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE**
- **DHHS Exhibit K, DHHS, INFORMATION SECURITY REQUIREMENTS**

New Hampshire Department of Health and Human Services
Exhibit D



CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

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

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

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

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

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

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



New Hampshire Department of Health and Human Services
Exhibit D

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

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

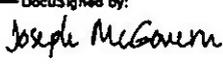
Place of Performance (street address, city, county, state, zip code) (list each location)

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

Vendor Name: Netsmart Technologies, Inc.

11/15/2022

Date

DocuSigned by:

 Name: Joseph McGovern
 Title: Executive Vice President



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:

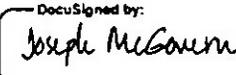
1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection 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-1.)
3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Vendor Name: Netsmart Technologies, Inc.

11/15/2022

Date

DocuSigned by:

 Name: Joseph McGovern
 Title: Executive Vice President

DS


Vendor Initials

Date 11/15/2022

New Hampshire Department of Health and Human Services
Exhibit F



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

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

INSTRUCTIONS FOR CERTIFICATION

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

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New Hampshire Department of Health and Human Services
Exhibit F

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

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

PRIMARY COVERED TRANSACTIONS

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

LOWER TIER COVERED TRANSACTIONS

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

Contractor Name: Netsmart Technologies, Inc.

11/15/2022

Date

DocuSigned by:
Joseph McGovern
Name: Joseph McGovern
Title: Executive Vice President

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Contractor Initials

Date 11/15/2022



New Hampshire Department of Health and Human Services
Exhibit G

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

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

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

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;
- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;
- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);
- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;
- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;
- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;
- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6105-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;
- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;
- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

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

Exhibit G

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JM

Contractor Initials

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



New Hampshire Department of Health and Human Services
Exhibit G

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

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

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

Contractor Name: Netsmart Technologies, Inc.

11/15/2022

Date

DocuSigned by:

Joseph McGovern

Name: Joseph McGovern

Title: Executive Vice President

Exhibit G

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

Contractor Initials

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JM



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: Netsmart Technologies, Inc.

11/15/2022

Date

DocuSigned by:
Joseph McGovern
Name: Joseph McGovern
Title: Executive Vice President



New Hampshire Department of Health and Human Services

Exhibit I

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

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

(1) **Definitions.**

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

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New Hampshire Department of Health and Human Services

Exhibit I

- i. "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 not disclose the PHI.

3/2014

Contractor Initials

Date 11/15/2022



New Hampshire Department of Health and Human Services

Exhibit I

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

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

(3) Obligations and Activities of Business Associate.

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

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

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

New Hampshire Department of Health and Human Services



Exhibit I

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

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

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Contractor Initials _____

3/2014

Date 11/15/2022



New Hampshire Department of Health and Human Services

Exhibit I

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

(4) Obligations of Covered Entity

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

(5) Termination for Cause

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

(6) Miscellaneous

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

3/2014

Contractor Initials JM

Date 11/15/2022



New Hampshire Department of Health and Human Services

Exhibit I

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

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

Department of Health and Human Services

Netsmart Technologies, Inc.

The State by:

Name of the Contractor

Ellen Marie Lapointe

Joseph McGovern

Signature of Authorized Representative

Signature of Authorized Representative

Ellen Marie Lapointe

Joseph McGovern

Name of Authorized Representative
Chief Executive Officer

Name of Authorized Representative

Executive Vice President

Title of Authorized Representative

Title of Authorized Representative

11/16/2022

11/15/2022

Date

Date

Contractor Initials DS JM

Date 11/15/2022



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: Netsmart Technologies, Inc.

11/15/2022

Date

DocuSigned by:

Joseph McGovern

Name: Joseph McGovern

Title: Executive Vice President

Contractor Initials

JM

Date 11/15/2022



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: 13-3680154
2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

NO YES

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

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

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

NO YES

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

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

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

Name: _____	Amount: _____

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,

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DHHS Information Security Requirements



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

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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

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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 HIPAA 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.

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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.).

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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 Department's 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,

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including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.

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

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- 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

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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