STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
OFFICE OF THE COMMISSIONER
P.O. BOX 1806
CONCORD, NH 03302-1806
603-271-5603 FAX: 888-908-6609
TDD ACCESS: 1-800-735-2964
www.nh.gov/nhdoc

HELEN E. HANKS
COMMISSIONER

PAUL D. RAYMOND, JR.
ASSISTANT COMMISSIONER

61

May 10, 2024

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

REQUESTED ACTION

Authorize the NH Department of Corrections (NHDOC) to enter into a contract with Union Supply Group Inc. (VC# 289782), 2500 Regent Blvd, Dallas TX 75261, for the provision of Canteen/Commissary services, effective upon Governor and Executive Council approval for the period beginning July 1, 2024 through December 31, 2029, with an option to renew for one (1) additional period of five (5) years.

The NHDOC incurs no expense associated with the provision of these services. The Contractor shall be responsible for all costs incurred or required to implement the contracted services as part of this agreement. The Recreation Fund will receive a flat commission rate for the food package programs and the property catalog purchases. NH Correctional Industries (NHCI) will receive a flat commission rate for the proceeds of sales of products offered through the Canteen/Commissary and for certain operational expenses.

EXPLANATION

The purpose of this contract is to provide commissary products for resale and services for the Department's canteen system. The Contractor operates a statewide and secure correctional canteen/commissary program while NHCI retains operational control. As part of the agreement, Union Supply Group Inc. shall provide inventory, order fulfillment software, implementation/support services, network infrastructure and monitoring, database file exchanges and training at no cost to the NHCI.

Residents will create and place an order by logging into their tablet using a two-step verification process to access the Union Supply Group Inc.'s portal. The portal will then display the resident's most recent account information imported from the Department's Corrections Information System (CORIS), which allows the resident to create the order. Once created, a resident can log back into the order to modify it at any time before the designated cut off time determined by the Department. Union Supply Group Inc. will forward the orders to NHCI to be filled, packaged and delivered to the corresponding correctional facility using the Department's residents and staff.

The NH Correctional Facility for Women (NHCF-W) is the central hub for blind-fill picking of an order by the Department's residents and staff. A dedicated box truck will be provided to deliver orders to the Northern NH Correctional Facility (NCF) and NH State Prison for Men (NHSP-M).

Revenue generating programs for the Recreation Fund are food package programs and property catalog purchases at a commission rate of fifteen (15) percent. Revenue generating programs for NHCI are Canteen/Commissary sales at a commission rate of fifteen (15) percent. In addition, Union Supply Group Inc. reimburses NHCI for three staff, resident wages and warehouse consumable supplies.

As part of the service offering, Union Supply Group Inc. will assist NHCI in the continued training curriculum centered on material handling, warehousing, inventory management and quality control to the NHCI residents and staff participating in this program. In addition, as NHCI is a vocational training program, the residents supporting this initiative will obtain marketable and transferable skills to community career opportunities.

The NHDOC issued Request for Proposal (RFP) NHDOC 2024-03 to the Department's website, https://www.nh.gov/nhdoc/business/rfp.html, and NH Department of Administrative Services-Division of Purchase and Property website, https://apps.das.nh.gov/bidscontracts/bids.aspx for seven (7) consecutive weeks and notified five (5) potential vendors of the solicitation. Two (2) potential vendors responded and the Department scored the RFP with a three-person evaluation committee. In accordance with the Terms and Conditions of the RFP, the Department awarded the contract to Union Supply Group Inc.

This RFP was scored utilizing a consensus methodology by a three (3) person evaluation committee. The evaluation committee consisted of the following NHDOC employees: Nicholas Duffy, Director, Rehabilitation Services; John Maddaus, Chief Information Officer, Division of Personnel & Information; and Debra Shepard, Administrator, NH Correctional Industries.

Respectfully Submitted,

Helen E. Hanks
Commissioner

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Helen M. Hanks
Commissioner

Lisa M. Stone
Director

RFP Bid Evaluation and Summary
Canteen/Commissary Services
NHDOC 2024-03

Proposal Receipt and Review:

- Proposals will be reviewed to initially determine if minimum submission requirements have been met. The review will verify that the proposal was received before the date and time specified, with the correct number of copies, the presence of all required signatures, and that the proposal is sufficiently responsive to the needs outlined in the RFP to permit a complete evaluation. Failure to meet minimum submission requirements will result in the proposal being rejected and not included in the evaluation process.

- The Department will select personnel to act as an evaluation team. Proposals will not be publicly opened. Upon receipt, the proposal information will be disclosed to the evaluation committee members only.

- The Department uses a consensus scoring methodology to evaluate submitted Proposals. The Department reserves the right to waive any irregularities, minor deficiencies, and informalities that it considers not material to the proposal.

- The RFP does not commit the Department to award a contract. The Department reserves the right to reject any and all proposals; to cancel the RFP; and to solicit new proposals under a new acquisition process.

Proposal Evaluation Criteria:

- Proposals will be evaluated based upon the proven ability of the respondent to satisfy the requirements of the evaluation criteria. Specific criteria are:
    a. Evaluation Scoring – **Union Supply Group Inc.**
        i. Technical Proposal – 600 points
        ii. Cost Proposal – 400 points
- Awards will be made to the responsive Vendor(s) whose proposals are deemed to be the most advantageous to the State, taking into consideration all evaluation factors in NHDOC 2024-03.
    a. Contract(s) may be awarded to a Bidder submitting a response that demonstrates the required capabilities and approach as identified in the RFP and does not reduce the current functions of the Department.

Evaluation Team Members:

a. Nicholas Duffy, Director, Rehabilative Services
b. John Maddaus, Chief Information Officer, Division of Personnel & Information
c. Debra Shepard, Administrator, NH Correctional Industries

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Helen M. Hanks
Commissioner

Lisa M. Stone
Director

RFP Scoring Matrix
RFP DESCRIPTION
NHDOC 2024-03 Canteen/Commissary Services

Respondents:

- Keefe Group
  301 Mill Road
  Edison, NJ 08837
- Union Supply Group
  2500 Regent Blvd
  Dallas TX 75261

Scoring Matrix Criteria:

- Proposals were evaluated based on the proven ability of the respondents to satisfy the provisions set forth in the Scope of Services in the most technical and cost-effective manner.
  1. Proposed Software Solution – 300 points
  2. Vendor's Non-Software Solution – 200 points
  3. Vendor Company – 100 points
  4. Reimbursement Proposal – 400 points

NHDOC 2023-03 RFP Scoring Matrix			
Evaluation Criteria	*RFP Weight Point Value*	Keefe Group	Union Supply Group
Proposed Software Solution	300	300	300
Vendor's Non-Software Solution	200	182	180
Vendor Comapany	100	100	100
Reimbursement Proposal	400	390	400
Total	**1000**	**972**	**980**

Contract Award:

- Union Supply Group

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Division of Administration
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HELEN E. HANKS
COMMISSIONER

LISA M. STONE
DIRECTOR

BIO
CANTEEN/COMMISSARY SERVICE
NHDOC 2024-03

Nicholas Duffy, Director, Rehabilitative Services

Nicholas Duffy is the Director of the Division of Rehabilitative Services for the NH Department of Corrections. In this capacity he has oversight of the Transitional Work Center, three (3) Transitional Housing Units (Shea Farm, Calumet House & North End House), Correctional Industries, Case Management, volunteer services, reentry programming, faith based services, Family Connections Center and Corrections Special School District (Granite State High School and Career and Technical Education Center). He has worked for the NH Department of Corrections for past 10 years, the last five years in his current role. Prior to working at the NH Department of Corrections he worked in roles with community mental health and substance abuse treatment center.

John Maddaus, Chief Information Officer, Division of Personnel and Information

John Maddaus is the Chief Information Officer for the NH Department of Corrections. In this capacity he leads the Business Information Unit, which is responsible for strategic planning and implementation of technology and information systems for the agency. He also serves on the Cybersecurity Advisory Council for the State of New Hampshire. Mr. Maddaus has three years of experience with the NH Department of Corrections. Prior to this, he worked in technology and operations management in the financial services industry.

Debra Shepard, Administrator, NH Correctional Industries

After graduating from college in 1983, Debra began her career working for the State of NH, working for the NH Public Utilities Commission, NH Department of Revenue Administration and the NH Superior Court. She left state government and went to work in municipal government, working for the Town of Northfield and as Town Administrator for the Town of Thornton. Debra's current position is Administrator of Correctional Industries for the State of NH Department of Corrections. She also serves on the Tilton Budget Committee, Tilton Senior Center Board of Directors, the Tilton Northfield Old Home Day Committee and the Compass Classical Board of Directors.

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HELEN E. HANKS
COMMISSIONER

JONATHAN K. HANSON
DIRECTOR

Bidders List

Canteen/Commissary Services
NHDOC 2024-03

Keefe Group
301 Mill Road
Edison, NJ 08837
(o) 732-509-0126
(e) jharris@keefegroup.com
sconrath@keefegroup.com
rlegg@keefegroup.com
tnichols@keefegroup.com
(w) www.keefegroup.com

Tiger Commissary Services
515 West Washington
Jonesboro, AR, 72401
Pam Niell , President
(o)
(e) www.tigercommissary.com/contact.php
(w) www.tigercommissary.com

Union Supply Group
3321 Toy Road
Groveport, Oh 43125
Greg Gemienhardt
(o) 614-409-1444 Ext. 9014
(o) 877-366-3397 Ext. 9014
(c) 614-353-6150
(e) GGemienhardt@UnionSupplyGroup.com and
cthomas@unionsupplygroup.com **and**
dschaefers@unionsupplygroup.com
(w) www.UnionSupplyGroup.com

TIGG'S Canteen Service
353 South Michigan Ave
Coldwater MI 49036
877-922-6833
Mike Stump mstump@canteenservices.com

Aramark
Bab Barr
Barr-Robert@aramark.com
609-617-5818

STATE OF NEW HAMPSHIRE

Department of Corrections

Canteen/Commissary Services

NHDOC 2024-03

STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTION
CANTEEN/COMMISSARY SERVICES

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Contractor Initials: SY
Date: 5/14/24

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTION
CANTEEN/COMMISSARY SERVICES

FORM NUMBER P-37 (version 2/23/2023)

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

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name		1.2 State Agency Address	
1.3 Contractor Name Union Supply Group (VC 289782)		1.4 Contractor Address 2500 Regent Blvd, Dallas TX 75261	
1.5 Contractor Phone # 469-957-5685	1.6 Account Unit and Class Canteen Fund, Recreation Fund & Correctional Industries	1.7 Completion Date December 31, 2029	1.8 Price Limitation See Exhibit C
1.9 Contracting Officer for State Agency Helen E. Hanks, Commissioner		1.10 State Agency Telephone Number 603-271-5603	
1.11 Contractor Signature Date: 5/14/24		1.12 Name and Title of Contractor Signatory Stephen Yarsinsky Finance Vice President	
1.13 State Agency Signature Date: 5/14/24		1.14 Name and Title of State Agency Signatory Helen E. Hanks, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)* By: Director, On:			
1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)* By: On: 5/15/24			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: G&C Meeting Date:			

Contractor Initials SY
Date 5/14/24

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, 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.

3.3 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. 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 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, 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 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. 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.

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 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. 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.

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 and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. 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 age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. 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 this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

Contractor Initials SY
Date 5/14/24

7. PERSONNEL.

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

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

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) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar 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.

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) calendar 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) calendar 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. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, 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.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 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.

Contractor Initials SY
Date 5/19/24

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. 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 State's sovereign immunity, 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 any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. 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 any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

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

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

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

Contractor Initials SY
Date 5/14/24

22. 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.

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

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. 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.

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

Contractor Initials SY
Date 5/14/24

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:

3.4 The Term may be extended up to five (5) years(s), ("Extended Term") at the sole option of the State, subject to the Parties prior written Agreement on applicable fees for each extended Term under the same terms and conditions, subject to approval of the Governor and Executive Council.

A.2 Provision 9, Termination, Section 9.2 is deleted and replaced with the following:

9.2 In the event of the termination pursuant to subparagraph 9.1, 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 will pay for cost of all services and deliverables for which acceptance has been given by the State, provided through the date of termination but will not be liable for any costs for incomplete services or winding down the contract activities. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

9.3 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. 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 thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated, and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
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 any State data until directed by the State;
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;
f. Implement an orderly return of State data in a CSV or another mutually agreeable format at a time agreed to by the parties; Securely dispose/destroy of all requested data in all of its forms, such as disk, CD / DVD, back-up tape and paper, when requested by the State. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-Special Publication (SP) 800-88 approved methods. Certificates of destruction shall be provided to the State; and

g. Provide written Certification to the State that Contractor has surrendered to the State all said property and after 180 days has erased all State data.

9.4 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, at no additional cost, 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").

9.5 This covenant in paragraph 9 shall survive the termination of this contract.

A.3 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. The Contractor shall not use the Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Agreement, except as directly connected to and necessary for the performance of the Agreement. Contractor shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all Confidential Information.

10.4.1 In the event of the unauthorized release of Confidential Information, Contractor shall immediately notify the State's Chief 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;
c. is developed by the receiving Party independently of, or was known by the receiving Party prior to, any disclosure of such information made by the disclosing Party; or
d. is disclosed with the written consent of the disclosing Party.

10.6 A receiving Party also may disclose the disclosing Party's Confidential Information to the extent required by law or an order of a court of competent jurisdiction. Any other disclosure of the Confidential Information shall require the prior written approval of the State. Contractor shall immediately notify the State if any request, subpoena or other legal process is served upon Contractor regarding the Confidential Information, and Contractor shall cooperate with the State in any effort the State undertakes to contest the request, subpoena or other legal process, at no additional cost to the State.

10.7 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 91-A. In the event the State receives a request for the information identified by Contractor as confidential, 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.

10.8 This covenant in paragraph 10 shall survive the termination of this contract.

A.4 Provision 12, Assignment/Delegation/Subcontracts, is updated with the following addition:

12.5 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:

e. 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;

f. immediately terminate the Agreement without liability to or further compensation owed to Contractor, its successors or assigns.

A.5 The following Provisions are added and made part of the P37:

27. FORCE MAJEURE

27.1 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, lock outs, riots, and acts of War, epidemics, pandemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

27.2 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.

28. EXHIBITS/ATTACHMENTS

The Exhibits and Attachments referred to in and attached to the contract are incorporated by reference as if fully included in the text of the contract.

29. **NON-EXCLUSIVE CONTRACT**
The State reserves the right, at its discretion, to retain other vendors to provide any of the services or deliverables identified under this Agreement. The Contractor shall not be responsible for any delay, act, or omission of such other contractors, except that the Contractor shall be responsible for any delay, act, or omission of the other contractors if such delay, act, or omission is caused by or due to the fault of the Contractor.

30. **ORDER OF PRECEDENCE**
In the event of conflict or ambiguity among any of the text within this agreement, the following Order of Precedence shall govern:
State of New Hampshire, Department of Corrections Contract Agreement 2024-03 P-37 as amended by Exhibit A.

State of New Hampshire, NH Department of Corrections contract Exhibits in order of precedence:

a. Exhibits B and C;
b. Exhibit D (or D-1);
c. Exhibit E;
d. Exhibit F;
e. Exhibit G.
f. State of New Hampshire, Department of Corrections, 2024-03, Canteen/Commissary Services.
g. Contractor Proposal Response to Department of Corrections, 2024-03, Canteen/Commissary Services, October 30, 2023.

31. **P-37: State of NH Terms and Conditions, Section 8, Events of Default:**
Currently Reads: 8.1.1 failure to perform the services satisfactorily or on schedule;

Change to Read: 8.1.1 failure to perform the services on schedule;

32. **P-37: State of NH Terms and Conditions, Section 9, Termination:**
Currently Reads: 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) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

Change to Read: 9.1 Notwithstanding Paragraph 8, either Party may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, with thirty (30) calendar days written notice to the other Party.

33. **P-37: State of NH Terms and Conditions, Section 13, Indemnification:**
Currently Reads: To amend the Indemnification provision, 13, of the original P-37 contract, to read: "The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments,

fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

Change to Read:

13.1. For the purpose of this Paragraph 13, the term "Indemnified Parties" shall mean the State, and the State's officials, employees, and agents together with the successors and assigns of any of them; the term "Indemnified Party" shall mean any one of the Indemnified Parties.

13.2. The Contractor shall indemnify, defend (with counsel acceptable to the State), and hold the Indemnified Parties harmless from and against, and to reimburse the Indemnified Parties for, any and all liabilities, penalties, judgments, claims, demands, debts, obligations, fines, damages, losses, costs, fees, attorneys' fees and expert witness' fees (including, without limitation, attorneys' fees, expert witness' fees, and costs incurred by the Indemnified Parties in enforcing the terms and conditions of this Paragraph 13), and expenses (collectively, "Damages") of any kind or nature, predicated upon any legal theory whatsoever, suffered or incurred by any of the Indemnified Parties which are in any way related to the Contractor's performance under this Agreement, but only to the extent that such Damages are not caused by the sole negligence of the Indemnified Parties.

13.3. Notwithstanding the forgoing, 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. The terms and conditions of this Paragraph 13 shall survive the termination of this Agreement.

34. **General Contract Requirements, Work Plan:**

Currently Reads: Notwithstanding anything to the contrary, the State shall have the option to terminate the contract for default, at its discretion, if it is dissatisfied with the Contractor's Work Plan or elements within the Work Plan.

Change to Read: Notwithstanding anything to the contrary, the State shall have the option to terminate the contract upon thirty days' written notice to the Contractor if it is dissatisfied with the Contractor's Work Plan or elements within the Work Plan. The Contractor may amend the Work Plan within such thirty-day period.

35. **General Contract Requirements, Confidential Information:**

Currently Reads: Any disclosure of the State's information shall require prior written approval of the State. The Contractor shall immediately notify the State if any request, subpoena or other legal process is served upon the Contractor regarding the State's Confidential Information, and

the Contractor shall cooperate with the State in any effort it undertakes to contest the request, the subpoena or other legal process, at no additional cost to the State.

Change to Read: Any disclosure of the State's information shall require prior written approval of the State unless such disclosure is required pursuant to subpoena or other legal process, in which case the Contractor shall immediately notify the State of Contractor's disclosure obligations under such subpoena and cooperate with the State in any effort it undertakes to contest the request, the subpoena or other legal process, at no additional costs to the State.

36. **General Contract Requirements, Termination for Default:**
Currently Reads: e. Procure services that are the subject of the contract from another source and the Contractor shall be liable for reimbursing the State for the replacement services, and all administrative costs directly related to the replacement of the contract and procuring the services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; all of which shall be subject to the limitations of liability set forth in the contract.

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

37. **General Contract Requirements, Termination for Convenience:**
Currently Reads: The State may, at its sole discretion, terminate the contract for convenience, in whole or in part, by thirty (30) days written notice to the Contractor. In the event of such termination for convenience, the State shall pay the Contractor the agreed upon price, if separately stated, for deliverables for which acceptance has been given by the State. Amounts for services or deliverables provided prior to the date of termination for which no separate price is stated will be paid, in whole or in part, generally in accordance with Appendix F: Pricing Worksheets.

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

Change to Read: 9.1 Notwithstanding Paragraph 8, the either Party may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the other Party.

EXHIBIT B – STATEMENT OF WORK BUSINESS, TECHNICAL REQUIREMENTS & DELIVERABLES

The Statement of Work (SOW), Business and Technical Requirements, and Deliverables are set forth for the provision of Canteen/Commissary Services for NH Department of Corrections (NHDOC), 42 Perimeter Road, Concord NH 03301.

This contract is by and between the State of New Hampshire, acting through the NH Department of Corrections ("State"), and Union Supply Group, Inc., ("Contractor"), having its principal place of business at 2500 Regent Blvd, Dallas TX 75261.

1. **PURPOSE**: The State and the Contractor have agreed for the Contractor to provide canteen/commissary services. The Contractor shall partner with the State with the operations of the states' prison canteen system, while the NHDOC retains operational control of the canteen. The Contractor shall be expected to become the state's primary supplier of inventory for resale within the canteen system. The Contractor shall also provide software used for ordering, order picking, inventory-tracking and management, automated replenishment, demand forecasting, and etc. In addition, the Contractor shall also provide equipment, licensing, project-planning and management, software licenses and modifications, network infrastructure and monitoring, database integrations, payment-processing as well as training on detailed warehouse operations and other deliverables as the Contractor described in their request for proposal response to the NH Department of Corrections solicitation DOC RFP 2024-03.

   The Contractor shall be responsible for any upfront costs incurred to implement the requested services. The Contractor shall also pay a percentage of the gross sales of products to the NHDOC along with reimbursement for certain operational expenses as outlined in this contract.

2. **TERM OF CONTRACT**: The term of the contract will be effective upon Governor and Executive Council (G&C) approval for the period beginning July 1, 2024 through December 31, 2029. The NHDOC may extend contracted services for one (1) additional period of up to five (5) years, at the sole option of the State, subject to the parties' prior written agreement on terms and applicable fees for each extended term contingent upon satisfactory Contractor performance, continued funding and Governor and Executive Council approval.

3. **SERVICE LOCATIONS**: Services shall be performed at the following NH Department of Corrections locations.

NH Department of Corrections Correctional Facilities		
Northern Correctional Facility (NCF)	138 East Milan Road	Berlin, NH 03570
NH State Prison for Men (NHSP-M)	281 North State St	Concord, NH 03301
NH Correctional Facility for Women (NHCF-W)	42 Perimeter Rd	Concord, NH 03301

4. **SCOPE OF WORK**:
The following is a description of the canteen/commissary services.

NHCF-W in Concord operates as a pick and package center, packages orders for all the NH Correctional Facilities for distribution with trucking to other NHDOC facilities.

Contractor shall provide software and services to the NHDOC acting as a partner with NH Correctional Industries (NHCI). The specific mandatory and optional software and services are outlined below and include but are not limited to: software used for inventory-tracking and management, replenishment, demand forecasting, equipment, licensing, project-planning and management, software licenses and modifications, network infrastructure and monitoring, database integrations, payment-processing as well as training on detailed warehouse operations and other deliverables. Once operational it is expected that the Contractor will provide inventory and ongoing operational support.

The Contractor shall provide a software package capable of inputting client orders (approximately 80,000 annual orders or $2,500,000.00 net sales) with restrictions based on housing. This software shall also provide all features needed to operate a warehouse pick and package operation including order tracking, order fulfillment, inventory tracking, forecasting etc. The software shall be able to exchange file information with the NHDOC's Offender Management System (CORIS). The software application should be web based and compatible with handheld tablet devices. CORIS supports SFTP exchanges. Files can be different types such as CSV, xlsx, fixed format, etc.

The Contractor shall provide all inventories available for sale through the canteen/commissary. The Contractor shall use local suppliers of products whenever appropriate for cost savings and deliverable requirements. The Contractor will also provide software and non-software support to NHDOC's staff operating the canteen/commissary.

The NHDOC will provide space for all operations, a resident workforce and at least three full-time staff members that will supervise and manage operations. The picking and packaging of all orders are to remain within the facilities of NHDOC and may not be outsourced in any way. The Contractor will provide a delivery truck, distribution racks/shelving, computers, printers/copier/MFD and all supplies needed.

NHDOC through NH Correctional Industries shall maintain complete operational control of the canteen/commissary, package programs and any other programs included in this contract.

The Contractor shall perform all services within the United States and may not be subcontracted outside the United States. In addition, the Contractor shall not store or transfer data collected in connection with the services rendered under this Agreement outside of the United States. This includes back-up data and disaster recovery locations.

5. **GENERAL ASSUMPTIONS**
5.1 The Contractor will provide project tracking tools and templates to record and manage issues, risks, change requests, requirements, decision sheets and other documents used in the management and tracking of the project. NHDOC and the Contractor's Project Managers will

review these tools and template and determine which ones will be used for the project. Training on these tools and templates will be conducted at the start of each phase for which they will be used.

5.2 Prior to the commencement of work on Non-Software and Written Deliverables,the Contractor will provide to the State a template, table of contents or agenda for review prior to the approval by the State.

5.3 The Contractor shall ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of the State's Information Technology Resources, Information and Services. Security requirements are defined in system Requirement and Deliverables. The Contractor shall provide the State resources, information and services on an ongoing basis with the appropriate infrastructure and security controls to ensure business continuity and to safeguard the confidentiality and integrity of the State networks, system and data. The Business Continuity Plan is more fully described and is incorporated herein.

5.4 The deliverables are set forth in the schedule described below in Section 6. By unconditionally accepting a deliverable, the State reserves the right to reject any and all deliverables in the event the State detects any deficiency in the system, in whole or in part, through completion of all acceptance testing, including but not limited to; software/system acceptance testing and any extension thereof.

5.5 Pricing for deliverable's is set forth in Contract Agreement-Exhibit B: *Price and Payment Schedule.* .

6. ACTIVITY, DELIVERABLES AND MILESTONE

6.1 Deliverables: The Contractor shall provide the following deliverables:

	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date
	PLANNING AND PROJECT MANAGEMENT		
1	Project Kickoff Meeting	Non-software	Within 2 weeks after contract execution as needed.
2	Comprehensive Training Plan and Curriculum	Written	Will provide within 2 weeks after contract execution as needed.
3	Documentation of Operational Procedures	Written	Will provide within 2 weeks after contract execution as needed.
	SYSTEM DEPLOYMENT		
4	Conduct Training	Non-software	Will provide within 2 weeks after contract execution as needed.

6.2 System Security:

6.2.1 Backup and Recovery:

Contractor agrees to provide back-up and recovery processes to protect mission-critical data, ease of use process and impact and the operation of the system. This will be at no cost to the State and there will be no license fees, related to back-up and recovery or for any other service/feature, charged to the State at any time.

System back-ups used on servers and database back-ups shall utilize log shipping. Back-up policies are defined and used by CommVault and with media agents to copy data from

services to back-up storage servicers to ensure that the offsite copy is made to the designated alternate data center/location.

Applications are stored on VM servers so that after a disaster they can be restored "virtually" on fully functioning hardware. Database information can be recovered from archives.

6.2.2 Assurance of Business Continuity:
Contractor shall assure business continuity mitigates risk to the State and potential implementation.

6.2.3 Inventory Redundancy: Contractor shall keep substantial inventory at various regional warehouses in the event of need and refill.

6.2.4 Data & Processing Redundancy: Onsite application server for all applications provided by Contractor, as well as records, histories and backed up at secure offsite data centers. In the event of major disruption or damage to facility, Contractor can recover and restore data nearly instantly to continue operations until primary system can be restored.

6.2.5 Key Personnel Redundancy: All key personnel have designated replacements responsible for communication with the State and maintain up-to-date on projects, issues, training & feedback.

6.2.6 Redundant & Contingent Operational Plans: Contractor has contingency and emergency plans in place with multiple back-ups for facility systems, operational plans and designated employees.

6.2.7 Security Testing: All testing and acceptance addressed herein shall apply to testing the system. This shall include planning, test scenario development, data and system preparation for testing, and execution of unit testing, system integration testing, conversion/migration testing, installation testing, performance, and stress testing, security review and testing, and support of the State during User Acceptance Test (UAT).

6.2.8 Testing begins upon completion of the software configuration as required and user training according to the Work Plan. Testing ends upon issuance of a letter of UAT acceptance by the State.

Unit Testing	Application components are tested on an individual basis to verify that the inputs, outputs, and processing logic of each application component functions without errors. Unit testing is performed in either the development environment or a testing environment. The goal is to find errors in the smallest unit of software. If successful, subsequent integration testing should only reveal errors related to the integration between application components.
System Integration Testing	a. Validates the integration between the individual unit application components and verifies that the new system meets defined requirements and supports execution of interfaces and business processes. The Systems Integration Test (SIT) is performed in a test environment. b. Emphasizes end-to-end business processes and the flow of information across applications. It includes all key business processes and interfaces

	being implemented, confirms data transfers with external parties, and includes the transmission or printing of all electronic and paper documents. c. The State will conduct SIT, utilizing scripts developed, as identified in the Test Plan, to validate the functionality of the system and its interfaces. The State will also use System Integration Testing to validate modifications, fixes and other system interactions with the Contractor supplied software solution.
Conversion /Migration Validation Testing	The Conversion/Migration Validation testing should replicate the entire flow of the converted data through the software solution. As the software solution is interfaced to legacy or third-party applications, the testing verifies that the resulting converted legacy data performs correctly.
Installation Testing	Application components are installed in the system test environment to test the installation routines and are refined for the eventual production environment. This activity serves as a dry run of the installation steps in preparation for configuring the production system.
User Acceptance Testing (UAT)	The UAT is a verification process performed in a copy of the production environment. The UAT verifies system functionality against predefined acceptance criteria that support the successful execution of approved business processes. a. The Contractor's Project Manager must certify in writing, that the Contractor's own staff has successfully executed all prerequisite Contractor testing, along with reporting the actual testing results prior to the start of any testing executed by State staff. b. The State will be presented with a State approved test plan, test scenarios, test cases, test scripts, test data, and expected results, as well as written certification of the Contractor's having completed the prerequisite tests, prior to the State staff involvement in any testing activities. c. UAT will also serve as a performance and stress test of the system. It may cover any aspect of the new system, including administrative procedures such as back-up and recovery. The results of the UAT provide evidence that the new system meets the User Acceptance criteria as defined in the Work Plan Upon successful conclusion of UAT and successful system deployment, the State will issue a letter of UAT Acceptance and the respective Warranty Period shall commence as described in Appendix H: *State of New Hampshire Terms and Conditions* - Section H-25.11.1: *Warranty Period.*
Performance Tuning and Stress Testing	Contractor shall develop and document hardware and software configuration and tuning of system infrastructure as well as assist and direct the State's System Administrators and Database Administrators in configuring and tuning the infrastructure to support the software throughout the project.

	Performance Tuning and Stress Testing Scope: The scope of performance testing shall measure the system level metrics critical for the development of the applications infrastructure and operation of the applications in the production environment. It will include the measurement of response rates of the application for end-user transactions and resource utilization (of various servers and network) under various load conditions. These response rates shall become the basis for changes and retesting until optimum system performance is achieved. The application transactions shall be identified with specific roles and selected transactions shall be recorded for the performance measurements. These will be compared to baselines to determine if object and/or system performance increases as changes are made. Performance testing shall consider the full scope of the application infrastructure with emphasis on the most heavily used or shared transactions. Performance testing of the application will profile the identified user transactions and assist in the identifying performance gaps to improve the most critical parts of the applications. Performance testing and tuning shall occur in the final production environment and shall use a copy of the final production database to provide the best results. Contractor must lead this effort. Responsibilities include identifying appropriate tunable parameters and their default and recommended settings, developing scripts, which accurately reflect business load and coordinating reporting of results. **Test Types:** Performance testing shall use two different types of tests to determine the stability of the application. They are baseline tests and load tests. **Baseline Tests:** Baseline tests shall collect performance data and load analysis by running scripts where the output is broken down into business transactions or functions. The test is like a single user executing a defined business transaction. During baseline testing, each individual script is run to establish a baseline for transaction response time, throughput and other user-based metrics. Usually, each business transaction is executed multiple times during a single test run to obtain an average for the user-based metrics required for the performance testing evaluations. It must be noted that changes made to the code after baseline testing is completed will skew the results collected to date. All effort will be made to provide a code test base that is tested in the environment for problems prior to the establishment of the baseline, which are used in future testing and tuning efforts. Any changes introduced into the environment after performance testing has started can compromise the accuracy of the results and will force a decision to be made whether baseline results need to be recreated.

Load Tests: Load testing will determine if the behavior of a system can be sustained over a long period of time while running under expected conditions. Load tests helps to verify the ability of the application environment under different load conditions based on workload distribution. System response time and utilization is measured and recorded.

Tuning: Tuning will occur during both the development of the application and load testing. Tuning is the process whereby the application performance is maximized. This can be the result of making code more efficient during development as well as making tuning parameter changes to the environment.

For infrastructure tuning, parameters will be identified for all components prior to undertaking the load testing efforts. This should include a list of the variables, their definitions, the default settings, range of acceptable settings and the settings as testing begins. This will permit the team to identify the areas of most potential gain and a starting point. Tuning is a process which is repeated until the team feels that the systems are running at or near optimum performance.

Implementing Performance and Stress Test: Performance and stress test tools must be provided by the Contractor for this effort. Consideration must be given to licensing with respect to continued use for Regression Testing. If the Contractor is familiar with open-source low/no cost tools for this purpose those tools should be identified in your response.

Scheduling Performance and Stress Testing: Contractor shall perform test planning. The steps for planning include identification of application functionality as well as what percentage of normal daily use is represented by each function. This information will become the foundation for scripting so that tests closely represent what loads in production will look like.

Contractor shall provide definition and expectations from testing. This definition should include who is in charge of testing and coordinating results, anticipated run times, logs required for tracking, their locations and which technician is responsible to track and provide them following each test to the team.

Initial test runs shall be completed to establish that the tests and data sets can be run to completion without errors. The ratio of types of transactions which makeup the test shall be reviewed prior to the beginning of testing and then again once testing has begun to make sure that testing accurately reflects the system performing in production.

Initial tests shall be used to establish a baseline from which all subsequent tests will be compared. Tests will be considered for baseline status once two of them

	have been run within 2% of each other in key and overall performance areas. No changes to the test scripts or data sets (with the exception of restores after each test) can be done to the test environment once tuning has begun so as to not damage the comparison to baseline results. The systems must be restarted prior to each test run to assure all cache is cleaned out. All effort will be made to run these tests at a time when system and network infrastructure utilization doesn't impact the results. Tests will be run in close proximity to our infrastructure to eliminate the public network from our environment. Post-test reporting and result assessment will be scheduled following each test. The team will compare these results to the baseline and a determination must be made to make additional changes to the parameter being tuned or return to the prior configuration and select another parameter to tune while keeping in mind that significant changes to any one parameter may require the retesting of some others. Careful work on identifying dependencies up front should minimize this impact. If defects are identified in the application during testing, they will be recorded; however, changes to the application code should be avoided if possible, so as not to affect baseline comparisons. If a change to the application is required, new baselines will be established (and possibly the execution of prior tests to validate changes with the new application) before testing can continue. When performing capacity testing against a GUI, the focus will be on the ability of the interface to respond to user input. During stress/load testing the tester will attempt to stress or load an aspect of the system to the point of failure. The goal being to determine weak points in the system architecture. The tester will identify peak load conditions at which the program will fail to handle required processing loads within required time spans. During Performance testing the tester will design test case scenarios to determine if the system meets the stated performance criteria (i.e., A login request shall be responded to in 1 second or less under a typical daily load of 1000 requests per minute.). In both cases, the tester will determine the capacity of the system under a known set of conditions.
Regression Testing	As a result, of the user testing activities, problems will be identified that require correction. The State will notify the Contractor of the nature of the testing failures in writing. The Contractor will be required to perform additional testing activities in response to State and/or user problems identified from the testing results. Regression Testing means selective re-testing to detect faults introduced during the modification effort, both to verify that the modifications have not caused

	unintended adverse effects, and to verify that the modified and related (possibly affected) system components still meet their specified requirements. a. For each minor failure of an Acceptance Test, the acceptance period shall be extended by corresponding time defined in the Test Plan. b. The Contractor shall notify the State no later than five (5) business days from the Contractor's receipt of written notice of the test failure when the Contractor expects the corrections to be completed and ready for retesting by the State. The Contractor will have up to five (5) business days to make corrections to the problem unless specifically extended in writing by the State. c. When a programming change is made in response to a problem identified during user testing, a Regression Test Plan should be developed by the Contractor based on the understanding of the program and the change being made to the program. The Test Plan has two objectives: 1. Validate that the change/update has been properly incorporated into the program; and 2. Validate that there has been no unintended change to the other portions of the program. d. The Contractor will be expected to: 1. Create a set of test conditions, test cases, and test data that will validate that the change has been incorporated correctly. 2. Create a set of test conditions, test cases, and test data that will validate that the unchanged portions of the program still operate correctly; and 3. Manage the entire cyclic process. e. The Contractor will be expected to execute the Regression Test, provide actual testing results, and certify its completion in writing to the State prior to passing the modified software application to the users for retesting. In designing and conducting such Regression Testing, the Contractor will be required to assess the risks inherent to the modification being implemented and weigh those risks against the time and effort required for conducting the Regression Tests. In other words, the Contractor will be expected to design and conduct Regression Tests that will identify any unintended consequences of the modification while taking into account schedule and economic considerations. Contractors must acknowledge their responsibilities for regression testing as described in this section.
Security Review and Testing	IT Security involves all functions pertaining to the securing of State data and systems through the creation and definition of security policies, procedures and controls covering such areas as identification, authentication and non-repudiation.

All components of the software shall be reviewed and tested to ensure they protect the State's hardware and software and its related data assets.

Service Component	Defines the set of capabilities that:
Identification and Authentication	Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users.
Access Control	Supports the management of permissions for logging onto a computer or network.
Encryption	Supports the encoding of data for security purposes
Intrusion Detection	Supports the detection of illegal entrance into a computer system.
Verification	Supports the confirmation of authority to enter a computer system, application or network.
Digital Signature	Guarantees the unaltered state of a file.
User Management	Supports the administration of computer, application and network accounts within an organization.
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network.
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system.
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.

Contractor acknowledges their responsibilities for security testing. Tests shall focus on the technical, administrative and physical security controls that have been designed into the system architecture to provide the necessary confidentiality, integrity and availability. Tests shall, at a minimum, cover each of the service components. Test procedures shall include 3rd party Penetration Tests (Pen Test) or code analysis and review.

Prior to the system being moved into production, the Contractor shall provide results of all security testing to the Department of Information Technology for review and acceptance. All software and hardware shall be free of malicious code (malware).

Penetration Testing	a. Implement a methodology for penetration testing that includes the following: 1. Is based on industry-accepted penetration testing approaches (for example, NIST SP800-115); 2. Includes coverage for the entire CDE perimeter and critical systems; 3. Includes testing from both inside and outside the network; 4. Includes testing to validate any segmentation and scope-reduction controls; 5. Defines application-layer penetration tests to include, at a minimum, the vulnerabilities listed in PCI DSS Compliance: *Requirement 6.5*; 6. Defines network-layer penetration tests to include components that support network functions as well as operating systems; 7. Includes review and consideration of threats and vulnerabilities experienced in the last 12 months; and 8. Specifies retention of penetration testing, results and remediation activities results. b. Perform external penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade, a sub-network added to the environment, or a web server added to the environment). c. Perform internal penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade a sub-network added to the environment, or a web server added to the environment). d. Exploitable vulnerabilities found during penetration testing are corrected and testing is repeated to verify the corrections. e. If segmentation is used to isolate the CDE from other networks, perform penetration tests at least annually and after any changes to segmentation controls/methods to verify that the segmentation methods are operational and effective, and isolate all out-of-scope systems from in-scope systems.

6.3 User Training Approach: Contractor shall evaluate training approach to prepare users to adequately use the system, to include maximum knowledge transfer and allow State to conduct training in the future.

6.4 Preparation of State Staff: Contractor will provide comprehensive training and support for all staff and residents (IVR and web application, Vend Engine platform portal, delivery process, package program, virtual meeting or calls, order fulfillment, operating process, OSHA, etc.).

6.5 Service Level Agreement (SLA)

Contractor agrees to the following Service Level Requirements

State Requirements		
Req #	**Requirement Description**	**Criticality**
SLA -1	The Contractor'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
SLA -2	The Contractor 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
SLA -3	The Contractor 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
SLA -4	All hardware and software components of the Contractor 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. (RA-5)	M
SLA -5	The State shall have unlimited access, via phone or email, to the Contractor technical support staff between the hours of 8:30am to 5:00pm- Monday through Friday EST.	M
SLA -6	The Contractor 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 - minimal, cosmetic in nature, minimal effect on system, low priority and/or user can use system; Written Documentation - minimal changes required and of minor editing nature; Non-software - Services require only minor reworking and do not require re-performance of the service.	M

SLA -7	As part of the maintenance agreement, ongoing support issues shall be responded to according to the following: a. Class A Deficiency- The Contractor 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 Contractor shall provide support on-site or with remote diagnostic services, within four (4) business hours of a request; b. Class B & C Deficiency–The State shall notify the Contractor of such deficiencies during regular business hours and the Contractor shall respond back within four (4) hours of notification of planned corrective action; The Contractor shall repair or replace software, and provide maintenance of the software in accordance with the specifications, Terms and Requirements of the contract.	M
SLA -8	The hosting server for the State shall be available twenty-four (24) hours a day, 7 days a week except for during scheduled maintenance.	M
SLA -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
SLA -10	If The Contractor is unable to meet the uptime requirement, The Contractor 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
SLA -11	The Contractor shall use a change management policy for notification and tracking of change requests as well as critical outages.	M
SLA -12	A critical outage will be designated when a business function cannot be met by a non-performing application and there is no work around to the problem.	M
SLA -13	The Contractor shall maintain a record of the activities related to repair or maintenance activities performed for the State and shall report quarterly on the following: Server up-time; All change requests implemented, including operating system patches; All critical outages reported including actual issue and resolution; Number of deficiencies reported by class with initial response time as well as time to close.	M
SLA -14	The Contractor will give two-business days prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.	M
SLA -15	The Contractor shall make available to the State the latest required program updates, general maintenance releases, selected functionality releases, patches, and documentation that are generally offered to its customers, at no additional cost.	M
SLA -16	For all maintenance services calls, The Contractor 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	P

	completion time; 5) Deficiency resolution information, 6) Resolved by, 7) Identifying number i.e. work order number, 8) Issue identified.	
SLA -17	The Contractor 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

7. **DELIVERABLES**

The Contractor shall provide the State with the deliverables and services in accordance with the time frames in the Work Plan. All deliverables shall be subject to the State's acceptance as set forth in Section 8 *Testing and Acceptance* and Exhibit F: *State of New Hampshire Terms and Definitions*, herein. Upon its submission of a deliverable, the Contractor represents that it has performed its obligations under the contract associated with the deliverable.

By unconditionally accepting a deliverable, the State reserves the right to reject 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.

For each denial of acceptance, the acceptance period may be extended, at the option of the State, by the corresponding time required to correct the deficiency, retest or review.

7.1 Written Deliverables Review

The State will review the Written Deliverables for an acceptance period of five (5) business days after receiving written certification from the Contractor that the Written Deliverable is final, complete, and ready for review. The State will notify the Contractor in writing of its acceptance or non-acceptance of a deliverable by the end of the five (5) day review period. If any deficiencies exist, the State will notify the Contractor in writing of the deficiency and the Contractor must correct the deficiency within five (5) business days of receiving notice from the State at no charge to the State. Upon receipt of the corrected deliverable, the State will have five (5) business days to review the corrected Written Deliverable and notify the Contractor in writing of its acceptance or rejection thereof.

7.2 Software Deliverables Review

Described in Section 8: *Testing and Acceptance*, herein.

7.3 Non-Software Deliverables Review

The State will review Non-software deliverables to determine whether any deficiency exists and notify the Contractor in writing of its acceptance or non-acceptance of the Non-software deliverable. The Contractor must correct the deficiencies within five (5) business days, or within the period identified in the Work Plan, as applicable. Following correction of the deficiency, the State will notify the Contractor in writing of its acceptance or rejection of the deliverable.

7.4 Licenses

The State has defined the software license grant rights, terms and conditions, and has documented the evaluation criteria.

7.4.1 Software License Grant

The software license shall grant the State a revocable, 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.

7.4.2 Restrictions

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

a. Remove or modify any program markings or any notice of 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.

7.4.3 Title

The Contractor must hold the right to allow the State to use the software or hold all title, right, and interest (including all ownership and intellectual property rights) in the software and its associated documentation.

7.1.4 Third-Party

The Contractor shall identify all third-party contracts to be provided under the contract with the Contractor's proposal. The terms in any such contracts must be consistent with submitted proposal and any resulting contract, including, but not limited to Form P-37: *State of New Hampshire Terms and Conditions* - General Provisions Form P-37.

8. TESTING AND ACCEPTANCE

The State requires that an integrated and coherent approach to complete system testing, security review and testing, deficiency correction, acceptance, and training, and that Warranty Services be provided to ensure a successful project.

The Contractor is to include its test plan methodology and any scheduling assumptions used regarding the client resource efforts required during testing. Contract award will require the Contractor to customize its proposed test plan methodology to reflect the needs of the project and include the details of its test plan methodology in the detailed Work Plan (the first project deliverable). A separate test plan and set of test materials will be prepared for each software function or module.

In addition, the Contractor will provide a mechanism for reporting actual test results vs. expected results and for the resolution and tracking of all errors and problems identified during test execution. The Contractor will also provide training as necessary to the State staff responsible for test activities.

8.1 Remedies

If the Contractor fails to correct a deficiency within the period of time allotted by the State, the Contractor shall be deemed to have committed an Event of Default, pursuant Form P-37: State of New Hampshire Terms and Conditions - P-37, General Provisions - Section 8: Event of Default/Remedies, and Section 9: Termination, and the State Shall have the right, at its option, to pursue the remedies in Section 9: Termination for Default as well as to return the Contractor's

product and receive a refund for all amounts paid to the Contractor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Contractor of the State's refund request.

Notwithstanding any provision of the contract, the State's option to terminate the contract and pursue the stated remedies will remain in effect until the Contractor completes the contract to the satisfaction of the State.

8.2 System Acceptance

Upon completion of the Warranty Period, the State will issue a Letter of Final System Acceptance.

8.3 Deliverables Review and Acceptance

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 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 the State (in its sole discretion) may agree. 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.

8.4 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 described herein.

8.5 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.

8.6 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.

9. **CHANGE ORDER**

All Change Order requests from a Contractor to the State, and the State acceptance of a Contractor's estimate for a State requested change, will be acknowledged and responded to, either acceptance or rejection, in writing. If accepted, the Change Order(s) shall be subject to the contract amendment process, as determined to apply by the State.

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 the Department of Information Technology, 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.

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.

10. **WARRANTY PERIOD**

The Warranty Period will initially commence upon the State issuance of a Letter of Acceptance for UAT and will continue for ninety (90) days. If within the last thirty (30) calendar days of the Warranty Period, the system software fails to operate as specified, the Warranty Period will cease, the Contractor will correct the deficiency, and a thirty (30) calendar day Warranty Period will begin. Any further deficiencies with the software must be corrected and run fault free for thirty (30) days.

11. **WARRANTIES**

11.1 System

The Contractor shall warrant that the system must operate to conform to the specifications, terms, and requirements of the contract.

11.2 Software

The Contractor shall warrant that the software is properly functioning within the system, compliant with the requirements of the contract, and will operate in accordance with the specifications. Software shall be archived and or version controlled through the use of Harvest Software.

11.3 Non-Infringement

The Contractor shall warrant that it has good title to, or the right to allow the State to use all services, equipment, and software provided under this contract, and that such services, equipment, and software (Material) 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.

11.4 Viruses: Destructive Programming
The Contractor shall warrant that the software will not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the software in accordance with the specifications.

11.5 Compatibility
The Contractor shall warrant that all system components, including any replacement or upgraded system software components provided by the Contractor to correct deficiencies or as an enhancement, shall operate with the rest of the system without loss of any functionality.

11.6 Professional Services
The Contractor shall warrant that all services provided under the contract will be provided in a professional manner in accordance with industry standards and that services will comply with performance standards.

12. WARRANTY SERVICES

The Contractor shall agree to maintain, repair, and correct deficiencies in the system software, including but not limited to the individual modules or functions, during the Warranty Period at no additional cost to the State, in accordance with the specifications and terms and requirements of the contract, including without limitation, correcting all errors, and defects and deficiencies; eliminating viruses or destructive programming; and replacing incorrect, defective or deficient software and documentation.

Warranty Services shall include, without limitation, the following:

a. Maintain the system software in accordance with the specifications, terms, and requirements of the contract;
b. Repair or replace the system software or any portion thereof so that the system operates in accordance with the specifications, terms, and requirements of the contract;
c. The Contractor shall have available to the State on-call telephone assistance, with issue tracking available to the State, twenty-four (24) hours per day and seven (7) days a week with an email/telephone response within two (2) hours of request, with assistance response dependent upon issue severity;
d. On-site additional services within four (4) business hours of a request;
e. Maintain a record of the activities related to Warranty Repair or maintenance activities performed for the State; and
f. For all Warranty Services calls, the Contractor 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;
    7. Identifying number i.e., work order number; and
    8. Issue identified by.
g. The Contractor must work with the State to identify and troubleshoot potentially large-scale software failures or deficiencies by collecting the following information:

1. Amount of 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.

h. All deficiencies found during the Warranty Period and all Deficiencies found with the Warranty Releases shall be corrected by the Contractor no later than five (5) business days, unless specifically extended in writing by the State, at no additional cost to the State.

If in the Event of Default, the Contractor fails to correct the deficiency within the allotted period of time (see above), the State shall have the right, at its option: 1) declare the Contractor in default, terminate the contract, in whole or in part, without penalty or liability to the State; 2) return the Contractor's product at no cost to NHDOC; 3) and to pursue its remedies available by law or in equity.

i. Notwithstanding any provision of the contract, the State's option to terminate the contract and pursue the remedies above will remain in effect until satisfactory completion of the full Warranty Period.

1. Software

The Contractor warrants that any software provided as part of this Agreement, 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 the fees paid to Contractor for the program license and 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. 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.

2. 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.

3. 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.

13. **ON-GOING SOFTWARE MAINTENANCE AND SUPPORT LEVELS**

The Contractor shall maintain and support the system in all material respects as described in the applicable program documentation after delivery and the Warranty Period of ninety (90) days through the completion of the contract term.

The Contractor will not be responsible for maintenance or support for software developed or modified by the State.

14. **MAINTENANCE RELEASES**

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

15. **CONTRACTOR RESPONSIBILITY**

The Contractor shall be responsible for performing on-site or remote technical support in accordance with the contract documents, including without limitation the requirements, terms, and conditions contained herein.

As part of the software maintenance agreement, ongoing software maintenance and support levels, including all new software releases, shall be responded in accordance with Exhibit B, Section 6.5 *Service Level Agreement, SLA-6 and SLA-7.*

The Contractor shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;

For all maintenance services calls, the Contractor 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;
7. Identifying number i.e., work order number; and
8. Issue identified by.

The Contractor 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.

If the Contractor fails to correct a deficiency within the allotted period of time Stated above, the Contractor shall be deemed to have committed an Event of Default, pursuant to Form P-37: *State of New Hampshire Terms and Conditions* - Section 8: *Event of Default/Remedies*, and the State shall have the right, at its option, to pursue the remedies in Section 9: *Termination*, as well as to return the Contractor's product and receive a refund for all amounts paid to the Contractor,

including but not limited to, applicable license fees, within ninety (90) days of notification to the Contractor of the State's refund request.

16. IMPLEMENTATION SERVICES

The Contractor shall employ an industry-standard implementation strategy with a timeline set forth in accordance with the Work Plan.

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

The Contractor and the State shall adopt a Change Management approach to identify and plan key strategies, communication initiatives, and training plans.

17. CONTRACT 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.

The Contractor shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to one (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.

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 contract agreement.

The Contractor shall be responsible for knowledge transfer between all Contractor project teams for all deliverables defined in this Project Agreement.

17.1 THE CONTRACTOR KEY PROJECT STAFF

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:

Thomas Burns, Regional Vice President
469-957-5690
tburns@unionsupplygroup.com

17.2 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:

Jerry Carr, Vice President of Operations
469-957-5656
jcarr@unionsupplygroup.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 one (1) business day 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.

17.3 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.

17.4 The Contractors Additional Key Project Staff
The State considers the following individuals to be Key Project Staff for this Project:

Michael Anderson, National Field Operations Manager
469-957-5690
manderson@uscommissarysolutions.com

Doyle Schaefers, Vice President, IT
DSchaefers@unionsupplygroup.com

Vanessa Truillo, director of Commissary Operations Support
vtrujillo@unionsupplygroup.com

Edgar Tabares, Director of Package Programs
etabares@unionsupplygroup.com

Matthew McFalls, Director of Technical Services IT Support
mcfalls-matthew@aramark.com

The State reserves the right to require removal or reassignment of Key Project Staff who are found unacceptable to the State. Contractor shall not change Key Project Staff commitments without providing the State written notice and obtaining the prior written approval of the State. State approvals for replacement of Key Project Staff will not be unreasonably withheld. The replacement Key Project Staff shall have comparable or greater skills than Key Project Staff being replaced.

17.5 Termination for Lack of Project Management and Key Project Staff
Notwithstanding any other provision of the contract to the contrary, the State shall have the option to terminate the contract, declare Contractor in default and to pursue its remedies at law and in equity, if Contractor fails to assign a Project Manager and/or Key Project Staff meeting the requirements and terms of the contract or if the State is dissatisfied with Contractor's replacement of the Project Manager and/or Key Project Staff.

18. THE STATE KEY PROJECT STAFF

18.1 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:
Nicholas Duffy, Director of Rehabilitative Services
603-271-0078
Nicholas.K.Duffy@DOC.NH.Gov

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

a. Addressing issues brought to his attention
b. Resolve issues and concerns.

18.2 The State Project Manager
The State's Project Manager is:

Debra Shepard, Administrator III
603-271-3904
Debra.J.Shepard@DOC.NH.Gov

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

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;
g. Managing stakeholders' concerns.

18.3 The State IT Manager
The State's IT Manager is:

John Villani, IT Manager IV
603-271-5665
John.Villani@DOIT.NH.Gov

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

a. To serve as liaison between the Contractor, Project Team and Department of Information Technology Team (DoIT)

19. PROJECT MANAGEMENT

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

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

a. **Introductory Meeting:** Participants will include the Contractor's Key Project Staff and State Project leaders from both Department of Justice and the Department of Information Technology. This meeting will enable leaders to become acquainted and establish any preliminary project procedures.

- **Kickoff Meeting**: Participants will include the State and the Contractor's Project Team and major stakeholders. This meeting is to establish a sound foundation for activities that will follow.
- **Status Meetings**: Participants will include, at the minimum, the Contractor's Project Manager and the State Project Manager. These meetings will be conducted at least bi-weekly and address overall project status and any additional topics needed to remain on schedule and within budget. A status and error report from the Contractor shall serve as the basis for discussion.
- **The *Work Plan***: must be reviewed at each Status Meeting and updated, at minimum, on a bi-weekly basis, in accordance with the contract.
- **Special Meetings**: Need may arise for a special meeting with State leaders or project stakeholders to address specific issues.
- **Exit Meeting**: Participants will include project leaders from the Contractor and the State. Discussion will focus on lessons learned from the project and on follow-up options that the State may wish to consider.

The State expects the Contractor to prepare agendas and background for and minutes of meetings. Background for each status meeting must include an updated *Work Plan*. Drafting of formal presentations, such as a presentation for the kickoff meeting, will also be the Contractor's responsibility.

The Contractor's Project Manager or the Contractor's Key Project Staff shall submit monthly status reports in accordance with the Schedule and terms of this contract. All status reports shall be prepared in formats approved by the State. The Contractor's Project Manager shall assist the State's Project Manager, or itself produce reports related to Project Management as reasonably requested by the State, all at no additional cost to the State. The Contractor shall produce project status reports, which shall contain, at a minimum, the following:

a. Project status related to the *Work Plan*;
b. Deliverable status;
c. Accomplishments during weeks being reported;
d. Planned activities for the upcoming two (2) week period;
e. Future activities;
f. Issues and concerns requiring resolution; and
g. Report and remedies in case of falling behind Schedule.

As reasonably requested by the State, the Contractor shall provide the State with information or reports regarding the project. The Contractor shall prepare special reports and presentations relating to Project Management, and shall assist the State in preparing reports and presentations, as reasonably requested by the State, all at no additional cost to the State.

20. KEY COMPONENTS

The Contractor shall employ an industry-standard Implementation strategy with a timeline set forth in accordance with the Contract Agreement – Exhibit B: *Work Plan*;

The Contractor and the State shall adopt a change management approach to identify and plan key strategies and communication initiatives.

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

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

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

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

21. WORK PLAN

The Contractor's Project Manager and the State Project Manager shall finalize the Work Plan within fourteen (14) days of the Effective Date and further refine the tasks required to implement the project. Continued development and management of the Work Plan is a joint effort on the part of the Contractor and State Project Managers. The plan shall identify the tasks, deliverables, major milestones, task dependencies, and a payment Schedule required to implement the project. It shall also address intra-task dependencies, resource allocations (both State and The Contractor's team members), refine the project's scope, and establish the Project's Schedule.

22. The preliminary Work Plan created by the Contractor and the State is set forth above in ACTIVITY, DELIVERABLE, AND MILESTONE

23. SYSTEM MAINTENANCE

The Contractor shall maintain and support the system in all material respects as described in the contract, through the contract completion date. The Contractor shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and documentation that are generally offered to its customers, at no additional cost.

24. **SUPPORT OBLIGATIONS**
The Contractor shall repair or replace software, and provide maintenance of the software in accordance with the specifications and terms and requirements of the contract.

25. **CONTRACT WARRANTIES AND REPRESENTATIONS SYSTEM**
The Contractor warrants that any systems provided under this Agreement will operate and conform to the specifications, terms, and requirements of this Agreement.

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

The Contractor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public information. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Contractor applies to its own personal data and non-public data of similar kind.

All data obtained by the Contractor in the performance of this contract and all personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Contractor is responsible for encryption of the personal data.

Unless otherwise stipulated, the Contractor shall encrypt all non-public data at rest and in transit. The State shall identify data it deems as non-public data to the Contractor. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.

At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.

The Contractor shall not use any information collected in connection with the service issued from this contract for any purpose other than fulfilling the service.

27. **DATA LOCATION**
The Contractor shall provide its services to the State and its end users solely from data centers within the Continental United States. All storage, processing and transmission of State data shall be restricted to information technology systems within the Continental United States. The Contractor shall not allow its personnel or sub-contractors to store State data on portable devices, including personal computers, except as specified and allowed by the contract, and then only on devices that are used and kept at its data centers within the Continental United States. The Contractor shall permit its personnel and Contractors to access State data remotely only to provide technical support and as specified or required by the contract.

28. SECURITY INCIDENT OR DATA BREACH

The Contractor shall inform the State of any security incident or data breach in accordance with NH RSA Chapter 359-C:20: Notice of Security Breach.

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

Security Incident Reporting Requirements: the Contractor shall report a security incident to the State identified contact immediately if it reasonably believes there has been a security incident.

Breach Reporting Requirements: If the Contractor has actual knowledge of a confirmed data breach that affects the security of any State content that is subject to applicable data breach notification law, the Contractor shall (1) immediately notify the appropriate State identified contact and (2) take commercially reasonable and consistent with industry best practices measures to address the data breach in a timely manner.

29. BREACH RESPONSIBILITIES

29.1 This section only applies when a data breach occurs with respect to State data within the possession or control of the Contractor and/or the third-party designee hosting the data as agreed upon by the Contractor and the State.

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

29.3 The Contractor, unless stipulated otherwise, shall promptly notify the appropriate State identified contact within 72 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there has been a data breach the Contractor shall:

a. Cooperate with the State as reasonably requested by the State to investigate and resolve the data breach;
b. Promptly implement necessary remedial measures, if necessary; and
c. Document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

29.4 Unless otherwise stipulated, if a data breach is a direct result of the Contractor's breach of its contract obligation or the third-party hosting company to encrypt personal data or otherwise prevent its release, the Contractor and/or the third-party hosting company shall bear the costs associated with:

a. the investigation and resolution of the data breach;
b. notifications to individuals, regulators or others required by State law;
c. a credit monitoring services required by State (or federal) law;
d. a website or a toll-free number and a call center for affected individuals required by State law - all not to exceed the average per record per person cost calculated for data breaches in the United States (currently $180 per record/person) in the most recent Cost

of Data Breach analysis from ISACA.org (https://www.isaca.org/resources/isaca-journal/issues/2023/volume-1/the-true-cost-of-a-data-breach); and

e. completes all corrective actions as reasonably determined by the contractor based on the root cause; all [(a) through (e)] subject to this contract's limitation of liability.

30. **SOFTWARE AGREEMENT**

The Contractor shall provide the State with access to the software Licenses and documentation set forth in the contract, and particularly described Exhibit D: Software License Agreement.

31. **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.

32. **RECORDS RETENTION AND ACCESS REQUIREMENTS**

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

The Contractor and its Sub-contractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs, invoiced in the performance of their respective obligations under the contract. The Contractor and its Subcontractors shall retain all such records for three (3) years following termination of the contract, including any extensions. Records relating to any litigation matters regarding the contract shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeals 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 will be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the contract and one (1) year term following litigation relating to the contract, including all appeals or the expiration of the appeal period. The Contractor shall include the record retention and review requirements of this section in any of its subcontracts.

The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to the Contractor's cost structure and profit factors shall be excluded from the State's review unless the cost or any other services or deliverables provided under the contract is calculated or derived from the cost structure or profit factors.

33. **ACCOUNTING REQUIREMENTS**

The Contractor shall maintain an accounting system in accordance with generally accepted accounting principles. The costs applicable to the contract shall be ascertainable from the accounting system and the Contractor shall maintain records pertaining to the services and all other costs and expenditures.

34. TRAINING

The Contractor shall provide on-site training, virtual training, recorded training and step-by step written instruction on Partner Portal and other system functions throughout the life of the contract with the following:

- Provide development of end-user training plan to key personnel
- Provide train the trainer approach for the delivery of end-user training
- Provide proper training materials
- Provide additional training if any major change or upgrade occurs to the system
- Provide curriculum development of training programs to include the topics as Supply Chain Management Principles, Warehouse Operations, Transportation Operations and Inventory and Supply Management to provide transferable, technical work skills needed for reentry opportunities.
- Provide accredited forty (40) hour forklift, powered-pallet jack and hand truck use training for residents who will participate in the NHCI Fulfillment Program.

35. TERMS AND DEFINITIONS

Terms and Definitions applicable to this contract are identified in Exhibit F: Terms and Definitions.

36. CONTRACTOR'S CERTIFICATES

Required Contractor Certificates are attached in Exhibit G.

A. CERTIFICATE OF GOOD STANDING

As a condition of contract award, the Contractor, if required by law, must furnish a Certificate of Authority/Good Standing dated after April 1, 2024, from the Office of the Secretary of State of New Hampshire. If your company is not registered, an application form may be obtained from:

Secretary of State
State House Annex
25 Capitol Street
Concord, New Hampshire 03301
603-271-3244

If your company is registered, a Certification thereof may be obtained from the Secretary of State using the following link: http://sos.nh.gov/formslaws.aspx.

B. CERTIFICATE OF AUTHORITY/VOTE

The Certificate of Authority/Vote authorizes, by position, a representative(s) of your corporation to enter into an Agreement or amendment with the State of New Hampshire. This ensures that the person signing the Agreement is authorized as of the date he or she is signing it to enter into Agreements for that organization with the State of New Hampshire.

The officer's signature must be either notarized or include a corporate seal that confirms the title of the person authorized to sign the Agreement. The date the Board officer signs must be

on or after the date the amendment is signed. The date the notary signs must match the date the Board Officer signs.

You may use your own format for the Certificate of Authority/Vote as long as it contains the necessary language to authorize the Agreement signatory to enter into Agreements and amendments with the State of New Hampshire as of the date they sign.

C. CERTIFICATE OF AUTHORITY/VOTE CHECKLIST

C.1 SOURCE OF AUTHORITY

Authority must come from the governing body, either:

1. A majority voted at a meeting; or
2. The body provided unanimous consent in writing; or
3. The organization's policy or governing document.

C.2 SOURCE OF AUTHORITY WAS IN EFFECT ON DAY AGREEMENT OR AMENDMENT WAS SIGNED

Certificate must show that the person signing the contract had authority when they signed the Agreement or Amendment, either:

1. Authority was granted the same day as the day the Agreement or Amendment was signed; or
2. Authority was granted after the day the Agreement or Amendment was signed and the governing body ratifies and accepts the earlier execution; or
3. Authority was granted prior to the day the Agreement or amendment was signed and it has not been amended or repealed as of the day the contract was signed.

C.3 APPROPRIATE PERSON SIGNED THE CERTIFICATE

The person signing the certificate may be the same person signing the Agreement or Amendment only if the certificate states that the person is the sole director (for Corps) or sole member (for LLCs).

D. CERTIFICATE OF INSURANCE shall consist of the following:

1. Comprehensive general liability insurance against all claims of bodily injury, death or property damage ($1,000,000 per occurrence and $2,000,000 aggregate);
2. Workers' Compensation and Employers' Liability insurance;
3. Excess Umbrella Liabiliy Insursance;
4. Department of Corrections of the State of NH shall be additonally insured; and
5. Certificate Holder must be: State of NH, Department of Corrections, P.O. Box 1806, Conocrd, NH 03302.

E. WORKERS COMPENSATION

1. Workers Compensation coverage may be indicated on the insurance form described above.
2. Workers Compensation coverage must comply with State of NH RSA 281-A

F. APPENDIX G-4: RELATED DOCUMENTS REQUIRED FOR AN AWARD OF A CONTRACT

1. P-37 (VERSION 2/23/2023) STATE OF NEW HAMPSHIRE LONG FORM CONTRACT available on: https://www.corrections.nh.gov/resources/bids-contracts/rfp-resources.
2. CERTIFICATE OF GOOD STANDING dated after April of the current year and available from the NH Department of Secretary of State, available on: www.sos.nh.gov/corporate/Forms.html.
3. CERTIFICATE OF VOTE (Appendix G). Generic forms may be used and available on: http://www.nh.gov/nhdoc/business/rfp_bidding_tools.htm.
4. CERTIFICATE OF INSURANCE (Appendix G)
5. COMPREHENSIVE GENERAL LIABILITY INSURANCE ACKNOWLEDGEMENT FORM, form available on: http://www.nh.gov/nhdoc/business/rfp_bidding_tools.htm.
6. ALTERNATE W-9 REGISTRATION, link: https://www.das.nh.gov/purchasing/docs/info/Vendor-Application-and-W9.pdf
7. NH DOC ADMINISTRATIVE RULES, CONDUCT AND CONFIDENTIALITY AGREEMENT, form available on: http://www.nh.gov/nhdoc/business/rfp_bidding_tools.htm.
8. PRISON RAPE ELIMINATION ACT (PREA) form available on: https://www.corrections.nh.gov/resources/bids-contracts/rfp-resources
9. FEDERAL BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFORMATION SERVICES SECURITY (CJIS) ADDENDUM AGREEMENT, form available on: http://www.nh.gov/nhdoc/business/rfp_bidding_tools.htm.
10. Additional information referenced in the CJISS Addendum Agreement can be found at: https://www.corrections.nh.gov/resources/bids-contracts/rfp-resources.

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EXHIBIT C – PRICE AND PAYMENT SCHEDULE

The terms outlined in the Payment Schedule is set forth below:

1. PAYMENT SCHEDULE

1.1. No Cost Contract

The Contractor shall be responsible for all costs incurred or required to fully implement this project. Contractor costs shall include, but are not limited to, software, hardware, development, networking infrastructure, installation (network and equipment) and technical support; LAN, WAN, switches, firewalls, ethernets, routers, servers, SFTP exchanges, UPS, circuits; scanners, workstations (thin-clients & scanners), printers, cameras; planning and management, cloud hosting, monitoring, security, patches & updates, back-ups, licensing, testing, training, warranties, labor, vehicle and vehicle fuel, maintenance, insurance and taxes, inventory merchandise and materials. Contractor shall be solely responsible for the costs of providing, maintaining and monitoring the network and all cloud-based back-ups and redundancy, ongoing support and technology refreshed by updating the software when any new versions are available. The contract shall deliver all merchandise to the NHDOC at no cost.

The contract shall be for the period between the Effective Date and extend through December 31, 2029. The Term may be extended up to five (5) years, ("Extended Term") at the sole option of the State, subject to the parties' prior written agreement for each extended term.

1.2. Reimbursements

The Contractor shall reimburse the NHDOC from the proceeds of the sales of products through the canteen/commissary and any associated package programs or other provided services that are covered under this contract. Reimbursement shall be provided as a flat percentage of total sales. In addition, Contractors shall reimburse, by expense type (i.e. Rent, Staff, etc.).

1.3. Future Contractor Rates Worksheet

The State may request additional services from the selected Contractor and requires rates in the event that additional service is required. The following format must be used to provide this information. "SFY" refers to State Fiscal Year. The NH State Fiscal Year runs from July 1 through June 30 of the following calendar year. Positions not identified in the Proposed Position Worksheet may be included in the Future Contractor Rates Worksheet.

Table 1.3: Future Contractor Rates Worksheet

Position Title	SFY 2025	SFY 2026	SFY 2027	SFY 2028	SFY 2029
Management	$0.00	$0.00	$0.00	$0.00	$0.00
Software Development	$0.00	$0.00	$0.00	$0.00	$0.00
Infrastructure Services	$0.00	$0.00	$0.00	$0.00	$0.00
Equipment & Materials	$0.00	$0.00	$0.00	$0.00	$0.00

1.4. Software Licensing, Maintenance Support Pricing Worksheet
Pricing must reflect the payment of maintenance through the contract end date. Price estimate should reflect the most optimistic implementation date. Actual payments may differ from the estimate if project start date slips or if implementation takes longer as this will cause a shorter maintenance period. Table should be customized to reflect the project and the cost composing the Contractor's proposal.

Table 1.4: Software Licensing, Maintenance and Support Pricing Worksheet

Service	SFY 2025	SFY 2026	SFY 2027	SFY 2028	SFY 2029	TOTAL
Web Site Hosting Fee	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Technical Support and Updates	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Maintenance and Updates	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Licensing	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
GRAND TOTAL	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00

2. CONTRACTOR NO COST INVESTMENTS TO THE NHDOC
Contractor proposes a comprehensive package of investment, financing, revenue-sharing and reimbursements to ensure that the NHDOC has all of the tools, resources and support needed to operate a successful state-wide canteen/commissary program to include, but not limited to Table 2: Contractor No Cost Investments Value Worksheet.

Table 2: Contractor No Cost Investments Value Worksheet

Service Investment	Investment Value
Marketing (Posters, Catalogs, Postage)	$8,000
IVR/Web App Hosting	$16,000
LAN/WAN Redundant Circuits	$9,300
Partner Portal Hosting & Support	$8,200
Scanners, Workstations, Tables, Conduit, Server Cabinets w/ Fan & UPS installed	$60,569
Warehouse Security Cameras	$30,000
Initial Commissary Inventory (3 Week)	$116,538
SQL Server & VMWare Licensing & User Licenses	$5,000
WMS Scan Station Server & User Licenses	$6,000
Tablet Integration Development	$20,000
SIP Transfer & Web Call-Out Network & Security	$6,200
26-Foot Box Truck	$23,760
Preventative Maintenance Plan	$2,400
Truck Fuel	$6,825
Truck Insurance	$3,500
Plastic Pallets & Totes w/ External Sleeves	$10,000
Total No Cost Investments	$332,292.00

3. **CONTRACTOR REIMBURSEMENTS**

Contractor proposes a comprehensive package of investment, financing, revenue-sharing and reimbursements to ensure that the NHDOC has all of the tools, resources and support needed to operate a successful state-wide canteen/commissary program to include, but not limited to Table 3: Contractor Reimbursement Value Worksheet.

Table 3: Contractor Reimbursement Value Worksheet

Contractor Cost Reimbursement to NHCI	Reimbursement Value
Warehouse Space Utilization	$12,000
(3) FTE Staff Estimated @ $106,200/Year each*	$318,600
(16) FTE Residents	$17,472
Warehouse Consumable Bags, Boxes, Box Dividers, Printer Paper & Ink Cartridges @ $1,120/week	$58,240
Warehouse Improvements Reimbursement Allowance ($10,000 per year for the initial 5-year term of contract).	$50,000
Total Contractor Reimbursement Value	$456,312

*Union Supply will reimburse NHCI for actual wage and benefit expenses incurred & billed monthly by NHCI.

4. **CONTRACTOR CANTEEN COMMISSARY REVENUE COMMISSION**
Contractor proposes a comprehensive package of investment, financing, revenue-sharing and reimbursements to ensure that the NHDOC has all of the tools, resources and support needed to operate a successful state-wide canteen/commissary program to include, but not limited to Table 4: Contractor Canteen Commissary Revenue Commission Worksheet.

Table 4: Contractor Canteen Commissary Revenue Commission Worksheet

Contractor Canteen Revenue Commissary Commission
15% Commission on Canteen Commissary Sales (no unit price increase)

5. **Contractor Food Package/Property Revenue Commission**
Contractor proposes a comprehensive package of investment, financing, revenue-sharing and reimbursements to ensure that the NHDOC has all of the tools, resources and support needed to operate a successful state-wide canteen/commissary program to include, but not limited to Table 5: Contractor Food Package/Property Commission Worksheet.

Table 5: Contractor Commissary Food Package Commission Worksheet

Contractor Commissary Food Package Commission
15% Commission on Food Package Program
15% Commission on Property Package Programs
15% Hygiene Package Program *

*Added Value Option

6. **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 Section 1.8., *Form P-37 (v. 2/23/2023) General Provisions*, ("Price Limitation"). The payment by

the State of the total contract price shall be the only, and the complete reimbursement to the Contractor, if applicable, for all fees and expenses, of whatever nature, incurred by the Contractor in the performance hereof.

7. **TRAVEL EXPENSES**
The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the services perfonned under this contract. The Contractor must assume all travel and related expenses incurred by Contractor in performance of its obligations.

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

9. **INVOICING**
The NHDOC shall submit correct invoices to the Contractor for all amounts to be paid by the Contractor. The NHDOC shall only submit invoices for services or deliverables as permitted by the Contract. Invoices will 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.

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

Invoices shall be sent to:

Invoices
Union Supply Commissary Solutions-USCS
Accounts Receivable
P.O. Box 208576
Dallas TX 75320

The remainder of this page is intentionally blank.

10. PAYMENT SCHEDULE AND ADDRESS

Table 10: Payment Schedule and Address by Program

Table 10 Payment Schedule and Address			
Program Type	Contractor Reimbursements[1]	Canteen[2]	Package [3]
Payable To	Treasurer. State of NH	Treasurer. State of NH	State of New Hampshire Department of Corrections Recreation Fund
Payment Address	NH Department of Corrections P.O. Box 1806 Concord, NH 03302	NH Department of Corrections P.O. Box 1806 Concord, NH 03302	NH Department of Corrections P.O. Box 1806 Concord, NH 03302
Payment Schedule	Monthly	Monthly	Upon completion of seasonal program Quarterly

Table 10 Payment Schedule and Address			
Program Type	**Contractor Reimbursements[1]**	**Canteen[2]**	**Package [3]**
Payable To	Treasurer, State of NH	Treasurer, State of NH	State of New Hampshire Department of Corrections Recreation Fund
Payment Address	NH Department of Corrections P.O. Box 1806 Concord, NH 03302	NH Department of Corrections P.O. Box 1806 Concord, NH 03302	NH Department of Corrections P.O. Box 1806 Concord, NH 03302
Payment Schedule	Monthly	Monthly	Upon completion of seasonal program Quarterly

[1] Exhibit C, *Price And Payment Schedule*, Section 3, Table 3: Contractor Reimbursement Value Worksheet.

[2] Exhibit C, *Price And Payment Schedule*, Section 3, Table 4: Contractor Canteen Commissary Revenue Commission Worksheet.

[3] Exhibit C, *Price And Payment Schedule*, Section 3, Table 5: Contractor Food Package/Property Revenue Commission Worksheet.

11. **OVERPAYMENTS TO THE CONTRACTOR**
The NHDOC shall promptly, but no later than fifteen (15) business days, return to the Contractor the full amount of any overpayment or erroneous payment, if applicable, upon discovery or notice from the State.

12. **CREDITS**
The Contractor shall apply credits due, when applicable, to the State arising from overpayments by the Contractor out of this contract, against the NHDOC's invoices with appropriate information attached.

13. **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.

14. **PROJECT HOLDBACK**
Not Applicable.

15. **USE OF TRUCK**
Only drivers authorized by the State shall operate a Contractor-owned or leased vehicle for purposes relating to this contract, provided the following minimum requirements are met as to each authorized driver:
    - 15.1 The Contractor shall make available of additional use of truck for NHCI deliveries as long as such deliveries do not interfere with the delivery of canteen items or contract above for uninterrupted delivery to locations of NHDOC for the conduct of business use.
    - 15.2 The driver has completed and signed an application for employment meeting the requirements of 49 C.F.R. 391.21;
    - 15.3 The driver has a valid and proper class driver's license issued by the State of New Hampshire;
    - 15.4 The driver passes a physical exam upon hiring, conducted by a licensed medical examiner listed on the National Registry of Certified Medical Examiners for Non-COL drivers;
    - 15.5 The driver passes a road test administered by the State, with a certificate of completion being issued, in accordance with 49 C.F .R. 391.31;
    - 15.6 The State shall collect and review a current motor vehicle record covering the preceding twelve (12) months for each driver to determine whether the driver still meets the minimum requirements for safe driving (the State should consider the driver's accident record and any evidence that the driver has violated laws governing the safe operation of a motor vehicle);
    - 15.7 The State will periodically check motor vehicle records and require employees to report convictions impacting their motor vehicle record and report accident, and/or driving record violations.
    - 15.8 The State will endure that employee(s) will complete defensive driving course upon hire and refresher course, every three (3) years and
    - 15.9 All certifications and documentation demonstrating compliance with the above requirements shall be maintained by the State in the driver's qualification file for as long as the driver is employed by the State and for three (3) years thereafter.

16. **WAREHOUSE UPGRADES**

Contractor will reimburse NHDOC up to Ten Thousand ($10,000) Dollars per year for warehouse upgrades during the first five (5) years of the initial contract.

Any and all reimbursement(s) not utilized in Year 1 will be rolled over into Year 2, giving the state up to $20,000 in reimbursements in Year 2 and so forth. Total reimbursement allowance for initial five (5) year term is Fifty Thousand ($50,000.00) Dollars.

17. **CONTRACTOR PRICE INCREASES AND SUBSTITUTIONS**

Contractor may adjust pricing on canteen commissary items, or request to substitute items, once every six (6) months, following the Effective Date. Contractor shall provide the State with written notice of such price adjustments or item substitutions at least thirty (30) days prior to the date any such price adjustments or requested substitutions are to become effective. Price adjustments shall be based on actual supplier price/cost increases due to an increase in the cost of raw materials, production and manufacturing processes, or taxes. No proposed price adjustments or item substitutions will be effective without the State's prior consent, which shall not be unreasonably withheld, and in no event shall such consent be withheld for more than fourteen (14) days from Contractor's written notice. The State shall respond to such notifications and requests within a commercially reasonable time period. Contractor shall also provide the state, on an annual basis, a market analysis on pricing to ensure reasonable rates for products.

In the event a canteen commissary item becomes discontinued by the supplier/manufacturer or otherwise unavailable to Contractor for reasons beyond Contactor's reasonable control, contractor shall recommend new items to be substituted for the discontinued or unavailable item for the State to select and approve. Substitution requests for the reasons stated in this Section may be made at any time during the term and any renewal terms of the contract. The State shall respond to such substitution requests within a commercially reasonable time period, and shall not unreasonably withhold its approval. It is requested that Contractor provide a 2-week replacement time period of replacement of discontinued items. Additionally, product replacement must be similar product in price, quality, unit of measure or other logics. The Contractor may also be asked to supply possible replacement product samples.

EXHIBIT D – SOFTWARE LICENSE AGREEMENT

The terms outlined in the Software License Agreement are set forth below:

1. **LICENSE GRANT**
Subject to the payment of applicable license fees, Contractor hereby grants to the State a revocable, 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.

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.

3. **SOFTWARE AND DOCUMENTATION COPIES**
Contractor shall provide the State with one (1) electronic version (Microsoft Word and PDF format) of the Software's associated documentation. The State shall have the right to copy the software and its associated documentation within its possession for its internal business needs. To the extent that the State does not have possession of the software, Contractor shall provide a copy of the software and associated documentation upon request. The State agrees to include copyright and proprietary notices provided to the State by the Contractor on such copies.

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 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.

5. **VIRUSES**
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.

6. **AUDIT**
Upon forty-five (45) days written notice, Contractor may audit the State's use of the programs at Contractor's sole expense. The State agrees to cooperate with Contractor's audit and provide reasonable assistance and access to information. The State agrees that Contractor shall not be responsible for any of the State's reasonable costs incurred in cooperating with the audit.

Notwithstanding the foregoing, 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 and 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, Contractor shall defend and indemnify the State against the claim provided that the State:

a. Promptly notifies Contractor in writing, not later than 30 days after the State receives actual written notice of such claim;
b. Gives Contractor control of the defense and any settlement negotiations; and
c. Gives 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 Contractor believes or it is determined that any of the contracted resources may have violated someone else's intellectual property rights, 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, Contractor may end the license, and require return of the applicable contracted resources and refund all fees the State has paid Contractor under the contract.

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. **CUSTOM SOFTWARE**

Any and all software required to provide the services under this Agreement, shall be provided to the State at no cost. Source code of the software is not required under this Agreement and shall not be provided.

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:

DISPUTE RESOLUTION RESPONSIBILITY AND SCHEDULE TABLE			
LEVEL	CONTRACTOR POINT OF CONTACT	STATE POINT OF CONTACT	CUMULATIVE ALLOTTED TIME
Primary	Project Manager 1	Project Manager	5 Days
First	Project Manager 2	Project Sponsor	10 Days
Second	Contract Manager	Contract Manager	10 Days
Third	Vice President	DoIT Commissioner	15 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.

3. 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.

4. 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.

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.
Acceptance Period	The timeframe during which the acceptance Test is performed.
Acceptance Test Plan	The Acceptance Test Plan provided by the Contractor and agreed to by the State that describes at a minimum, the specific acceptance process, criteria, and Schedule for deliverables.
Access Control	Supports the management of permissions for logging onto a computer or network.
Agreement	A contract duly executed and legally binding.
Appendix	Supplementary material that is collected and appended at the back of a document.
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system.
Breach or Breach of Security	Unlawful and unauthorized acquisition of unencrypted computerized data that materially compromises the security, confidentiality or integrity of personal information maintained by a person or commercial entity.
Business Hours	Contractor personnel shall work normal business hours between 8:00 a.m. and 5:00 p.m. EST, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this Schedule may be made upon agreement with the State Project Manager.
Certification	The Contractor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Contractor has completed development of the deliverable and certified its readiness for applicable acceptance testing or review.
Change Control	Formal process for initiating changes to the proposed solution or process once development has begun.
Change Order	Formal documentation prepared for a proposed change in the specifications.
Completion Date	End date for the contract. (See Contract Agreement, P-37 General Provisions. Block 1.7)
Confidential Information	Information required to be kept Confidential and restricted from unauthorized disclosure under the contract. "Confidential Information" or "Confidential Data" means all private/restricted confidential information disclosed by one party to the other. Confidential Information includes any and all information owned or managed by the State of NH of which

	collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes but is not limited to Personal Health Information (PHI), Personally Identifiable Information (PII), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.
Contract	An Agreement between the State of New Hampshire and a Contractor, which creates binding obligations for each party to perform as specified in the contract Documents.
Contract Agreement	The documentation consisting of the P-37 General Provisions, IT Provisions, and the Exhibits which represents the understanding and acceptance of the reciprocal legal rights and duties of the parties with respect to the Scope of Work.
Contract Managers	The persons identified by the State and the Contractor who shall be responsible for all Contractual authorization and administration of the contract. These responsibilities shall include but not be limited to processing contract documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all contract administrative activities.
Contract Price	The total, not to exceed amount to be paid by the State to the Contractor for product and services described in the Contract Agreement. This amount is listed in Part 1, P-37 General Provisions – Section 1.8: *Price Limitation*, as well as Exhibit C – Paragraph 6: *Contract Price*.
Contractor	The Contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.
Contracted Contractor/Contractor	The Contractor whose proposal or quote was awarded the contract with the State and who is responsible for the services and deliverables of the contract.
Conversion/Migration Validation Test	A test to ensure that a data conversion process correctly takes data from a legacy system and successfully converts it to form that can be used by the new system.
COTS	Commercial Off the Shelf Software.
CR	Change Request
Custom Code	Code developed by the Contractor specifically for this project for the State of New Hampshire.
Custom Software	Software developed by the Contractor specifically for this project for the State of New Hampshire.

Data Breach	Data 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, "Data Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
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.
DBA	Database Administrator
Deliverable	Any written, software, or non-software item (letter, report, manual, book, code, or other) provided by the Contractor to the State or under the terms of a contract requirement.
Department	An agency of the State.
Department of Information Technology (DoIT)	The Department of Information Technology established under RSA chapter 21-R by the Legislature effective September 5, 2008.
Digital Signature	Certification that guarantees the unaltered state of a file, also known as "code signing".
Documentation	All information that describes the installation, operation, and use of the software, either in printed or electronic format.
Effective Date	The contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the contract.
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.
Event of Default	Any one or more of the following acts or omissions of a Contractor shall constitute an Event of Default hereunder ("Event of Default"): a. Failure to perform the services on schedule; b. Failure to submit any report required; and/or Failure to perform any other covenant, term or condition of the contract.
Firm Fixed Price Contract	A Firm Fixed Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Contractor's cost experience in performing the contract.
Fully Loaded	Rates are inclusive of all allowable expenses, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses.
GAAP	Generally Accepted Accounting Principles.
Governor & Executive Council	The New Hampshire Governor and Executive Council.

Harvest	Software to archive and/or control versions of software.
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.
Implementation Plan	Sets forth the transition from development of the system to full operation, and includes without limitation, diet, business and technical procedures.
Non-Public Information	Information, other than personal information, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.
Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, data processing, computing, information systems, telecommunications, and various audio and video technologies.
Input Validation	Ensure that the value entered by users or provided by other applications meets the size, type and format expected. Protecting the application from cross site scripting, SQL injection, buffer overflow, etc.
Intrusion Detection	Supports the detection of illegal entrance into a computer system.
Invoking Party	In a dispute, the party believing itself aggrieved.
Key Project Staff	Personnel identified by the State and by the contracted Contractor as essential to work on the project.
Licensee	The State of New Hampshire
Non-Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the deliverables or services provided under the contract.
Non-Public Information	Data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.
Non-Software Deliverables	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other.

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.
Operating System	System is fully functional, all data has been loaded into the system, is available for use by the State in its daily operations.
Operational	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	"Personal Information" (or "PI") or "Personally Identifiable Information" (PII) 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.
Project	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.
Project Team	The group of State employees and contracted Contractor's personnel responsible for managing the processes and mechanisms required such that the services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality.
Project Managers	The persons identified who shall function as the State's and the Contractor's representative with regard to review and acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Requests (CR) utilizing the Change Control Procedures (CCP).
Project Staff	State personnel assigned to work with the Contractor on the project.
Proposal	A written plan put forth by a Contractor for consideration in response to a solicitation by the State.
P-37	State of New Hampshire Long Form Contract
Regression Test Plan	A plan integrated into the Work Plan used to ascertain whether fixes to Defects have caused errors elsewhere in the application/process.
Review	The process of reviewing deliverables for acceptance.
Review Period	The period set for review of a deliverable. If none is specified, then the review period is five (5) business days.
RFP (Request for Proposal)	A Request For Proposal solicits proposals to satisfy State functional requirements by supplying data processing product and/or service resources according to specific terms and conditions.

Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network.
Schedule	The dates described in the Work Plan for deadlines for performance of services and other project events and activities under the contract.
Security Incident	"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.
Services	The work or labor to be performed by the Contractor on the project as described in a contract.
Software	All Custom, SAAS and COTS software 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 client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The State does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
Solution	A proposed set of software and services addressing the requirements and terms of the RFP or sole source project.
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	STATE is defined as: State of New Hampshire NH Department of Corrections Mailing Address: P.O. Box 1806 Concord, NH 03302

Statement Of Work (SOW)	A Statement Of Work clearly defines the basic requirements and objectives of a project. The Statement of Work also defines a high-level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Contractor. The Contract Agreement SOW defines the results that the Contractor remains responsible and accountable for achieving.
State's Confidential Records	State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to RSA chapter 91-A: Access to Governmental Records and Meetings.
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.
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.
State Project Leader	State's representative with regard to project oversight.
State's Project Manager (PM)	State's representative with regard to Project Management and technical matters. Agency Project Managers are responsible for review and acceptance of specific Contract Deliverables, invoice sign off, and review and approval of a Change Request (CR).
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.
System	All software, specified hardware, interfaces and extensions, integrated and functioning together in accordance with the specifications.
Technical Authorization	Direction to a Contractor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: 1. Consistent with Statement of Work within statement of services; 2. Not constitute a new assignment; and not change the terms, documents or specifications of the SOW.
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	Period of the contract from the Effective Date through the Completion Date identified in the P-37 General Provisions or termination.

Transition Services	Services and support provided when the contracted Contractor is supporting system changes.
UAT	User Acceptance Test.
Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
User Acceptance Testing (UAT)	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.
Contractor/ Contracted Contractor	The Contractor whose proposal or quote was awarded the contract with the State and who is responsible for the services and deliverables of the contract.
Virtual Private Network (VPN)	Extends a private network across a public network, and enables users to send and receive data across shared or public networks as if their computing devices were directly connected to the private 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.
Warranty Releases	Code releases that are done during the Warranty Period.
Warranty Services	The services to be provided by the Contractor during the Warranty Period.
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: *Business/Technical Requirements and Deliverables*. The Work Plan shall include a detailed description of the Schedule, tasks/activities, deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.
Written Deliverables	Non-Software written Deliverable Documentation (letter, report, manual, book, other) provided by the Contractor either in paper or electronic format.

EXHIBIT G – ATTACHMENTS AND CONTRACTOR CERTIFICATES

1. **ATTACHMENTS**
   a. Attachment 1 - Business and Technical Requirements (if including as an attachment rather than inserting directly into Exhibit B)
   b. Attachment 2 - Agency Compliance Documents

Form Number P-37 (version 02/23/2023); Certificate of Good Standing (COGS); Certificates of Authority/Vote (COA/COV); Certificate of Insurance (COI); Administrative Rules, Rules of Conduct, Confidentiality of Information Agreements; Health Insurance Portability and Accountability Act - Business Associate Agreement (HIPAA); PREA Acknowledgement Form; Mission Statement, Board of Directors/Trustees and Business Address and Telephone Numbers, List of Key Personnel, Resumes, and Annual Salary per Position, if applicapable and ALT-W9 Registration shall be applicable for the requested contracted activities and, for the exception of the Certificate of Good Standing (COGS), are located as a separate link on the NHDOC website: https://www.corrections.nh.gov/resources/bids-contracts/rfp-resources

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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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 UNION SUPPLY GROUP, INC. is a California Profit Corporation registered to transact business in New Hampshire on September 04, 2018. 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: **802466**
Certificate Number: **0006658525**

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 3rd day of April A.D. 2024.

David M. Scanlan
Secretary of State

CERTIFICATE OF AUTHORITY

May 14, 2024

I, Paige E. Fleming, do hereby certify that I am the Assistant Secretary of Union Supply Group, Inc., a California Corporation (the "**Company**"), in which capacity I am authorized to execute this Certificate on behalf of the Company and further certify that:

1. The following is a copy of a resolution that relates to the authorization of certain officers of the Company to execute contracts for and in the name of the Company, which resolution was duly adopted by unanimous written consent by the Company. Such resolution has not been amended or rescinded but remains in full force and effect on the date hereof:

> **RESOLVED**, that the President or any Vice President or the Chief Financial Office or the Treasurer of the Company, while acting in such capacity, be and each hereby is authorized and empowered to negotiate, enter into and execute for and in the name of the Company, any and all agreements, assignments, contracts (including without limitation bids and proposals), leases, and other instruments relating to the business of the Company; provided, however, that such authorization specifically does not apply to bonds, promissory notes or other evidences of indebtedness and pledges, mortgages or other hypothecation of assets of the Company, or the guarantee or assumption of obligations of any third party, either directly or indirectly.

2. Stephen Yarsinsky is the duly elected, qualified and acting Vice President of the Company, and as such is authorized to execute contracts on behalf of the Company.

IN WITNESS WHEREOF, I have subscribed my name as Assistant Secretary of the Company as of the date set forth above.

By: Paige E. Fleming

Title: Assistant Secretary

Client#: 1555191 UNIONSUP1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/31/2023

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

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

PRODUCER
USI Insurance Services, LLC
Lic # 0G11911
21250 Hawthorne Blvd. Suite 600
Torrance, CA 90503

CONTACT NAME: Yen Dang
PHONE (A/C, No, Ext): 424-390-0051 FAX (A/C, No):
E-MAIL ADDRESS: yen.dang@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Charter Oak Fire Insurance Company	25615
INSURER B : Travelers Property Cas. Co. of America	25674
INSURER C : Travelers Indemnity Company	25658
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Union Supply Group, Inc.
2500 Regent Blvd
Dallas, TX 75261-7006

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			Y6307T074705COF23	08/01/2023	08/01/2024	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000
							MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY			8106T7891232314G	08/01/2023	08/01/2024	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
							HAPD Ded.	$1,000/1,000
B	X UMBRELLA LIAB X OCCUR			CUP6T7950492314	08/01/2023	08/01/2024	EACH OCCURRENCE	$10,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$10,000,000
	DED X RETENTION $10,000							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			UB6T7926252314G	08/01/2023	08/01/2024	X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
State of New Hampshire, NH Department of Corrections are Additional Insured as it relates to General Liability and Automobile Liability where required by written contract.

CERTIFICATE HOLDER

State of New Hampshire
NH Department of Corrections
105 Pleasant Street
Concord, NH 03301

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
DIVISION OF ADMINISTRATION
P.O. BOX 1806
CONCORD, NH 03302-1806
603-271-5610 FAX: 888-908-6609
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HELEN E. HANKS
COMMISSIONER

JONATHAN K. HANSON
DIRECTOR

PRISON RAPE ELIMINATION ACT

ACKNOWLEDGEMENT FORM

The Prison Rape Elimination Act (PREA) of 2003 (with Final Rule August 2012) is a federal law established to address the elimination and prevention of sexual assault and sexual harassment within correctional systems and detention facilities. This Act applies to all correctional facilities, including prisons, jails, juvenile facilities and community corrections residential facilities. PREA incidents involve the following conduct:

- Resident-on-resident sexual assault
- Resident-on-resident abusive sexual contact
- Staff sexual misconduct
- Staff sexual harassment, assault of a resident

The act aimed to curb prison rape through a "zero-tolerance" policy, as well as through research and information gathering. The NH Department of Corrections has zero tolerance relating to the sexual assault/rape of offenders and recognizes these offenders as crime victims. Due to this recognition and adherence to the federal Prison Rape Elimination Act (PREA) of 2003, the NH Department of Corrections extends the "zero tolerance" to the following:

- Contractor/subcontractor misconduct
- Contractor/subcontractor harassment, assault of a resident

As a Contractor and/or Subcontractor of the NH Department of Corrections, I acknowledge that I have been provided information on the Prison Rape Elimination Act of 2003 Public Law 108–79—Sept. 4, 2003 and have been informed that as a Contractor and/or Subcontractor of the NH Department of Corrections, sexual conduct between Contractor and/or Subcontractor and offenders is prohibited. Sexual harassment or sexual misconduct involving an offender can be a violation of NH RSA 632-A:2, 632-A:3 and 632-A:4, Chapter 632-A: Sexual Assault and Related Offenses, and result in criminal prosecution.

As a Contractor and/or Subcontractor of the NH Department of Corrections, I understand that I shall inform all employees of the Contractor and/or Subcontractor to adhere to all policies concerning PREA, RSA 632-A:2, RSA 632-A:3, RSA 632-A:4 and departmental policies including NHDOC Administrative Rules, Conduct and Confidentiality Information regarding my conduct, reporting of incidents and treatment of those under the supervision of the NH Department of Corrections. (Ref. RSA Chapter 632-A, and Administrative Rules, Rules of Conduct for Persons Providing Contract Services, Confidentiality of Information Agreement).

Name (print): LD Hay **Date:** 10/31/23
(Name of Contract Signatory)

Signature: [signature]
(Signature of Contract Signatory)

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

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

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

d. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

e. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).

f. "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.

g. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

h. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.

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

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

k. 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.

(2) 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, the Business Associate shall not, and shall ensure that its directors, officers, employees and agents, do 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 immediately notify Business Associate of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

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

e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions on the 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) <u>Obligations and Activities of Business Associate</u>

a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving Covered Entity data, of which it becomes aware, within two (2) business days of becoming aware of such unauthorized use or disclosure or security incident.

b. Business Associate shall use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of protected health information, in electronic or any other form, that it creates, receives, maintains or transmits under this Agreement, in accordance with the Privacy and Security Rules, to prevent the use or disclosure of PHI other than as permitted by the Agreement.

c. 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.

d. 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)b and (3)k herein. The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be

receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of use and disclosure of protected health information.

e. 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.

f. 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.

g. 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.

h. 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.

i. 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.

j. 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.

k. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) <u>Obligations of Covered Entity</u>

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 standard provision #10 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, as 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 and the Privacy and Security Rule.

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

f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section 3 k, the defense and indemnification provisions of section 3.d and standard contract provision #13, shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT BUSINESS ASSOCIATE AGREEMENT.

State of NH-Department of Corrections	Union Supply Group, Inc.
State of New Hampshire Agency Name	Contractor Name
Signature of Authorized Representative	Contractor Representative Signature
Helen F. Hanks	LD Hay
Authorized DOC Representative Name	Authorized Contractor Representative Name
Commissioner	Executive Vice President
Authorized DOC Representative Title	Authorized Contractor Representative Title
5/14/2024	10/31/23
Date	Date

NH DEPARTMENT OF CORRECTIONS
CONFIDENTIALITY OF INFORMATION AGREEMENT

I understand and agree that all employed by the organization/agency I represent must abide by all rules, regulations and laws of the State of New Hampshire and the NH Department of Corrections that relate to the confidentiality of records and all other privileged information.

I further agree that all employed by or subcontracted through the organization I represent are not to discuss any confidential or privileged information with family, friends or any persons not professionally involved with the NH Department of Corrections. If inmates or residents of the NH Department of corrections, or, anyone outside of the NH Department of Corrections' employ approaches any of the organization's employees or subcontractors and requests information, the staff/employees of the organization I represent will immediately contact their supervisor, notify the NH Department of Corrections, and file an incident report or statement report with the appropriate NH Department of Corrections representative.

Any violation of the above may result in immediate termination of any and all contractual obligations.

LD Hay		10/31/23
Name	Signature	Date

NH DEPARTMENT OF CORRECTIONS

RULES OF CONDUCT FOR PERSONS PROVIDING CONTRACT SERVICES

1. Engaging in any of the following activities with persons under departmental control is strictly prohibited:
    a. Any contact, including correspondence, other than the performance of your services for which you have been contracted.
    b. Giving or selling of anything
    c. Accepting or buying anything

2. Any person providing contract services who is found to be under the influence of intoxicants or drugs will be removed from facility grounds and barred from future entry to NH Department of Corrections property.

3. Possession of any item considered to be contraband as defined in the New Hampshire code of Administrative Rules, Part COR 307 is a violation of the rules and the laws of the State of New Hampshire and may result in legal action under RSA 622:24 or other statutes.

4. In the event of any emergency situation, i.e., fire, disturbance, etc., you will follow the instructions of the escorting staff or report immediately to the closest available staff.

5. All rules, regulations and policies of the NH Department of Corrections are designed for the safety of the staff, visitors and residents, the security of the facility and an orderly flow of necessary movement and activities. If unsure of any policy and procedure, ask for immediate assistance from a staff member.

6. Harassment and discrimination directed toward anyone based on sex, race, creed, color, national origin or age are illegal under federal and state laws and will not be tolerated in the work place. Maintenance of a discriminatory work environment is also prohibited. Everyone has a duty to observe the law and will be subject to removal for failing to do so.

7. During the performance of your services you are responsible to the facility administrator, and by your signature below, agree to abide by all the rules, regulations, policies and procedures of the NH Department of Corrections and the State of New Hampshire.

8. In lieu of Contracted staff participating in the Corrections Academy, the Vendor through the Commissioner or his designees will establish a training/orientation facilitated by the Vendor to supplement this requirement and appropriate orient Vendor staff to the rules, regulations, policies and procedures of the Department of Corrections and the State of New Hampshire.

LD Hay		10/31/23
Name	Signature	Date

NH DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE RULES

Cor 307 Items Considered Contraband. Contraband shall consist of:

a) Any substance or item whose possession is unlawful for the person or the general public possessing it including but not limited to:
   (1) narcotics
   (2) controlled drugs or
   (3) automatic or concealed weapons possessed by those not licensed to have them.
b) Any firearm, simulated firearm, or device designed to propel or guide a projectile against a person, animal or target.
c) Any bullets, cartridges, projectiles or similar items designed to be projected against a person, animal or target.
d) Any explosive device, bomb, grenade, dynamite or dynamite cap or detonating device including primers, primer cord, explosive powder or similar items or simulations of these items.
e) Any drug item, whether medically prescribed or not, in excess of a one day supply or in such quantities that a person would suffer intoxication or illness if the entire available quantity were consumed alone or in combination with other available substances.
f) Any intoxicating beverage.
g) Sums of money or negotiable instruments in excess of $100.00.
h) Lock-picking kits or tools or instruments on picking locks, making keys or obtaining surreptitious entry or exit.
i) The following types of items in the possession of an individual who is not in a vehicle, but shall not be contraband stored in a secured vehicle:
   (1) knives and knife-like weapons, clubs and club-like weapons,
   (2) tobacco, alcohol, drugs including prescription drugs unless prior approval is granted in writing by the facility Warden/designee, or Director/designee,
   (3) maps of the prison vicinity or sketches or drawings or pictorial representations of the facilities, its grounds or its vicinity,
   (4) pornography or pictures of visitors or prospective visitors undressed,
   (5) radios capable of monitoring or transmitting on the police band in the possession of other than law enforcement officials,
   (6) identification documents, licenses and credentials not in the possession of the person to whom properly issued,
   (7) ropes, saws, grappling hooks, fishing line, masks, artificial beards or mustaches, cutting wheels or string rope or line impregnated with cutting material or similar items to facilitate escapes,
   (8) balloons, condoms, false-bottomed containers or other containers which could facilitate transfer of contraband.

COR 307.02 Contraband on prison grounds is prohibited. The possession, transport, introduction, use, sale or storage of contraband on the prison grounds without prior approval of the commissioner of corrections or his designee is prohibited under the provision of RSA 622:24 and RSA 622:25.

COR 307.03 Searches and Inspections Authorized.

a) Any person or property on state prison grounds shall be subject to search to discover contraband...
Travel onto prison grounds shall constitute implied consent to search for contraband. In such cases where implied consent exists, the visitor will be given a choice of either consenting to the search or immediately leaving the prison grounds. Nothing in this rule however, prevents non-consensual searches in situations where probable cause exists to believe that the visitor is or had attempted to introduce contraband into the prison pursuant to the law of New Hampshire concerning search, seizure and arrest.

b) All motor vehicles parked on prison grounds shall be locked and have the keys removed. Custodial personnel shall check to insure that vehicles are locked and shall visually inspect the plain view interior of the vehicles. Vehicles discovered unlocked shall be searched to insure that no contraband is present. Contraband discovered during searches shall be confiscated for evidence, as shall contraband discovered during plain view inspections.

c) All persons entering the facilities to visit with residents or staff, or to perform services at the facilities or to tour the facilities shall be subject to having their persons checked. All items and clothing carried into the institution shall be searched for contraband.

LD Hay		10/31/23
Name	Signature	Date

FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM

CERTIFICATION

I hereby certify that I am familiar with the contents of (1) the Security Addendum, including its legal authority and purpose; (2) the NCIC Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20, and agree to be bound by their provisions.

I recognize that criminal history record information and related data, by its very nature, is sensitive and has potential for great harm if misused. I acknowledge that access to criminal history record information and related data is therefore limited to the purpose(s) for which a government agency has entered into the contract incorporating this Security Addendum. I understand that misuse of the system by, among other things: accessing it without authorization; accessing it by exceeding authorization; accessing it for an improper purpose; using, disseminating or re-disseminating information received as a result of this contract for a purpose other than that envisioned by the contract, may subject me to administrative and criminal penalties. I understand that accessing the system for an appropriate purpose and then using, disseminating or re-disseminating the information received for another purpose other than execution of the contract also constitutes misuse. I further understand that the occurrence of misuse does not depend upon whether or not I receive additional compensation for such authorized activity. Such exposure for misuse includes, but is not limited to, suspension or loss of employment and prosecution for state and federal crimes.

_____ _____
Printed Name/Signature of Contractor Employee Date

LD Hay 10/31/23
Printed Name/Signature of Contractor Representative Date

Union Supply Group, Inc., Executive Vice President
Organization and Title of Contractor Representative