

**AGREEMENT
IN CONNECTION WITH
New Jersey State Waiver No. AN-100**

This Agreement is made effective as of July 17, 2020, by and between Logistics Health, Inc., ("LHI" or "contractor") which is a subsidiary of OptumServe and whose address is 328 Front Street South, La Crosse, WI 54601 and the State of New Jersey, Department of the Treasury, Division of Purchase and Property, whose address is 33 West State Street, 8th Floor, P.O. Box 039, Trenton, New Jersey 08625-0039, on behalf of the State of New Jersey, Department of Law & Public Safety (collectively, the "State"). LHI and the State are collectively the "Parties."

For good and valuable consideration, the Parties to this Agreement hereby agree as follows:

1. The Parties agree the agreement between LHI and the State consists of the following documents (which shall be collectively referred to as the "Contract"):
 - A. This Agreement;
 - B. The State of New Jersey Standard Terms and Conditions (Rev: 10/21/19) ("Standard Terms and Conditions"), as amended by the Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions ("Waivered Contracts Supplement," and collectively with the Standard Terms & Conditions, "Terms and Conditions")
 - C. OptumServe's Proposal ("Schedule A"), dated May 12, 2020;
 - D. Final Price Proposal ("Schedule B"); and
 - E. Scope of Work ("Schedule C").

In the event of a conflict in the terms and conditions among the documents comprising the contract, the above order shall prevail for purposes of the interpretation thereof (listed from highest ranking to lowest ranking). For the avoidance of doubt, the Terms and Conditions shall prevail over any other terms not otherwise amended by a written agreement signed by the parties.

2. The Parties acknowledge LHI will not be designing, creating or supplying any software or other information technology tools. Accordingly, and notwithstanding anything to contrary in the Terms and Conditions, all terms pertaining to the design, manufacture, or supply of software or other IT tools, including anything incidental thereto, are hereby expressly excluded and inapplicable to LHI. For the avoidance of doubt, Section D of the Waivered Contracts Supplement shall not apply to this Contract.
3. The Parties agree that because the contract does not involve a public work within the meaning of the following provisions and the statutes and regulations underlying them, the following sections of the Standard Terms and Conditions are not part of the Contract:
 - a) Section 2.3, Prevailing Wage Act;
 - b) Section 3.2, Public Works Contractor Registration Act;
 - c) Section 3.4, Building Service;
 - d) Section 3.5, The Worker and Community Right to Know Act;

- e) Section 3.7, Buy American;
 - f) Exhibit B, Mandatory Equal Employment Opportunity Language for Construction Contracts; and
 - g) Executive Order No. 151 Requirements.
4. The Parties agree the following sections of the Waivered Contracts Supplement are not part of the Contract:
- a) Section 3.8, Performance Security; and
 - b) Section 3.9 Retainage.
5. The Parties agree that because LHI has existing subcontractors, some of which may provide services to the State under the Contract Section 3.10 Subcontractor Utilization Plan shall only apply to new Subcontractors that will provide services to the State under this Contract
6. The Parties agree the Standard Terms and Conditions is amended as follows:
- a) Section 1, Standard Terms and Conditions Applicable to the Contract, is hereby amended and restated as follows:

Unless the contractor is specifically instructed otherwise in the Solicitation, the following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in the Solicitation and should be read in conjunction with same unless the Solicitation specifically indicates otherwise. Nothing in these terms and conditions shall prohibit the Director of the Division of Purchase and Property (Director) from amending a contract when the Director determines it is in the best interests of the State.

- b) Section 4, Indemnification and Insurance, subsection 4.1, Indemnification, is hereby amended as follows:

The contractor's liability to the State and its employees in third party suits shall be as follows:

- A. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result from the contractor's intentional or reckless misconduct, negligent or grossly negligent performance of the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;

- c) The following language is hereby added to the Contract as if it were originally part of the Standard Terms and Conditions as Section 4, Indemnification and Insurance, subsection 4.3, Limitation of Liability, as follows:

- A. The contractor's liability to the State for actual, direct damages resulting from the contractor's performance or non-performance of, or in any manner related to, the Contract for any and all claims, shall be limited in the aggregate to 200% of the fees paid to the contractor for the products or Services giving rise to such damages, except that such limitation of liability shall not apply to the following:
- i. The contractor's indemnification obligations as described in Section 4, Indemnification and Insurance, subsection 4.1, Indemnification, of the Contract; and
 - ii. The contractor's breach of its obligations of confidentiality described in Section 5.17 of the Waivered Contracts Supplement.
- B. The contractor shall not be liable for consequential or incidental damages even if the contractor has been advised of the possibility of such damages in advance.

- d) Section 4.2, Insurance, is hereby amended as follows:

The parties agree that renewal certificates shall be provided within 10 days of the expiration of the insurance.

- e) Section 5.7, Termination of Contract, is hereby amended and restated as follows:

In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments. If the Director terminates this contract for the convenience of the State, the contractor shall be paid for its reasonable costs incurred as a result of the termination for convenience.

- f) Section 5.11, Performance Guarantee of Contractor, is hereby amended and restated as follows:

- A. The contractor hereby certifies that:

All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

- B. The parties acknowledge that the COVID-19 test kits to be used in connection with this agreement are for diagnostic purposes only and may not in all cases provide a definitive result. As with all diagnostic tests, in a certain number of cases there can be incidences of false-positive and false-negative results. The parties further acknowledge that the COVID-19 test kits provided under this agreement may not be effective for any mutations of COVID-19. Except as expressly set forth in this Section 5.11 and to the extent prohibited by applicable law, the services and

products provided by contractor under this agreement are provided strictly "as-is," "as available," and "with all faults," and contractor makes no additional warranties or representations of any kind, whether express, implied, arising from course of dealing or usage of trade, or statutory as to the services, products, or any other matter whatsoever. Except to the extent prohibited by applicable law, contractor disclaims all other warranties and conditions of any kind, including but not limited to, any implied warranties of merchantability, fitness for a particular purpose, use, or a particular or business result, title, non-infringement, and any warranties arising from course of dealing or course of performance. Except to the extent expressly required by this contract and applicable law, contractor makes no warranty that the products or services provided under this agreement will: (i) meet the State's requirement or intended purposes or uses; and (ii) prevent the spread or incurrence of any illness, virus, or bacteria.

g) Section 5.12, Delivery Requirements, is hereby amended and restated as follows:

- A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in Schedule A;
- B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;
- C. Items delivered must be strictly in accordance with Schedule A; and

h) Section 6.1, Price Fluctuation During Contract, is hereby amended and restated as follows:

Unless otherwise agreed to in writing by the State, all prices quoted as fixed price items shall be firm through issuance of contract and shall not be subject to increase during the base period of the contract. This shall not apply to any pass-through cost items under the contract. The contractor may increase the prices set forth in Schedule A once a year based on increases in the contractor's costs of labor, supplies and other costs.

In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) business days of the effective date.

i) Section 6.3, Payment to Vendors, is hereby amended and restated as follows:

- A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the Solicitation. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered,

such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;

- B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the original Bill of Lading, express receipt and other related papers must be sent to the State Contract Manager or using agency on the date of each delivery. For contracts featuring services, invoices must reference the tasks or subtasks detailed in Schedule A. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized; and
 - C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls.
 - D. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Chief of Operations, Division of Revenue, P.O. Box 628, Trenton, NJ 08646.
- j) The following language is hereby added to the Contract as if it were originally part of the Standard Terms and Conditions as Section 8, Force Majeure, as follows:

The contractor shall not be in breach of this contract nor liable for delay in performing or failure to perform any of its obligations under this contract if such delay or failure results from events, circumstances, or causes beyond the contractor's reasonable control, including but not limited to: pandemic; epidemic; any global, national, or local public health emergency or disease outbreak (including, without limitation, any of the conditions listed henceforth that may subsequently arise under the COVID-19 (a/k/a the 2019 Novel Coronavirus) outbreak or any similar disease(s)); strike, lock-out or other industrial dispute; widespread and prolonged failure of a utility service or transport or telecommunications network; act of God; fires, floods, storms, earthquakes and explosions; war, riot, or other civil disturbance; malicious damage; compliance with any newly-enacted law or governmental order, rule or regulation, including quarantine and travel and shipping restrictions; default by suppliers, vendors, or subcontractors; or difficulties in obtaining necessary labor, materials, manufacturing

facilities, or transportation (each, a “Force Majeure Event”) vital to performance of this contract which cannot be cured through any reasonably possible efforts. Upon the occurrence of any Force Majeure Event, the contractor shall notify the State in writing of such event as soon as reasonably practicable but no later than five (5) business days following the contractor’s attainment of actual knowledge that the Force Majeure Event will result in the contractor’s non-fulfillment of its obligations hereunder and shall specify in reasonable detail the facts constituting such Force Majeure Event.

Notwithstanding the above, the contractor acknowledges that pursuant to Executive Orders 103, 119, 138 and 151 (2020) New Jersey is presently under a declared state of emergency. At the time that this Agreement is executed Contractor affirms that it has the ability to complete performance of the work described in the contract at the price disclosed in the contract.

7. The Parties agree the Waivered Contracts Supplement is amended as follows:

a) Section 2.20, Claims and Remedies, subsection c, is hereby amended and restated as follows:

In the event that the contractor fails to comply with any material Contract requirements, after receiving notice and an opportunity to respond in accordance with Section 5.7(B) of the Standard Terms and Conditions, the Director may take steps to terminate this Contract in accordance with the Standard Terms and Conditions, authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor’s price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor, as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

b) Section 5.18, Ownership, subsection a, is hereby amended and restated as follows:

Contractor Intellectual Property; COTS and Customized Software – The contractor retains ownership of all Contractor Intellectual Property, and any modifications thereto and derivatives thereof, that the contractor supplies to the State pursuant to the Contract. The contractor grants the State a non-exclusive, perpetual royalty-free license to use Contractor Intellectual Property delivered to the State for the purposes contemplated by the Contract. Contractor retains all right, title and interest in and to its proprietary client portal, LHI.Care, the MedNet technology platform, all related data and documentation, all other proprietary processes, procedures and tools used by Contractor to perform the services under this Agreement, and all intellectual property rights therein, including but not limited to all modifications, enhancements, improvements and derivative works thereto (collectively, the “OSHS IP”). No title to or ownership of the OSHS IP are transferred to the State in connection with this Agreement.

c) The word “reports” is deleted from Section 5.18, Ownership, subsection d.

8. The Parties agree hereto this Agreement may be executed in counterparts, with each original signed page to become part of the original document.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of execution by the parties below.

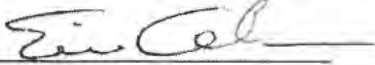
Logistics Health, Inc.

By: 
Name: Anne Finch
Title: CEO LHI
Date: 7/21/2020

STATE OF NEW JERSEY
Department of the Treasury
Division of Purchase and Property

By: Amy F. Davis
Name: Amy F. Davis
Title: Associate Deputy Director
Date: July 22, 2020

STATE OF NEW JERSEY
Department of Health

By: 
Name: ERIC ANDERSON
Title: Director, Mount Airy
Date: 7/21/2020

Approved as to Form:

GURBIR S. GREWAL
Attorney General of the State of New Jersey

By: /s/ Connor Martin 7/21/20
Connor Martin
Deputy Attorney General

State of New Jersey Standard Terms and Conditions

(Rev: 10/21/19)

1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

Unless the bidder/offeror is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event that the bidder/offeror would like to present terms and conditions that are in conflict with either these terms and conditions or those set forth in the RFP, the bidder/offeror must present those conflicts during the Question and Answer period for the State to consider. Any conflicting terms and conditions that the State is willing to accept will be reflected in an addendum to the RFP. The State's terms and conditions shall prevail over any conflicts set forth in a bidder/offeror's Proposal that were not submitted through the question and answer process and approved by the State. Nothing in these terms and conditions shall prohibit the Director of the Division of Purchase and Property (Director) from amending a contract when the Director determines it is in the best interests of the State.

1.1 CONTRACT TERMS CROSSWALK

NJSTART Term	Equivalent Statutory, Regulatory and/or Legacy Term
Bid/Bid Solicitation	Request For Proposal (RFP)/Solicitation
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order (Blanket P.O.)	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor	Bidder/Contractor

2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the bidder who shall provide it to the State.

The contractor shall maintain and submit to the State a list of subcontractors and their addresses that may be updated from time to time with the prior written consent of the Director during the course of contract performance. The contractor shall submit to the State a complete and accurate list of all subcontractors used and their addresses before final payment is made under the contract.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the Use Tax due pursuant to the

"Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Revenue at (609) 292-1730. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

2.2 ANTI-DISCRIMINATION

All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions Contracts (Exhibit B and Executive Order 151, August 28, 2009, attached) as appropriate.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

2.3 PREVAILING WAGE ACT

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on [this proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [this proposal] has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by [this proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 AMERICANS WITH DISABILITIES ACT

The contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.5 MACBRIDE PRINCIPLES

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.6 PAY TO PLAY PROHIBITIONS

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:

- A. Make or solicit a contribution in violation of the statute;
- B. Knowingly conceal or misrepresent a contribution given or received;
- C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;

- E. Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
- F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
- H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

2.7 POLITICAL CONTRIBUTION DISCLOSURE

The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one (1) or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at <http://www.elec.state.nj.us/>.

2.8 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g;

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards, now known as the State Ethics Commission;

No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, now known as the State Ethics Commission, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;

No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and

The provisions cited above in paragraphs 2.8a through 2.8e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards, now known as the State Ethics Commission may promulgate under paragraph 3c of Executive Order No. 189.

2.9 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act. The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

2.10 COMPLIANCE - LAWS

The contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

2.11 COMPLIANCE - STATE LAWS

It is agreed and understood that any contracts and/or orders placed as a result of [this proposal] shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

2.12 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

3. STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT

3.1 COMPLIANCE - CODES

The contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

3.2 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464.

3.3 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

- A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree as follows:

- A. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

- B. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;
- C. The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:
1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;
 2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;
 3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and
 4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.4 BUILDING SERVICE

Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

3.5 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.

3.6 SERVICE PERFORMANCE WITHIN U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States,

the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b) (1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

3.7 BUY AMERICAN

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States and the contractor shall be required to so certify.

3.8 DIANE B. ALLEN EQUAL PAY ACT

Pursuant to N.J.S.A. 34:11-56.14, a contractor performing “qualifying services” or “public work” to the State or any agency or instrumentality of the State shall provide the Commissioner of Labor and Workforce Development a report regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. For more information and report templates see <https://nj.gov/labor/equalpay/equalpay.html>.

4. INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

The contractor’s liability to the State and its employees in third party suits shall be as follows:

- A. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;
- B. The contractor’s indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions; and
- C. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days’ written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor’s insurer cannot provide 30 days written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey,

Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancelation shall be emailed to the State at:

ccau.certificate@treas.nj.gov

The insurance to be provided by the contractor shall be as follows:

- A. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;
- B. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;
- C. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 - 1. \$1,000,000 BODILY INJURY, EACH OCCURRENCE;
 - 2. \$1,000,000 DISEASE EACH EMPLOYEE; and
 - 3. \$1,000,000 DISEASE AGGREGATE LIMIT.
 - A. This \$1,000,000 amount may have been raised by the RFP when deemed necessary by the Director; and
 - B. In the case of a contract entered into pursuant to N.J.S.A. 52:32-17 et seq., (small business set asides) the minimum amount of insurance coverage in subsections a., b., and c. above may have been lowered in the RFP for certain commodities when deemed in the best interests of the State by the Director.

5. TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

The contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 CONTRACT AMOUNT

The estimated amount of the contract(s), when stated on the RFP form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of the RFP or any contract entered into as a result of the RFP.

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director's Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the term and period of performance of the contract. If the contractor agrees to

the extension, all terms and conditions of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the Director believes should be the corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- A. If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and
- B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.5 CHANGE IN LAW

If, after award, a change in applicable law or regulation occurs which affects the Contract, the parties may amend the Contract, including pricing, in order to provide equitable relief for the party disadvantaged by the change in law. The parties shall negotiate in good faith, however if agreement is not possible after reasonable efforts, the Director shall make a prompt decision as to an equitable adjustment, taking all relevant information into account, and shall notify the Vendor {Contractor} of the final adjusted contract price.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance. The Director shall make an equitable adjustment, if any is required, to the contract price. The contractor shall provide whatever information that Director may require related to the equitable adjustment.

5.7 TERMINATION OF CONTRACT

- A. For Convenience:
Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than 30 days written notice to the contractor;
- B. For Cause:
 - 1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the

Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond; and

2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.
- C. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond; and
- D. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING OR ASSIGNMENT

- A. Subcontracting: The contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws; and
- B. Assignment: The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.9 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE

Nothing contained in any of the contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any contractual relationship between any subcontractor and the State.

5.10 MERGERS, ACQUISITIONS

If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than 30 days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor hereby certifies that:

- a. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice;
- b. All equipment supplied to the State and operated by electrical current is UL listed where applicable;
- c. All new machines are to be guaranteed as fully operational for the period stated in the contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location;
- d. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters;
- e. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice;
- f. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract; and
- g. All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

5.12 DELIVERY REQUIREMENTS

- A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;
- B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;
- C. Items delivered must be strictly in accordance with the contract; and
- D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

5.13 APPLICABLE LAW AND JURISDICTION

This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.

5.15 MAINTENANCE OF RECORDS

The contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless a longer period is required by

law. Such records shall be made available to the State, including the Comptroller, for audit and review.

5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)

The contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract.

In connection with this assignment, the following are the express obligations of the contractor:

- A. It shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder;
- B. It shall advise the Attorney General of New Jersey:
 - 1. In advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action; and
 - 2. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.
- C. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice shall be sent to the Attorney General of New Jersey; and
- D. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

6. TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract.

In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) days of the effective date.

Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

In an exceptional situation the State may consider a price adjustment. Requests for price adjustments must include justification and documentation.

6.2 TAX CHARGES

The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

6.3 PAYMENT TO VENDORS

- a. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;
- b. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the original Bill of Lading, express receipt and other related papers must be sent to the State Contract Manager or using agency on the date of each delivery. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;
- c. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and
- d. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Chief of Operations, Division of Revenue, P.O. Box 628, Trenton, NJ 08646.

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds \$5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenue.

7. TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Section 7 of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 PROCUREMENT OF RECOVERED MATERIALS

To the extent that the scope of work or specifications in the contract requires the contractor to provide any of the following items, this Section 7.1 of the Standard Terms and Conditions modifies the terms of the scope of work or specification.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
 - 1. Paper and paper products listed in 40 C.F.R. 247.10;
 - 2. Certain vehicular products as listed in 40 CFR 247.11;
 - 3. Certain construction products listed in 40 C.F.R. 247.12;
 - 4. Certain transportation products listed in 40 C.F.R. 247.13;
 - 5. Certain park and recreation products, 40 C.F.R. 247.14;
 - 6. Certain landscaping products listed in 40 C.F.R. 247.15;
 - 7. Certain non-paper office products listed in 40 C.F.R. 247.16; and
 - 8. Other miscellaneous products listed in 40 C.F.R. 247.17.
- B. As defined in 40 CFR 247.3, "recovered material" means:
 - 1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and
 - 2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
 - a. Postconsumer materials such as --
 - i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and

- ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
- b. Manufacturing, forest residues, and other wastes such as --
 - i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
 - iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
 - iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
 - v. Fibers recovered from waste water which otherwise would enter the waste stream.
- C. For contracts in an amount greater than \$ 100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed in subsection (A). For all contracts subject to this Section 7.1 of the Standard Terms and Conditions, at the conclusion of each contract year, contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

7.2 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for

employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.3 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$ 2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

7.4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of \$ 100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the

purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7.6 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Contracts and subgrants of amounts in excess of \$ 150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7.7 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

7.8 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding \$ 100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase and Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase and Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **N.J.A.C. 17:27-1 et seq.**

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.S.A. 10:5-39 et seq. (P.L. 1983, c. 197)

N.J.A.C. 17:27-1.1 et seq.

CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of \$250,000 to guarantee equal employment opportunity to veterans.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying"

members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

- (A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
- (B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
 - (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
 - (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
 - (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
 - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
 - (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

- (i) The contractor or subcontractor shall interview the referred minority or women worker.
- (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
- (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
- (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

- (D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the Division of Purchase and Property's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Division of Purchase and Property's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at <http://NJ.gov/http://NJ.gov/JobCentralNJ>;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.

State of New Jersey Standard Terms and Conditions

(Rev: 10/21/19)

LHI ACCEPTANCE OF THESE TERMS AND CONDITIONS IS EXPRESSLY CONTINGENT UPON THE STATE OF NEW JERSEY ACCEPTING LHI EXCEPTIONS AND DEVIATIONS TO THE CONTRACT STANDARD TERMS AND CONDITIONS AND WAIVERED CONTRACT SUPPLEMENT TO THE STANDARD TERMS AND CONDITIONS AND THE LHI STATEMENT OF WORK AND PRICING EXHIBITS.

5/29/2020

Signature

Date

Anne Finch, CEO of Logistics Health, Inc.

Print Name and Title

Logistics Health, Inc.

Print Name of Contractor

**WAIVERED CONTRACTS SUPPLEMENT TO THE
STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**
(Rev. 6/14/2018)

- A. WAIVERED CONTRACTS SUPPLEMENT TO THE STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS** - This Supplement to the State of New Jersey Standard Terms and Conditions ("Supplement") shall apply to all contracts or purchase agreements made with the State of New Jersey ("State") under N.J.S.A. 52:34-9 or -10 ("Waivered Contracts"). The terms in this Supplement modify the terms of the New Jersey Division of Purchase and Property's Standard Terms and Conditions as may be updated from time to time ("Standard Terms and Conditions"). The combined terms of the Standard Terms and Conditions and this Supplement, in addition to the terms and conditions set forth in the Request for Proposal, Request for Quotation, and/or other agency request ("Solicitation"), if applicable, shall prevail over any conflicts set forth in or incorporated by reference into a contractor's proposal submitted in response to a Solicitation including any standard license, service or other agreement ("Contractor Standard Form Agreement").

The "Contract" shall consist of this Supplement, the Standard Terms and Conditions, the Solicitation, and the proposal submitted by the contractor.

The Standard Terms and Conditions are hereby incorporated by reference. Section numbering of the changes and additions enumerated below continue the number scheme of the Standard Terms and Conditions.

- B. CHANGES/ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL GOODS, SERVICES, AND INFORMATION TECHNOLOGY WAIVERED CONTRACTS:**

2.13 OWNERSHIP DISCLOSURE

Pursuant to N.J.S.A. 52:25-24.2, in the event the contractor is a corporation, partnership or limited liability company, the contractor must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted proposal. A contractor's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a Contract to said contractor unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the receipt of the proposal. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the proposal.

In the alternative, to comply with this section, a contractor with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

2.14 PROHIBITED INVESTMENT IN IRAN

Pursuant to N.J.S.A. 52:32-58, the contractor must utilize this Disclosure of Investment Activities in Iran form to certify that neither the contractor, nor one (1) of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the contractor, nor one (1) of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the contractor is unable to so certify, the contractor shall provide a detailed and precise description of such activities as directed on the form.

**WAIVERED CONTRACTS SUPPLEMENT TO THE
STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**
(Rev. 6/14/2018)

2.15 STATE'S RIGHT TO INSPECT CONTRACTOR'S FACILITIES

The State reserves the right to inspect the contractor's establishment before making an award, for the purposes of ascertaining whether the contractor has the necessary facilities for performing the Contract.

The State may also consult with clients of the contractor to assist the State in making a contract award that is most advantageous to the State.

2.16 STATE'S RIGHT TO REQUEST FURTHER INFORMATION

The Director reserves the right to request all information which may assist him or her in making a contract award, including factors necessary to evaluate the contractor's financial capabilities to perform the Contract. Further, the Director reserves the right to request a contractor to explain, in detail, how the proposal price was determined.

2.17 DELIVERY TIME AND COSTS

Unless otherwise noted elsewhere in the Solicitation, all delivery times are 30 calendar days after receipt of order (ARO) and prices for items in proposals shall be submitted Freight On Board (F.O.B.) Destination (30 calendar days ARO/F.O.B.). The contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's Using Agency or designated purchaser. Thirty calendar days ARO/F.O.B. does not cover "spotting" but does include delivery on the receiving platform of the Using Agency at any destination in the State of New Jersey unless otherwise specified.

No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the contractor's convenience when a single shipment is ordered.

The weights and measures of the State's Using Agency receiving the shipment shall govern.

2.18 COLLECT ON DELIVERY (C.O.D) TERMS

C.O.D. terms will not be accepted.

2.19 CASH DISCOUNTS

The contractor is encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts.

Should the contractor choose to offer cash discounts the following shall apply:

- A. Discount periods shall be calculated starting from the next business day after the Using Agency has accepted the goods or services, received a properly signed and executed invoice and, when required, a properly executed performance security, whichever is latest; and
- B. The date on the check issued by the State in payment of that invoice shall be deemed the date of the State's response to that invoice.

2.20 CLAIMS AND REMEDIES

- A. All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

**WAIVERED CONTRACTS SUPPLEMENT TO THE
STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**
(Rev. 6/14/2018)

- B. Nothing in this Contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.
- C. In the event that the contractor fails to comply with any material Contract requirements, the Director may take steps to terminate this Contract in accordance with the Standard Terms and Conditions, authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor's price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor, as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

2.21 NEWS RELEASES & ADVERTISING

- A. The contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this Contract without the prior written consent of the Director.
- B. The contractor shall not use the State's name, logos, images, or any data or results arising from this Contract as a part of any commercial advertising without first obtaining the prior written consent of the Director.

2.22 ORGAN DONATION

As required by N.J.S.A. 52:32-33.1, the State encourages the contractor to disseminate information relative to organ donation and to notify its employees, through information and materials or through an organ and tissue awareness program, of organ donation options. The information provided to employees should be prepared in collaboration with the organ procurement organizations designated pursuant to 42 U.S.C. 1320b-8 to serve in this State.

3.8 PERFORMANCE SECURITY

If performance security is required, such security must be submitted with the bid in the amount listed in the Solicitation. N.J.A.C. 17:12-2.5. Acceptable forms of performance security are as follows:

1. A properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey,
2. A certified or cashier's check drawn to the order of "Treasurer, State of New Jersey," or
3. An irrevocable letter of credit issued by a federally insured financial institution and naming "Treasurer, State of New Jersey," as beneficiary.

The Performance Security must be submitted to the State within 30 days of the effective date of the Contract award and cover the period of the Contract and any extensions thereof. Failure to submit performance security may result in cancellation of the Contract for cause and nonpayment for work performed.

Although the performance bond is required for the full term of the Contract, the Director recognizes that the industry practice of sureties is to issue a one (1) year performance bond for goods and services contracts. Thus, the contractor is permitted to submit a one (1) year performance bond for the amount required under the Contract and, on each succeeding anniversary date of the Contract, provide a continuation or renewal certificate to evidence that the bond is in effect for the next year of the Contract. This procedure will remain in place for each year of the Contract thereafter until the termination of the Contract. Failure to provide such proof on the anniversary date of the Contract shall result in suspension of the Contract, and possibly, termination of the Contract.

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For performance bonds based on a percentage of the total estimated Contract price. On each anniversary of the effective date of the Contract, the amount of the required performance bond, unless otherwise noted, is calculated by applying the established RFQ performance bond percentage to the outstanding balance of the estimated amount of the Contract price to be paid to the contractor.

In the event that the Contract price is increased by a Contract Amendment, the contractor may be required to provide, within 30 calendar days of the effective date of the Contract Amendment, performance bond coverage for the increase in Contract price. The required increase in the performance bond amount is calculated by applying the established bond percentage set forth above to the increase in Contract price. Failure to provide such proof to the Director of this required coverage may result in the suspension of payment to the contractor until such time the contractor complies with this requirement.

3.9 RETAINAGE

If retainage is required on the Contract as stated in the Solicitation, the state and/or agency will retain the stated percentage or retainage from each invoice. Payment of retainage will be authorized after satisfactory completion and submission of all services, deliverables or work products by the contractor and acceptance by the agency of all services, deliverables or work products required by the Contract.

For ongoing contracts, the agency will retain the stated percentage of each invoice submitted. At the end of the three (3) month period after payment of each invoice, the agency will review the contractor's performance and if performance has been satisfactory, the agency will release the retainage for the preceding three (3) month period. Following the expiration of the Contract, retained fees will be released to the contractor after certification by the agency's project manager, if any, that all services have been satisfactorily performed.

3.10 SUBCONTRACTOR UTILIZATION PLAN

A contractor that will subcontract any of the work or services to be provided under the Contract shall submit to the agency along with its proposal a Subcontractor Utilization Plan located at the following webpage: <http://www.state.nj.us/treasury/purchase/forms/subcontracting.pdf>. See also Section 5.8 of the Standard Terms and Conditions.

5.17 CONFIDENTIALITY

- a. The State's obligation to maintain the confidentiality of the contractor's confidential information provided to the State under the Contract is conditioned upon and subject to the State's obligations under the New Jersey Public Records Act, N.J.S.A. 47:1A-1 et seq., ("OPRA"), the New Jersey common law right to know, and any other lawful document request or subpoena.
- b. By virtue of the Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose only information that is required for the performance of their obligations under the Contract. The contractor's confidential information, to the extent not expressly prohibited by law, shall consist of all information clearly identified as confidential at the time of disclosure ("Contractor Confidential Information"). Notwithstanding the previous sentence, the contractor acknowledges the terms and pricing of the Contract are subject to disclosure under OPRA, the New Jersey common law right to know, and any other lawful document request or subpoena.
- c. The State's Confidential Information shall consist of all information or data in any form whatsoever supplied by the State, any information or data gathered by the contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not).
- d. A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party, except that if the information is personally identifying to a person or entity regardless of whether it has become part of the public

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domain through other means, the other party must maintain full efforts under the Contract to keep it confidential; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.

- e. The parties agree to hold each other's Confidential Information in confidence, using at least the same degree of care in doing so that it uses to protect its own confidential information.
- f. In the event that the State receives a request for Contractor Confidential Information related to the Contract pursuant to a court order, subpoena, lawful document request or other operation of law, the State agrees, if permitted by law, to provide the contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such request. The contractor shall take any action it deems appropriate to protect its documents and/or information.
- g. In addition, in the event the contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, the contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and the contractor's intended response to such request. The State shall take any action it deems appropriate to protect its documents and/or information. Notice to the State shall not relieve the contractor of its obligation to take action to protect such information if the contractor is aware of a legal reason to do so.
- h. Notwithstanding the requirements of nondisclosure described in this Section 5.17, either party may release the other party's Confidential Information (i) if directed to do so by a court or arbitrator of competent jurisdiction, (ii) pursuant to a lawfully issued subpoena or other lawful document request, (iii) in the case of the State, if the State determines the documents or information are subject to disclosure and the contractor does not exercise its rights as described in subsection (f), or if the contractor is unsuccessful in defending its rights as described in subsection (f), or (iv) in the case of the contractor, if the contractor determines the documents or information are subject to disclosure and the State does not exercise its rights as described in subsection (g), or if the State is unsuccessful in defending its rights as described in subsection (g).

**C. CHANGES/ADDITIONS TO THE STANDARD TERMS AND CONDITIONS APPLICABLE TO
SERVICES AND INFORMATION TECHNOLOGY WAIVERED CONTRACTS:**

4.2 INSURANCE

The following paragraph D is added to section 4.2 of the Standard Terms and Conditions:

- D. Professional Liability Insurance: When it is common to the contractor's profession to do so, the contractor shall carry Errors and Omissions, Professional Liability Insurance and/or Professional Liability Malpractice Insurance sufficient to protect the contractor from any liability arising out the professional obligations performed pursuant to the requirements of the Contract. The insurance shall be in the amount of not less than \$5,000,000 and in such policy forms as shall be approved by the State. If the contractor has claims-made coverage and subsequently changes carriers during the term of the Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

5.18 OWNERSHIP

Capitalized terms used but not defined are defined in Subsection D of this Supplement, below.

- a. Contractor Intellectual Property; COTS and Customized Software – The contractor retains ownership of all Contractor Intellectual Property, and any modifications thereto and derivatives thereof, that the contractor supplies to the State pursuant to the Contract. The contractor grants the State a non-exclusive, perpetual royalty-free license to use Contractor Intellectual Property delivered to the State for the purposes contemplated by the Contract.

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- b. Third Party Intellectual Property – Unless otherwise specified in the Solicitation that the State, on its own, will acquire and obtain a license to Third Party Intellectual Property, the contractor shall secure on the State's behalf, in the name of the State and subject to the State's approval, a license to Third Party Intellectual Property sufficient to fulfill the business objectives, requirements and specifications identified in the Contract at no additional cost to the State beyond that in the bid price. Under no circumstances will the State accept a license for Third Party Intellectual Property that contains terms and conditions that conflict with the terms and conditions of the Contract. If the contractor uses Third Party Intellectual Property, the contractor must indemnify the State for infringement claims with respect to the Third Party Intellectual Property. The contractor agrees that its use of Third Party Intellectual Property shall be consistent with the license for the Third Party Intellectual Property, whether supplied by the contractor, secured by the State as required by the Solicitation, or otherwise supplied by the State.
- c. Work Product; Custom Software – The State owns all Custom Software which shall be considered "work made for hire", i.e., the State, not the contractor, subcontractor, or third party, shall have full and complete ownership of all such Custom Software. To the extent that any Custom Software may not, by operation of the law, be a "work made for hire" in accordance with the terms of the Contract, contractor, subcontractor, or third party hereby assigns to the State, or the contractor shall cause to be assigned to the State, all right, title and interest in and to any such Custom Software and any copyright thereof, and the State shall have the right to obtain and hold in its own name any copyrights, registrations and any other proprietary rights that may be available.
- d. Work Product; Services – The State owns all Deliverables developed for the State in the course of providing Services under the Contract, including but not limited to, all data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the Contract, including but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the Services required under the Contract.
- e. State Intellectual Property – Data and Background Information. The State owns all State Intellectual Property and State data and background information provided to the contractor pursuant to the Contract. The State's data and background information shall include, without limitation, all data, technical information, and materials provided to the contractor by the State to facilitate performance of the Contract, including but not limited to all reports, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents. The items described in the preceding sentence shall be delivered or returned to the State of New Jersey upon thirty (30) days' notice by the State or thirty (30) days after the expiration or termination of the Contract. Only to fulfill the purposes of the Contract does the State grant the contractor a non-exclusive, royalty-free, world-wide license to use, copy, display, distribute, transmit and prepare derivative works of State Intellectual Property and State data and background information. Notwithstanding anything to the contrary contained in the Terms and Conditions or this Supplement, no part of the State's data will be disclosed, sold, assigned, leased or otherwise disposed of to any person or entity other than the State unless specifically directed to do so in writing by the Contract Manager. The State's license to the contractor is limited by the term of the Contract and the confidentiality obligations set forth in Section 5.17 of this Supplement.
- f. No Rights – Except as expressly set forth in the Contract, nothing in the Contract shall be construed as granting to or conferring upon the contractor any right, title, or interest in State Intellectual Property or any intellectual property that is now owned or licensed to or subsequently owned by or licensed by the State. Except as expressly set forth in the Contract, nothing in the Contract shall be construed as granting to or conferring upon the State any right, title, or interest in any Contractor Intellectual Property that is now owned or subsequently owned by the contractor. Except as expressly set forth in the Contract, nothing in the Contract shall be construed as granting to or conferring upon the State any right, title, or interest in any Third Party Intellectual Property that is now owned or subsequently owned by a Third Party.

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**D. CHANGES/ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL INFORMATION
TECHNOLOGY WAIVERED CONTRACTS:**

1.2 DEFINITIONS

The following definitions shall apply to information technology contracts:

- i. The term "Acceptance" means the written confirmation by an Agency that the contractor has completed a Deliverable according to the specified requirements.
- ii. The term "Contractor Intellectual Property" means any intellectual property that is owned by the contractor and contained in or necessary for the use of the Deliverables or which the contractor makes available for the State to use as part of the work under the Contract. Contractor Intellectual Property includes COTS or Customized Software owned by the contractor, the contractor's technical documentation, and derivative works and compilations of any Contractor Intellectual Property.
- iii. The term Commercial Off the Shelf Software ("COTS") means Software provided by the contractor that is intended for general use.
- iv. The term "Custom Software" means Software and Work Product that is developed by the contractor at the request of the Agency to meet the specific requirements of the Agency and is intended for its use.
- v. The term "Customized Software" means COTS that is adapted by the contractor to meet specific requirements of the Agency that differ from the standard requirements of the base product.
- vi. The term "Deliverable" means the goods, products, Services and Work Product that the contractor is required to deliver to the State under the Contract;
- vii. The terms "goods" and "products" shall be deemed to include, without limitation, Software and Hardware.
- viii. The term "Hardware" shall be deemed to include computer equipment and any Software provided with the Hardware that is necessary for the Hardware to operate.
- ix. The term "Information Technology Contract" shall mean, notwithstanding any definition in New Jersey Statutes, a Contract for one or more of the following: Hardware, Software, Services, telecommunication goods and services, and all related goods.
- x. The terms "Services" shall be deemed to include, without limitation (i) Information Technology ("IT") professional services; (ii) Software and Hardware-related services, including without limitation, installation, configuration, and training and (iii) Software and Hardware maintenance and support and/or Software and Hardware technical support services.
- xi. The term "Software" means, without limitation, computer programs, source codes, routines, or subroutines supplied by the contractor, including operating software, programming aids, application programs, application programming interfaces and software products, and includes COTS, Customized Software and Custom Software, unless the context indicates otherwise.
- xii. The term "State Intellectual Property" means any intellectual property that is owned by the State. State Intellectual Property includes any derivative works and compilations of any State Intellectual Property.
- xiii. The term "Third Party Intellectual Property" means any intellectual property owned by parties other than the State or the contractor and contained in or necessary for the use of the Deliverables. Third Party Intellectual Property includes COTS owned by Third Parties, and derivative works and compilations of any Third Party Intellectual Property.
- xiv. The term "Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, Software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by the contractor or the contractor's subcontractors or a third party engaged by the contractor or its subcontractor pursuant to the Contract. Notwithstanding anything to the contrary in the preceding sentence, Work Product does not include State Intellectual Property, Contractor Intellectual Property or Third Party Intellectual Property.

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2.10 COMPLIANCE - LAWS

The following is added to section 2.10 of the Standard Terms and Conditions:

COMPLIANCE – DATA AND PRIVACY LAWS – The contractor must comply with all State and Federal data and privacy laws, rules and regulations applicable to both the contractor and the State under the Contract.

4.1 INDEMNIFICATION

Section 4.1 of the Standard Terms and Conditions is deleted in its entirety and replaced with the following:

INDEMNIFICATION AND LIMITATION OF LIABILITY:

1. INDEMNIFICATION - The contractor's liability to the State and its employees in third party suits shall be as follows:
 - a) The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State and its officers, agents, servants and employees, from and against any and all third party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
 - i. For or on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under the Contract or the order; and
 - ii. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopied composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of the Contract; and
 - iii. The contractor's indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in these Standard Terms and Conditions.
 - b) In the event of a claim or suit involving third-party Intellectual Property Rights, the contractor, at its option, may: (1) procure for the State the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties. The State will (1) promptly notify the contractor in writing of the claim or suit; (2) the contractor shall have control of the defense and settlement of any claim that is subject to subsection (a); provided, however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the contractor at its expense. Furthermore, neither the contractor nor any attorney engaged by the contractor shall defend the claim in the name of the State of New Jersey or any Agency, nor purport to act as legal representative of the State of New Jersey or any Agency, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of DPP. The State of New Jersey may, at its election and expense, assume its own defense and settlement.
 - c) Notwithstanding the foregoing, the contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from: (1) the State's unauthorized combination, operation, or use of a product supplied under the Contract with any product, device, or Software not supplied by the contractor; (2) the State's unauthorized alteration or modification of any product supplied under the Contract; (3) the contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides the contractor with such designs, specifications, requests, or instructions, the contractor reviews same and advises that such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the contractor to proceed with one or more designs, specifications, requests or instructions that

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present potential issues of patent or copyright infringement; or (4) the State's failure to promptly implement a required update or modification to the product provided by the contractor.

- d) The contractor will be relieved of its responsibilities under subsection (a)(i) and (ii) for any claims made by an unaffiliated third party that arise solely from the actions or omissions of the State, its officers, employees or agents.
- e) This section states the entire obligation of the contractor and its suppliers, and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and the contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product.
- f) The provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in the Contract, nor shall they be construed to relieve the contractor from any liability, nor preclude the State from taking any other actions available to it under any other provisions of the Contract or otherwise at law or equity.
- g) The contractor agrees that any approval by the State or Using Agency of the work performed and/or reports, plans or specifications provided by the contractor shall not operate to limit the obligations of the contractor assumed in the Contract.
- h) The State of New Jersey will not indemnify, defend or hold harmless the contractor. The State will not pay or reimburse for claims absent compliance with Section 4.1(2) of this Supplement and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.

2. STATE RESPONSIBILITIES

Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Section 4.1(1)(a)(i) and (ii) of this Supplement which results in an unaffiliated third party claim. This is the contractor's exclusive remedy for these claims.

3. LIMITATION OF LIABILITY

- a) The contractor's liability to the State for actual, direct damages resulting from the contractor's performance or non-performance of, or in any manner related to, the Contract for any and all claims, shall be limited in the aggregate to 200% of the fees paid to the contractor for the products or Services giving rise to such damages, except that such limitation of liability shall not apply to the following:
 - i. The contractor's indemnification obligations as described in Section 4.1(1) of this Supplement; and
 - ii. The contractor's breach of its obligations of confidentiality described in Section 5.17 of this Supplement; and
- b) The contractor shall not be liable for consequential or incidental damages.

5.11 CONTRACTOR PERFORMANCE WARRANTIES

Section 5.11 of the Standard Terms and Conditions is deleted in its entirety and replaced with the following:

1. COTS and Customized Software

- a. Unless the Contractor Standard Form Agreement provides greater coverage as determined by the State, in its sole discretion, the contractor warrants that COTS and Customized Software products licensed to the State shall operate in all material respects as described in the Solicitation and/or contractor technical documentation for ninety (90) days after Acceptance. The State shall

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notify the contractor of any COTS or Customized Software product deficiency within ninety (90) days after Acceptance. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.

- b. Except for the portion of the contractor's COTS or Customized Software product that intentionally contains one or more of the following for the purpose of anti-virus protection, the contractor warrants that, at the time of delivery and installation of the COTS or Customized Software provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the COTS or Customized Software, collect unlawful personally identifiable information on users, or prevent the COTS or Customized Software from performing as required under the Contract.
- c. In the event of any breach of this warranty, the contractor shall correct the product errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may end its usage and recover the fees paid to the contractor for the license and any unused, prepaid, technical support fees paid. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.
- d. The contractor does not warrant that COTS or Customized Software is error-free or that it will operate uninterrupted.

2. Custom Software

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that Custom Software Deliverables shall operate in all material respects as described in the applicable specification documentation for one hundred and eighty (180) days after Acceptance. The State shall notify the contractor of any Custom Software deficiency within one hundred and eighty (180) days after Acceptance of the Custom Software Deliverable (the "Notice Period"). Where the contractor is providing multiple Custom Software Deliverables over the term of the Contract, the Notice Period shall begin to run after the Acceptance of the final Custom Software Deliverable under the Contract. At that time, the State may assert defect claims relating to any and all of the Custom Software Deliverables provided under the Contract; however, the State may also assert claims earlier, in its discretion, without waiving the Notice Period.
- b. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.
- c. The contractor warrants that, at the time of Acceptance of the Custom Software Deliverable provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Custom Software, collect unlawful personally identifiable information on users, or prevent the Custom Software from performing as required under the Contract. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.
- d. In the event of any breach of this warranty, the contractor shall correct the Custom Software errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may recover a portion of the fees paid to the contractor for the Custom Software with the uncorrected defect or in the event that the Custom Software is still deemed, by the State in its sole discretion, to be usable by the State even with the uncorrected defect, the State may recover a portion of the fees paid to the

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contractor for the Custom Software (up to the total amount of such charges for such Custom Software) to reflect any reduction in the value of the Custom Software Deliverable as a result of the uncorrected defect. Under no circumstances does this warranty provision limit the contractor's obligations in the event of a breach of confidentiality.

- e. The contractor does not warrant that Custom Software is error-free or that it will operate uninterrupted.

3. IT Services

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that all Services will be provided in a professional manner consistent with industry standards. The State shall notify the contractor of any Services warranty deficiencies within ninety (90) days from performance of the deficient Services.
- b. In the event of any breach of this warranty, the contractor shall re-perform the deficient Services, or if the contractor cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to the contractor for the deficient Services.

4. Hardware

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that the equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.
 - b. The contractor warrants that all equipment supplied to the State and operated by electrical current is UL listed where applicable.
 - c. The contractor warrants that all new machines are to be guaranteed as fully operational for one (1) year from time of Acceptance by the State. For the avoidance of doubt, Acceptance with respect to Hardware in this subsection (d) shall occur no later than sixty (60) days after delivery, as evidenced by a signed delivery receipt. The contractor shall render prompt service without charge, regardless of geographic location.
 - d. The contractor warrants that sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters.
 - e. The contractor warrants that trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.
 - f. The contractor warrants that all Software included with the Hardware shall perform substantially in accordance with specifications, for one (1) year from the time of Acceptance. The contractor warrants that Software media will be free from material defects in materials and workmanship for a period of one (1) year from the date of Acceptance.
 - g. In the event of any breach of this warranty, the contractor shall promptly repair, replace or refund the purchase price of product rejected for failure to conform with the contractor's product specifications.
5. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND THE CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

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5.19 AUDIT NOTICE AND DISPUTE RESOLUTION

To the extent the contractor's proposal or Standard Form Agreement permits the contractor to conduct periodic audits of the State's usage of the Contractor Intellectual Property provided thereunder, such provision is amended to include the following audit notice and dispute resolution process:

- a. **AUDIT NOTICE** – Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, in the event that the contractor seeks to exercise a right in its proposal or Standard Form Agreement to audit the State's use of Contractor Intellectual Property, the contractor shall deliver simultaneous written notice, no less than thirty days in advance of the audit start date (unless the contractor's notice provides a longer notice period), to the:
 - i. Director of the New Jersey Department of Treasury, Division of Purchase and Property:
Procurement Bureau, Technology Unit
P.O. Box 230
Trenton, NJ 08625-0230
 - ii. Chief of Staff of the New Jersey Office of Information Technology:
Office of the Chief Technology Officer
300 Riverview Plaza
Trenton, NJ 08625
 - iii. State Contract Manager.

The notice shall reference the specific audit provision(s) in the contractor's proposal or Standard Form Agreement being exercised and include copies of same, specify the means by which the contractor will conduct the audit, and shall require the audit to be conducted in accordance with generally accepted standards in the field of such audits.

- b. **AUDIT DISPUTE RESOLUTION** -- If the State, in good faith, provides the contractor with written notice of an alleged error in the amount of underpaid fees due the contractor as a result of an audit (the "dispute"), then the parties will endeavor to resolve the dispute in accordance with this paragraph. Each party will appoint a Vice President, Assistant Director, or the equivalent (hereinafter referred to as "Representative") to discuss the dispute and no formal proceedings for the judicial resolution of such dispute, except for the seeking of equitable relief or those required to avoid non-compliance with the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., may begin until either such Representative concludes, after a good faith effort to resolve the dispute, that resolution through continued discussion is unlikely. In addition, the parties shall refrain from exercising any termination right related to the dispute being considered under this paragraph and shall continue to perform their respective obligations under the Contract while they endeavor to resolve the dispute under this paragraph.
- c. **STATE NOT LIABLE FOR AUDIT COSTS** -- Notwithstanding anything to the contrary in the contractor's proposal or Standard Form Agreement, the State will not reimburse the contractor for any costs related to an audit.
- d. **NO AUDIT RIGHT CREATED** -- In the event that the contractor's proposal or Standard Form Agreement does not permit audits of the State's usage of Contractor Intellectual Property, Section 5.19 of this Supplement shall not be interpreted to provide such an audit right.

**WAIVERED CONTRACTS SUPPLEMENT TO THE
STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**
(Rev. 6/14/2018)

LHI ACCEPTANCE OF THESE TERMS AND CONDITIONS IS EXPRESSLY CONTINGENT UPON THE STATE OF NEW JERSEY ACCEPTING LHI EXCEPTIONS AND DEVIATIONS TO THE CONTRACT STANDARD TERMS AND CONDITIONS AND WAIVERED CONTRACT SUPPLEMENT TO THE STANDARD TERMS AND CONDITIONS AND THE LHI STATEMENT OF WORK AND PRICING EXHIBITS.

Signature

Anne Finch, CEO

Print Name and Title

Logistics Health Inc. (LHI)

Print Name of Contractor

5/28/2020

Date

Proposal for
State of New Jersey



COVID-19 Sample Collection Sites State of New Jersey

POINT OF CONTACT

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BUSINESS SIZE

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DATE

May 12, 2020

CAGE CODE

[REDACTED]

DUNS NUMBER

[REDACTED]

1.0 EXECUTIVE SUMMARY

OptumServe Health Services (OSHS), powered by Logistics Health, Inc. (LHI) is pleased to submit this response to the State of New Jersey to describe our capabilities to provide COVID-19 Specimen Collection throughout the State. Founded in 1999, OSHS has provided health services nationwide to support both public and private employers requiring occupational, medical, and dental health services. We integrate cost-effective services with professional management and dedication to quality performance measures. As one of the nation's largest administrators of employer-based occupational and regulatory health programs, we provide more than four million services annually in all U.S. states and territories for our Veterans, Military Service members, Government and commercial clients. OSHS designs, implements, and manages a broad spectrum of services through our appointment-based services at medical facilities (in-clinic), mobile events, and Contact Center delivery channels.

In 2019, OSHS coordinated 4.9 million health care services for more than 760,000 individuals. OSHS has a proven track record of providing high quality services, and our commitment to continuous improvement ensures that our service delivery meets and exceeds our clients' expectations. Our strengths are built upon our knowledge and resources combined with proven tools that provide a superior foundation for managing the occupational and health readiness needs of clients nationwide.

OSHS is a trusted partner of Government agencies and industry-leading private sector clients. Services are offered to the OSHS customers listed in **Exhibit 1**.

Exhibit 1: OSHS Programs

Department/Category	Program
Department of Veterans Affairs (VA)	<ul style="list-style-type: none">▪ Veterans Benefits Administration Medical Disability Examinations (VBA MDE)▪ Community Care Network (CCN)
Department of Defense (DoD)	<ul style="list-style-type: none">▪ Reserve Health Readiness Program (RHRP) II, Reserve/Active Components▪ United States Military Entrance Processing Command (USMEPCOM)▪ Global Nurse Advice Line
Department of Health & Human Services (DHHS)	<ul style="list-style-type: none">▪ World Trade Center Health Program, Nationwide Provider Network▪ World Trade Center Health Program, William Street Clinic
Transportation Companies (Commercial)	<ul style="list-style-type: none">▪ BNSF Railway Clinic Based Medical Exams▪ Union Pacific Railroad Occupational Health Services

OSHS is capable of and experienced in providing all COVID-19 collection services required by the State of New Jersey. Our unique capabilities are featured in **Exhibit 2**.

Exhibit 2: Unique Capabilities of OSHS

Feature	Benefits to State of New Jersey
OSHS brings more than 20 years of experience	<ul style="list-style-type: none"> Improves performance and reduces program risk and costs because staff are immediately available and trained on relevant processes and applicable Standard Operating Procedures (SOPs) Improves performance and reduces costs through in-place suite of tools and processes to support all services Improves performance and client satisfaction by providing experienced, thought leadership in all clinical and non-clinical functions Lowers risk through proven ability to handle high volumes of orders across multiple concurrent task orders
Established network of credentialed, trained health care professionals including phlebotomists, medical technicians, and nurses	<ul style="list-style-type: none"> Improves performance and client satisfaction through service continuity, data accuracy, and timely delivery Reduces costs and risks through established training protocols with the providers in our network Improves performance through exceptional compliance with regulatory requirements to ensure documentation is accurate and efficient Enhances quality and reduces costs by using providers with greater e-capabilities
Proprietary workflow and data management system - MedNet	<ul style="list-style-type: none"> Improves performance by creating an electronic record of services Enhances performance by providing real-time processing and uploading of information Improves quality through automated quality control (QC) checks and proactive issue identification and resolution Improves reporting and quality monitoring by providing detailed management records of all activities, recorded calls, and reportable encounters Improves performance by automating operational processes, sending event task triggers to the appropriate department, allowing for dynamic reprioritization of work, and automatically generating reports and communications

OSHS is a wholly owned subsidiary of Optum Holdings LLC, part of the UnitedHealth Group family of businesses. UnitedHealth Group is a leading, Fortune 6 health and well-being company serving more than 142 million individuals and operating in all 50 states, the District of Columbia, most U.S. territories, and more than 140 countries worldwide. UnitedHealth Group offers some of the nation's largest health care networks and health care delivery systems with nearly 1.4 million credentialed physicians and other health care providers and 6,500 hospitals and other facilities.

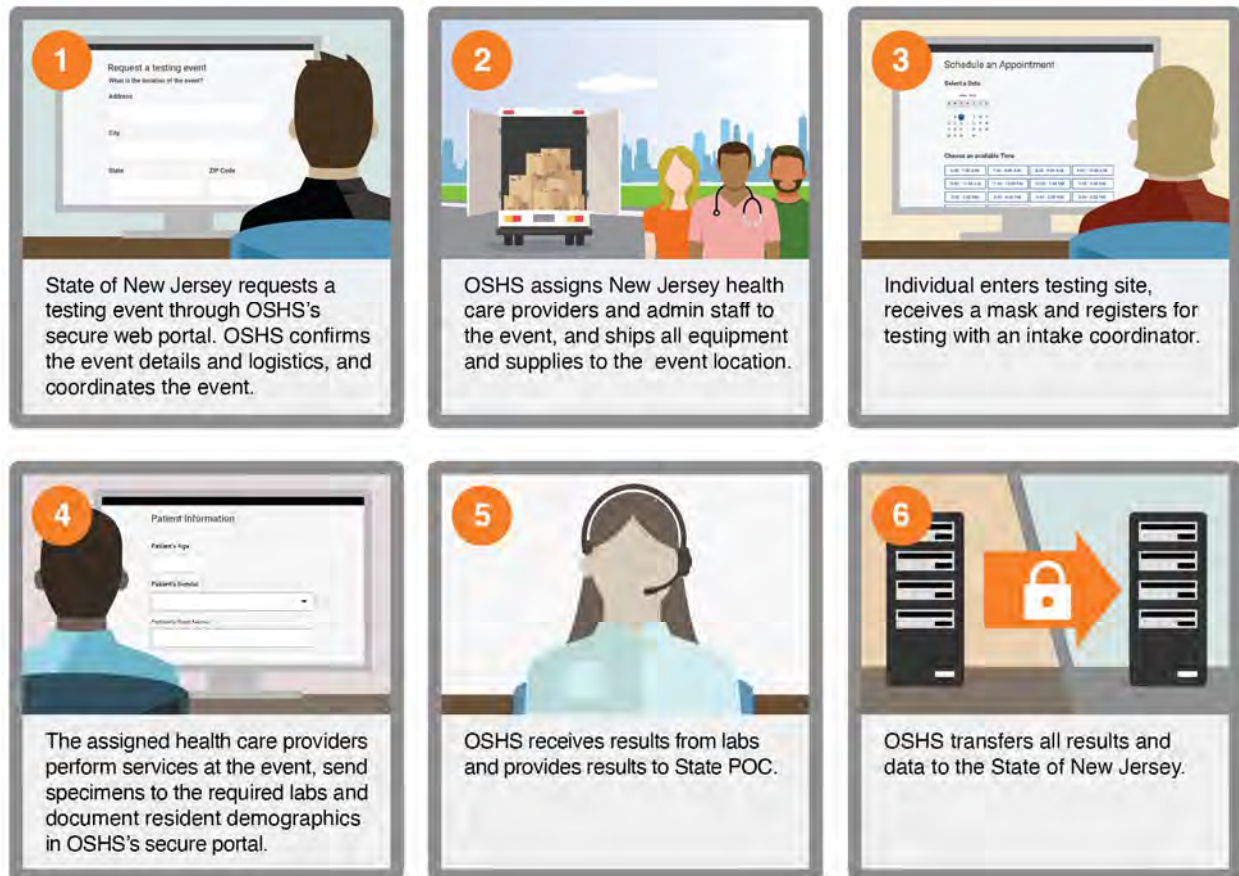
2.0 DETAILED EVENT PROCESS

OSHS has established processes for managing and executing events for large groups of residents in need of health care services at the same location, during the same time simultaneously at multiple locations across the country seven (7) days a week. OSHS typically supports events on military installations, drill halls and gymnasiums, however this model is flexible enough that testing events can be conducted in community centers, schools, hotels or even in more obscure locations such as parking lots or other locations where drive thru testing could occur.

OSHS will assign a highly qualified Program Manager to lead OSHS's efforts. The Program Manager will be the main point of contact for the Government and will provide oversight and direction on all Program activities to ensure compliance with all contract requirements and performance requirements.

As outlined below, OSHS would receive an event request to include the location and target number of individuals for testing, schedule and coordinate all event related activities, perform the event and collect data electronically and report results to individuals.

Exhibit 3: COVID-19 Testing Event Process Flow



OSHS can support the 6 requested sites, with up to two teams each, to be initially located within Elizabeth, Newark, Paterson, Trenton, Atlantic City and Camden. These sites can be established once we have received the completed event logistics as outlined in section 2.1. With OSHS, the current testing teams consist of: One Event Oversight Administrator (EOA), per test site; one clinical staff member who is a Medical Assistant (MA) or Licensed Practical Nurse (LPN), with Registered Nurse (RN) telephonic oversight; and, three non-clinical staff members (for administrative support). We anticipate that the State will provide a security officer for each site. OSHS will work with the State of New Jersey to determine who may collect specimens in support of COVID-19 testing, alternatively, OSHS recommends that the State of New Jersey, waive all licensing requirements specific to administration of COVID-19 testing to maximize clinical resources.

All teams are under the “virtual” oversight of OptumServe’s clinical leadership team made up of the CMO and/or assigned Medical Director, and experienced RNs or Advanced Practice Nurses (APN) who review on going compliance to standard operating procedures with daily meetings, ongoing training and virtual check-ins/tours of the sites. These experienced Optum clinical leaders all hold active unrestricted licenses in their states.

OptumServe plans to utilize Nasal Swab testing. Children under age 12, if appropriate, will be tested using Nasal Swabs only. If nasopharyngeal (NP) swabs are used for the specimen collection at any time during terms of the contract, OptumServe will require a notification of 5 business days, at a minimum, to ensure the right health care workers are present to perform the NP swabbing. Children under age 12 are excluded from NP swab testing.

Each team would be able to complete, in an 8 hour day, 100 tests per site/day and could increase capacity if additional teams are added or requested at each site. These teams can be stationary or travel between different testing sites to maximize testing availability. Teams could travel up to 150 miles between sites. OSHS Testing Events consist of three phases that need to be managed: pre-event, event, and post-event.

2.1 PRE-EVENT

The State of New Jersey will be required to secure the testing sites, which must include the following logistical event site details, done per site. Those details include:

- The event location—street address, building number, city, state, and ZIP Code
- Start and end dates of the event and start and end times for each event day
- Event POC and contact information including office and mobile phone numbers
- Ensure PHD representatives are available for triage of the population served and ready to take any steps needed for symptomatic individuals
- Define registration information required that must be collected prior to specimen collection
- Confirmation of security, building maintenance, custodial services
- Provide masks for any State staff and Urban Center staff
- Confirmation of POC to send equipment to for set-up
- Electrical needs and internet connectivity
- Facility user licenses/agreements and insurance certification requirements executed
- Lay-out and flow for the event to ensure 6-10 feet of social distancing for all residents as well as health care providers;
- Utilization of the entire facility for completion of the medical and administrative portions of the event;
- Maintain social distancing and group requirements in accordance with the State, CDC and WHO guidelines;
- Prepare educational materials to use at the test locations
- Conduct any / all outreach to have homeless individuals go to one of the defined test locations

- Allowing only a set number of residents into the event areas at one time with the use of staging, sizing, staggering and focused movements throughout the event; and
- Coordinate daily cleaning and trash removal by the State after the day's testing has concluded.

Additionally, the State will need to provide a referring physician in order for a resident to be tested at our site and provide behavioral health specialists that may be needed to answer questions

Once confirmation has been received by the State for all 6 sites, a request can be submitted to OSHS via the Client Portal, email, or by telephone from a designated entity within the State of New Jersey. Once the request is received, we immediately assign a Testing Event Coordinator who will manage the coordination details for the requested events to include working with the Event Operations Center (EOC) Staffing Coordinators who will generate the order that details the required staff for each site, to include health care providers and administrative staff.

The EOC Staffing Coordinators are also responsible to ensure that the appropriate equipment and supplies are requested per the order. Our Travel Coordinators are responsible for arranging travel to ensure designated staff can get to their respective sites on time.

Once we have received the completed event logistics as outlined above, the initial 6 sites, with one team each, will be operational within 15 business days. The second team at each of these sites can be operational in 5 business days following the sites starting testing.

Specimen Collectors. OSHS maintains an experienced network of more than 29,000 health care professionals in all 50 U.S. states and territories, the District of Columbia, and Germany. This includes over 100 credentialed health care workers from New Jersey that we use primarily for mobile events in the Reserve Health Readiness Program (RHRP). OSHS will work with the State of New Jersey to determine who may collect specimens in support of COVID-19 testing, alternatively, OSHS recommends that the State of New Jersey, waive all licensing requirements specific to administration of COVID-19 testing to maximize clinical resources. OSHS has additional resources across the country that will supplement the New Jersey providers to meet the testing needs of the State. As an NCQA certified Credentials Verification Organization (CVO), OSHS has the experience, systems, and processes in place to ensure our clinical staff meet the highest standards of quality.

Depending on the expected volume, we can expand these capabilities if necessary to meet increased demand. As a subsidiary of UnitedHealth Group, we can access additional networks of medical workers and professionals and we can also work directly with the State of New Jersey to leverage local talent that could serve in either clinical or non-clinical roles.

Distribution Operations Center (DOC). From our work managing nearly 2,000 annual mobile group events for RHRP over the past 18 years, we have implemented world

class logistics and shipping capabilities through our Distribution Operations Center (DOC). Our systems are integrated directly with FedEx web services, and our established relationship with FedEx provides us with their best available pricing (no other commercial or government entity receives better pricing from FedEx). We have negotiated pricing based on weight, not distance, eliminating the need for multiple warehouses and reducing shipping costs. As a major FedEx customer, we have a unique ZIP Code and warehouse at their Memphis hub, which allows for prioritized shipping over other customers. A single, centralized warehouse provides a secure, controlled environment, including certified cold-chain storage capabilities.

Our DOC will ensure any medical supplies, IT equipment, and administrative supplies are prepared, packaged, and shipped to the Testing Event sites.

Staff Training. Ahead of the event, all staff will be required to undergo training that will be conducted within an online training module. The training will include processes for collection/handling of specimens, rules for wearing PPE, donning and doffing PPE, and hand washing hygiene. Ideally, staff will be fitted with N95 mask before the site opens. Assistance from the local Public Health Department with the process of N95 fit testing, will expedite opening of the sites.

2.2 EVENT

The day prior to the event, all set-up will be completed. The EOA will work with the State POC to further evaluate the accommodations and determine the event set-up to account for best event flow, privacy for residents, and sound-level monitoring. They will establish the best fit for the services being provided at the particular event and set up the tables, chairs, privacy screens, signage, laptops, printers, and scanners depending on the type of event being offered.

During the event, our Event Oversight Administrator (EOA)/Leads at each site will ensure the administrative staff and health care providers perform all requested services required at each site. The EOA at each site will be the primary POC during the event. They will establish communication with the team, meet with them to address any concerns onsite, and manage the set-up process according to the event plan. The EOAs monitor the schedule, event flow, supplies, and timeliness of the services to ensure all requested testing is completed at the event. If any administrative or other issues arise regarding staffing, equipment malfunctions, training questions, or clinical questions, the EOA will be able to communicate with staff from the various OSHS supporting functions who are available on call 24x7 while events occur.

Each site will be configured to provide the maximum output of tests while maintaining strict controls over protected health information (PHI), personally identifiable information (PII), infection control and resident and staff health and safety. Event attendees will be given a mask to wear while in line. They will then be checked-in and registered upon arrival to the testing site by administrative staff and any additional PHI/PII necessary to complete the laboratory requisition for their specimen. Upon completion, the resident will proceed into the testing area where they will be greeted by event staff. Once the specimen is collected, the clinician will release the resident from the event, and then exit

the testing site to store the collected specimen and replace their PPE based on encounter level. The clinician will then collect the next resident's specimen collection supplies and proceed to the testing site to greet them.

As part of our standard operating procedures, administrative staff and health care providers are instructed to routinely clean all frequently touched surfaces.

2.3 POST-EVENT

Daily, our EOAs manage specimen pick-up to the desired lab locations as depicted by the State of New Jersey, daily specimen completion numbers, the FedEx or other courier pick-up information, clean-up and daily staff departures. OSHS would recommend that the State Event POC coordinate for a deep cleaning of the site each evening. We will comply with all local, state, and Federal laws for disposing of medical waste and biohazardous materials. We will also manage communication with the OSHS Distribution Operations Center for additional supply requests as necessary.

Results Reporting: The data collected at the event is automatically uploaded and processed in MedNet to await the lab results. Upon receipt of the lab results, either positive or negative, the State or Event identified person (POC) will receive a notification via email, text or phone call advising them that their sites results are available. They will be responsible for communicating results to the homeless individuals.

Data Transmission: Additionally, all data collected, and results received will be sent to the State of New Jersey via their preferred method. Before completion of contract execution, OSHS will meet with the State of New Jersey IT representative(s) to determine if an interface will be required or come to an agreement on the State of New Jersey's preferred transmission method and any further IT requirements the State of New Jersey has. Testing can start even before an interface is complete and data will be transmitted as soon as the interface passes testing from both teams.

Our system, MedNet, allows flexibility in defining and implementing custom data schemes and formats such as extensible mark-up language (XML), HL7 EHR formats, flat file formats, Excel, and Access. It also provides various data exchange methodologies with configurable frequency and content to include bi-directional secure file-transfer protocol (FTP), secure web services, and web site data export. All data sent via a data exchange to the State of New Jersey will be provided in real time as updates are being confirmed in MedNet. This ensures that the State of New Jersey receives the most up-to-date information as quickly as possible. OSHS also provides secure access electronic documentation and reporting on an as needed basis through our Client Portal.

Event Conclusion: Upon conclusion of the need for each testing site, our EOAs manage supplies and equipment packaging, removal and return, and facility/site restoration. The Distribution Operations Center is responsible for managing post-event supplies processing; and our computer technicians are responsible for equipment re-inventory.

3.0 COMMUNICATIONS WITH THE PUBLIC

It is OSHS's primary objective to ensure the success of the State's testing program. The program is custom-tailored to fit the State's unique needs by delivering services in the exact manner described in this proposal. Program success is dependent on the content, schedule and execution of a well-defined communications plan which manages the release of information in a specific and coordinated manner. Given the gravity of the current environment, and the nature of services OSHS will be providing, it is of paramount importance to tightly control these communications. To support the State and Program's success, OSHS will provide the State with a communication kit for news releases, press conferences, social media posts, websites, and other channels. OSHS's will carefully craft each component of the kit to ensure success based upon the objectives and design of the State's testing program. These messages and tools should be considered "approved" for release on a schedule to be mutually agreed upon by the State and OSHS during the planning phases for the implementation period. The State may also develop their own communications materials, and the OSHS Program Manager, or a designee, must approve all custom content before release to the public. Further, local-level public health authorities and other interested parties within the State are requested and encouraged to use only pre-approved messages from the communications kit. It is strongly recommended that prior approval be granted by the State before these officials release any content. Finally, these guidelines are in place to ensure the program can deliver high levels of service, utmost level of quality, and an experience that exceeds the expectations of residents. The State's partnership on this aspect of the program is critical.

4.0 TRANSITION & ROLES

OSHS would advocate that while a service contract is being executed, that implementation and process discussions are occurring in tandem in order to finalize all requirements to maximize go live time.

Further, OSHS will require identification of the following stakeholders from the State of New Jersey. The following points of contact will be required:

- Single state point of contact for whole contract
- Single state point of contact to serve as the representative of the county public health officers
- Information Technology Contact
- Liaison with Governor's Office
- Single Point of Contact from logistical event coordination
- Single State ordering physician

Once all requirements, as well as the contract is finalized, OSHS will be able to begin implementation for the testing program to include State of New Jersey specific client set-up within our information technology, telecom and operational platforms. Testing in the specified sites by the State of New Jersey will be outlined in the pre-event phase above.

5.0 HOMELESS SITE ADAPTATION

Recognizing that the homeless population will have different needs we have adapted the typical building/drive up model to accommodate the State of New Jersey's homeless residents. In this model, the State will select sites they would like OSHS to specifically process homeless testing from and provide us a site contact/agent who will assist us in communications around the event as well as be accountable for receiving the results for this population.

In this model, the OSHS testing team could stay on location for a few days or weeks in order to test the most homeless residents possible. The State of New Jersey would provide direction for where to best utilize their site capacity.

In the homeless collection model, we would NOT require advance registration by phone or by computer, rather we would staff the site with two (2) intake administrators who would greet the homeless person upon entering the testing site, provide them with a mask, and screen them for symptoms. The intake administrator would then register the homeless person with as much information (i.e. demographics) as was available before sending them to the next station for testing. Critical demographic data (i.e. home address and phone number) not available from the resident, would be provided by the State to ensure processing of the specimen by the laboratory.

After testing the results would be provided to a state provided agent, and authorized with HIPPA compliant agreement, to be allowed to obtain that test site's attendee results. OSHS would provide results verbally or via secure email to that provided state agent.

6.0 QUALITY ASSURANCE

OSHS maintains International Organization for Standardization (ISO) 9001:2015 certification to ensure best business practices for quality assurance. To achieve the highest quality at all levels of the programs, OSHS places the utmost importance on meeting customer expectations and meeting required acceptable performance levels. We integrate quality throughout the program to most effectively achieve desired results. OSHS's quality control and quality assurance procedures ensure continuous management of, and compliance with, customer performance requirements.

Our Continuous Improvement Management System (CIMS) applies to all regulatory standards referenced within contractual standards and to all processes for the delivery of services as defined by OSHS's customers. To ensure processes are effective, standardized documents will continue to outline the criteria and methods used by employees. The sequence and interaction of major processes in the CIMS are further defined in documentation. The CIMS processes will support the approved Quality Policy and objectives, which are implemented, reviewed, and maintained to regulate the effectiveness of the CIMS.

- Initial scale starting at 6 sites, one team each, at 14,400 tests a month. Scaling to 6 sites, two teams each, up to 28,800 tests a month
- Testing performed statewide @ 6 locations with one (1) team initially, and scaling to two (2) teams, with the ability to increase testing to additional teams at those sites and/or additional locations as needs arise
- A maximum of 100 tests performed within an 8-hour day, one (1) site with one team
- Test kits provided by the State will not be charged
- Indoor facilities, suitable for testing, will be provided by the State.
- Consumable supplies, PPE, Test Kits, shipping costs are pass through, plus G&A expense (no mark-up)
- Non-consumable supplies (Tents, Generators, Portable Toilets etc.) are pass through costs plus G&A expense (no mark-up)

Other Notes/Additions included within this Pricing Proposal

- Pass through costs account for ~70% of the Total Cost
- If necessary, travel for the testing team is estimated at \$200/person. Travel is billed as Cost Reimbursable (lodging, mileage, per diem) and is a pass through, plus G&A expense (no mark-up). A total travel estimate has not been included in any of the total cost estimates above.

Price Proposal - New Jersey COVID-19 Testing In-Facility Option

Teams	1
Sites	6
Workdays / Month	24
Maximum Tests per day (1 team)	100
Total Tests / Month	14,400
Cost per Kit & Lab Test	\$106.14 <i>Pass-through cost</i>
Claims Processing	\$5.84 <i>Pass-through cost</i>

Location: In-Facility

Total Cost (per Team, per Site, per Day)	\$10,640
Non-consumable Supplies / Equipment (per each new Site)	\$1,656 <i>Pass-through cost</i>
ODC, PPE, Shipping (per Team, per Site, per Day)	\$1,381 <i>Pass-through cost</i>
Technology Access Fee (per Test)	\$3.00
Program Management (per Team, per Day)	\$1,165
Call-center (per Team, per day)	\$5,740
Signage (per each new Site)	\$955 <i>Pass-through cost</i>

Add-on Items

Security Guard (per Team, per day)	\$1,340
Interpreter (per Team, per day)	\$887

Medical Surveillance & Reporting Tasks:

Task Area 1: Software/Hardware	\$100,724
Task Area 2: Billed @ \$212.75 per hour	\$0.00
Task Area 3: Billed @ \$250.00 per hour	\$0.00

MONTHLY SUMMARY

Team Costs	\$1,532,112
Non-consumable Supplies / Equipment	\$9,934 <i>Pass-through cost</i>
ODC, PPE, Shipping	\$198,876 <i>Pass-through cost</i>
Test Kit & Lab Test	\$1,528,416 <i>Pass-through cost</i>
Claims Processing	\$84,063 <i>Pass-through cost</i>
Technology Access Fee	\$43,200
Program Management	\$167,709
Call-center	\$413,275
Signage	\$5,732 <i>Pass-through cost</i>

Total	\$3,983,317
Per Test	\$276.62

Clinical (Testing team; testing kits; lab processing) \$3,060,528

Non Clinical \$922,789

SUMMARY: Add-on Items

Security Guard	\$192,960
Interpreter	\$127,728

Medical Surveillance & Reporting Tasks:

Task Area 2: OSC Consulting Support; NTE Annual estimate \$17,604 *NTE per Month*
Task Area 2: Billed @ \$212.75 per hour *Billed per Hour*

Task Area 3: T&M support for monthly report generation, analysis and consulting services; NTE Annual estimate \$37,500 *NTE per Month*
Task Area 3: Billed @ \$250.00 per hour *Billed per Hour*

Total	\$4,359,109
Per Test	\$302.72

1 Definitions

CDC	Centers for Disease Control and Prevention
EOA	Event Oversight Administrator
EUA	Emergency Use Authorization
FDA	Food and Drug Administration
GSA	General Services Administration
NCQA	National Committee for Quality Assurance
PCR	Polymerase Chain Reaction
PPE	Personal Protective Equipment
The Contractor	OptumServe
The State	State of New Jersey Department of Health
LHD	Local Health Department

2 Overview

COVID-19 is a new virus that was first discovered in 2019. While some individuals infected with COVID-19 have no symptoms, others (particularly older adults and persons with chronic medical conditions) can become seriously ill. The next phase of epidemic control to suppress COVID-19 requires three actions: containment, social distancing, and protecting vulnerable populations. Containment will require the establishment of widespread COVID-19 testing, particularly among people who are at high risk for acquiring or transmitting the infection.

3 Purpose

COVID-19 testing is currently available in New Jersey. However, existing test sites do not reach all people for whom testing might be beneficial. As a result, New Jersey seeks to:

- Identify people in populations with limited access to health care who might otherwise not be tested and who: (1) have high risk of serious infection or who have contacts that are vulnerable to serious infection, or (2) live or spend time in settings with elevated risk of disease transmission; and
- Identify COVID-19 cases more quickly so that contact tracing can stop the chain of transmission.

4 Services

4.1 Testing

- 4.1.1 Contractor shall provide COVID-19 PCR testing using defined criteria and CDC approved testing methodologies.
- 4.1.2 Only FDA approved or EUA testing kits shall be used.

4.2 Testing Specifications

- 4.2.1 Specimen collection kit shall be anterior nasal swab.
- 4.2.2 Collection method shall be patient self-administered with in-person clinical oversight.
- 4.2.3 Swabbing will be done for patients who need assistance.
- 4.2.4 Should the State or LHDs desire any changes to the testing kits or specimen collection, it will require 15 business days' lead time and an updated price.

4.3 Supplies and Equipment

- 4.3.1 Contractor shall provide clinical supplies, PPE, and any other equipment or services necessary to perform the scope of work
- 4.3.2 All PPE and other supplies shall comply with guidelines established by the CDC, NIOSH, or other federal agency charged with regulation of such items.

5 Site Selection

5.1 Locations

- 5.1.1 Testing sites will initially be setup in the following locations: Elizabeth, Newark, Paterson, Trenton, Atlantic City and Camden (referred to as the "six urban centers"). Atlantic City and Trenton will be the first two urban centers to be set up for testing.

5.2 Site Types

- 5.2.1 **Facility Testing.** Contractor shall provide services in a fixed facility identified by the LHD in each of the six urban centers.
 - 5.2.1.1 Facility site requirements (managed by the LHD in each of the six urban centers where testing will occur).
 - 5.2.1.1.1 *Ability to securely store supplies and equipment for the duration of the testing event (can be collaborative effort between Contractor and LHD in each of the six urban centers).*
 - 5.2.1.1.2 *Sufficient space to provide for adequate social distancing and distance between workstations, and PPE donning/doffing stations.*
 - 5.2.1.1.3 *Restrooms with running water, properly stocked and cleaned in accordance with CDC guidelines.*
 - 5.2.1.1.4 *The LHD in each of the six urban centers will arrange for coordination of adequate parking to support testing location.*

5.2.1.1.5 *For testing sites with a high concentration of vulnerable or at-risk population (i.e. senior living), testing will be limited to residents and staff of the facility to minimize risk of community spread; space will be reserved for testing only.*

5.2.1.1.6 *Facility shall have custodial cleaning and standard waste removal each evening, with deep cleaning as required.*

5.3 Adding or Changing Sites

5.3.1 Additional testing sites may be added through mutual agreement between the State and The Contractor; a setup fee shall be incurred for each change in site.

5.3.2 Contractor will receive a minimum of 10 business days' notice to add or change facility testing sites, or to add testing teams to existing sites.

5.4 Site Security

5.4.1 The Contractor shall work with the LHDs to determine a need for security and, as agreed, will arrange for security for each testing site during the hours of operation.

6 Eligibility

6.1 Standing Order

6.1.1 The Contractor shall comply with the State's "Standing Order for COVID-19 Testing," which allows "individuals to undergo testing for SARS-COV-2, the virus that causes COVID-19, without a prescription, subject to the terms of such standing order".

6.2 Testing Population

6.2.1 All New Jersey residents are eligible to be tested.

6.2.2 The State will provide the Contractor with any applicable guidelines for processing and testing of minors.

6.3 Proof of Eligibility

6.3.1 The following will be acceptable documents for proving eligibility: Valid state-issued identification, or an attestation that they are a NJ resident.

6.3.2 Contractor will determine eligibility upon check-in at the testing site by verifying eligible documents.

7 Hours of Operation

7.1 Monday through Friday

7.1.1 The Contractor will work with the LHDs to determine a consistent weekly schedule that will allow adequate testing capacity and continuity in staffing. This may include early and late starts on certain days, depending on need, but will generally be consistent per site.

7.2 Saturday

- 7.2.1 The Contractor will work with the LHDs to determine a consistent weekly schedule that will allow adequate testing capacity and continuity in staffing. This may occasionally include Saturdays but will generally be consistent per site.

7.3 Sunday

- 7.3.1 Closed

8 Provider Requirements

8.1 Team Configuration

- 8.1.1 Contractor will provide teams, where a single team will consist of the following: one (1) Event Oversight Administrator (EOA), one (1) clinician (RN/LPN/LVN), one (1) clinical administrative assistant, and two (2) intake admins.
- 8.1.2 One (1) EOA can supervise up to two (2) teams per site.
- 8.1.3 One (1) team is expected to process approximately 100 collections in an eight (8) hour day.
- 8.1.4 The Contractor will provide remote clinical oversight of all testing sites.

8.2 Credentialing

- 8.2.1 All personnel will meet minimum state and federal guidelines for performing testing services, including licensure as currently required.
- 8.2.2 Contractor shall credential healthcare providers in accordance with NCQA standards.

8.3 Training

- 8.3.1 Ahead of the event, all staff will be required to undergo training that will be conducted within an online training module.
- 8.3.2 The training will include processes for collection/handling of specimens, rules for wearing PPE, donning and doffing PPE, disinfection procedures, hand washing hygiene, and infection control measures.

9 Service Delivery

9.1 Pre-Event Coordination

- 9.1.1 Each of the LHDs in the six urban centers will provide The Contractor with the information necessary to execute the testing event, including securing an adequate site and providing confirmation of event details; event can begin within 10 business days of details confirmation, or sooner through mutual agreement of the State, the relevant LHD and the Contractor.
- 9.1.2 The Contractor will coordinate resources for the event based on the information provided by the LHD in each of the six urban centers.

9.2 Pre-Registration and Scheduling

- 9.2.1 The Contractor shall provide an online system where NJ residents can register and schedule an appointment at available testing sites.

- 9.2.2 For individuals without access to online scheduling, the Contractor shall provide a toll-free phone number to pre-register and schedule an appointment.

9.3 Walk-Ins

- 9.3.1 The Contractor shall provide a process to complete intake and appointment scheduling for individuals that walk into the testing site; individuals shall be accommodated as capacity allows to maintain social distancing or shall be scheduled for future appointments if capacity is full.

9.4 Appointment

- 9.4.1 Patients will be required to wear a mask while at the site, unless the patient has medical reason that prohibits use of a mask. If they do not have one, Optum will provide one at the entrance.
- 9.4.2 The Contractor shall check in individuals upon arrival for an appointment.
- 9.4.3 The Contractor shall collect all information necessary to complete the testing (may also be collected during the pre-registration phase as appropriate).
- 9.4.4 The Contractor clinician will provide the individual with directions for the administration of the self-swab collection and will oversee/intervene as necessary to ensure adequate collection of the specimen.

9.5 Specimen Storage and Delivery

- 9.5.1 The Contractor shall package and store specimens in accordance with the specimen requirements determined by the lab to ensure viability of the test. The Contractor shall be responsible for providing quality control for specimen storage and delivery.
- 9.5.2 The Contractor shall arrange for delivery of specimens to lab on at least a daily basis.

10 Reporting

10.1 Data Collection

- 10.1.1 The Contractor shall capture all data elements necessary to safely administer and process lab specimen testing and contact tested individuals to communicate results.
- 10.1.1.1 Demographic data (i.e., race, ethnicity, SOGI variables).
- 10.1.1.2 Reason for seeking testing/past exposures.

10.2 State Reporting

- 10.2.1 The Contractor shall arrange for reporting of results the State through an agreed-upon data exchange.
- 10.2.2 Data exchange formats may include reporting through a Contractor web portal or other acceptable formats such as extensible mark-up language (XML), HL7 EHR formats, flat file formats, Excel, and Access.
- 10.2.3 The State, the LHDs and the Contractor will provide mutual POCs to design and implement data reporting.

10.3 Individual Results Reporting

- 10.3.1 The Contractor shall provide a system to allow individual patients to opt-in for email and/or text message notification of results.

- 10.3.2 For those individual patients that do not opt-in for email or text message notification of results in the portal, The Contractor shall provide a telephonic system to notify individuals of test results.
- 10.3.3 The Contractor will ensure email and text message notification of test results are available in English and Spanish.
- 10.3.4 The Contractor shall report results to the individual within 48-72 hours after receipt of specimen at the lab; any delays caused by regional demand for COVID-19 that will impact testing result turnaround times will be communicated in writing to the State and the LHD in the relevant urban center by the Contractor.

11 Reimbursement

11.1 Direct Payment

- 11.1.1 The Contractor will bill the State for services rendered; the State will pay the Contractor directly for the full amount of services provided at agreed-upon rates.
- 11.1.2 Consumable supplies, PPE, test kits, source control masks shipping costs are pass through, plus G&A expense (no mark-up).
- 11.1.3 Non-consumable supplies (tents, generators, portable toilets, tables, chairs, etc.) are pass through costs plus G&A expense (no mark-up).
- 11.1.4 If necessary, travel for the testing team will be billed at GSA rates (<https://www.gsa.gov/travel/plan-book/per-diem-rates>) plus G&A expense (no mark-up).

11.2 Third Party Billing and Recoupment

- 11.2.1 The Contractor shall arrange for recoupment of funds through third party billing for testing services.
 - 11.2.1.1 On the State's behalf, the Contractor shall submit claims to third party payers for payment of COVID testing services.
 - 11.2.1.2 The Contractor shall not be responsible for denied claims.
 - 11.2.1.3 The Contractor shall not be responsible for collections on unpaid claims.
- 11.2.2 All funds recouped by the Contractor on behalf of the State shall be paid to the State.

12 Communications with the Public

12.1 Communications Kit

- 12.1.1 The Contractor shall provide the State with a draft communication kit for news releases, press conferences, social media posts, websites, and other channels. This communication kit will be reviewed by the State and any materials approved for release shall be disseminated according to a schedule mutually agreed upon by the State, the LHDs and The Contractor. The Contractor shall not issue any news releases or other materials intended for public consumption or awareness without the approval of the State and the LHD.
- 12.1.2 The Contractor will also translate all communication materials into Spanish.

13 Changes to Scope

- 13.1 Any changes to the scope identified throughout the term of the agreement will require written notification from the State, a modification to the scope of work, and an update to pricing.

FIRST EXTENSION AND MODIFICATION OF
THE NEW JERSEY STATE WAIVER CONTRACT
AN-100

BETWEEN

LOGISTICS HEALTH, INC., A SUBSIDIARY OF OPTUMSERVE

AND

THE NEW JERSEY DEPARTMENT OF TREASURY, DIVISION
OF PURCHASE AND PROPERTY

FOR

COVID-19 TEST COLLECTION SITES IN NEW JERSEY

THIS FIRST EXTENSION AND MODIFICATION ("First Extension and Modification") of the New Jersey State Waiver Contract AN-100 is made effective as of October 18, 2020, by and between Logistics Health, Inc. ("LHI" or "Contractor"), which is a subsidiary of OptumServe and whose address is 328 Front Street South, La Crosse, WI 54601 and the State of New Jersey, Department of the Treasury, Division of Purchase and Property, whose address is 33 West State Street, 8th Floor, P.O. Box 039, Trenton, New Jersey 08625-0039, on behalf of the State of New Jersey, Department of Law & Public Safety (collectively, the "State"). LHI and the State are collectively the "Parties."

WHEREAS the Parties entered into the State Waiver Contract AN-100 to expand access to COVID-19 testing in vulnerable urban settings by establishing testing collection sites in six cities, namely Camden, Elizabeth, Newark, Paterson, Trenton, and Atlantic City, which would provide 100 tests each day, six days a week per site; and

WHEREAS, State Waiver Contract AN-100 consists of the following documents (the "Original Contract"):

- A. The Agreement in Connection with New Jersey State Waiver No. AN-100, dated July 17, 2020 between the Contractor and the State (the "Agreement");
- B. The State of New Jersey Standard Terms and Conditions (Rev: 10/21/19) ("Standard Terms and Conditions"), as amended by the Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions ("Waivered Contracts Supplement," and collectively with the Standard Terms & Conditions, "Terms and Conditions");
- C. OptumServe's Proposal ("Schedule A"), dated May 12, 2020;
- D. Final Price Proposal ("Schedule B"); and

E. Scope of Work ("Schedule C").

WHEREAS, the Original Contract was effective on July 17, 2020 and is set to expire on October 18, 2020; and

WHEREAS, pursuant to the Original Contract, collection testing sites were established by LHI in Camden, Elizabeth, Newark, Paterson, Trenton, and Atlantic City and began operations on or about August 20, 2020; and

WHEREAS, individual sites began testing on different dates spanning from August 20, 2020 in Trenton to September 22, 2020 in Newark; and

WHEREAS, to date, testing has not been conducted on a six-day per week basis in each of the site cities; and

WHEREAS, to date, the number of individuals submitting to testing at the six established collection sites has been significantly lower than 100 per day per site; and

WHEREAS, to increase the number of vulnerable individuals receiving testing services in the six designated urban settings to 100 tests per day and to capture the testing days that were lost between the effective date of the Original Contract and the date that test specimen collection began, the Parties wish to extend the Original Contract until December 31, 2020 and relocate some or all of the existing test collection site locations in Atlantic City, Camden, Trenton, Paterson, Newark and Elizabeth, as determined by the Department at Health, at no cost to the State.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The recitals are incorporated herein by reference as if set forth at length.
2. The parties agree that agreement between LHI and the State consists of the following documents (which shall be collectively referred to as the "Contract"):
 - A. This "First Extension and Modification";
 - B. The Original Contract; and
 - C. Revised Scope of Work ("Schedule C"), as described in Section 4 below.
3. The Contract, and all of its terms and conditions, is hereby extended to December 31, 2020 at no additional cost to the State to allow utilization of the allocated 468 total testing days (26 days of testing per month, utilizing 1 testing team in each of the 6 identified cities). The State will not modify the contract pricing except as set forth in Paragraph 4 below.
4. The Scope of Work, which is Attachment C to the Original Contract, is modified as follows:

a. New Paragraph 14

14.1. LHI shall provide a daily written communication to the State of the burn rate of the allocated testing days and anticipated completion date of testing activities. Once 75% of the maximum testing days have been utilized (351 out of 468), LHI and the State shall convene a discussion regarding future contract activities.

14.2. In the event that LHI is not projected to complete utilization of the allocated total testing days prior to December 31, 2020, the State will have the exclusive option to prorate final payment to LHI to account for the actual number of testing days utilized or permit LHI to extend its period of performance at no additional cost to the State until the full amount of total testing days has been utilized. This option will be communicated in writing by the State to LHI no later than December 26, 2020.

14.3. All work conducted by LHI during this extension period shall be completed in accordance with this Statement of Work.

b. New Paragraph 15

15.1. LHI shall relocate some or all of the existing test collection site locations in Atlantic City, Camden, Trenton, Paterson, Newark and Elizabeth, as determined by the Department of Health, at no cost to the State.

15.2 The relocation site shall be in the same city as the original site.

15.3 The Department of Health shall advise LHI of the relocation site(s) referenced in paragraph 15.1 in writing. LHI shall relocate the site(s) within ten (10) business days of the Department of Health advising LHI of the new test collection site location. Notice of the relocation site(s) shall be provided by the Department of Health to LHI no less than 10 business days prior to the date when specimen collection is expected to begin. Specimen collection at a relocation site shall not begin until the Department of Health and/or LHI visits and each approve the site and the Department of Health provides approval to LHI to begin specimen collection.

5. The Contract, including this First Extension and Modification and all attachments as noted in the recitals and in Paragraph 2 represent the entire agreement between the Parties and shall not be amended or modified except by the express written consent of both parties in the manner provided for in the agreement.
6. Except as specifically modified herein, the Parties reaffirm that all terms and conditions of the Original Contract remain in full force and effect. In the event of a conflict in the terms and conditions among the documents comprising the Contract, the listed order in Paragraph 2 shall prevail for purposes of the interpretation thereof (listed from highest

ranking to lowest ranking). For the avoidance of doubt, the Terms and Conditions shall prevail over any other terms not otherwise amended by this First Extension and Modification or any other written agreement signed by the parties.

The Parties agree to be bound by all other terms and conditions of the Original Contract not otherwise modified by this First Extension and Modification.

The parties agree hereto that this First Extension and Modification may be executed in counterparts, with each original signed page to become part of the original document.

IN WITNESS WHEREOF, the parties have executed this First Extension and Modification as of the date of executed by both parties below.

For the New Jersey Department of Health

Signature:


Eric Anderson
Director

10/29/2020
Date

For Logistics Health, Inc.

Signature:

 Anne Finch Digitally signed by Anne Finch
Date: 2020.10.29 11:00:02 -05'00'

10/29/2020

Date

For the Department of Treasury, Division of Purchase and Property

Signature:



Date:

1/8/21

Approved as to Form:

GURBIR S. GREWAL
Attorney General of the State of New Jersey

By: /s/ Connor V. Martin, Deputy Attorney General

SECOND EXTENSION AND MODIFICATION OF THE NEW JERSEY STATE
WAIVER CONTRACT AN-100

BETWEEN

LOGISTICS HEALTH, INC., A SUBSIDIARY OF OPTUMSERVE AND
THE NEW JERSEY DEPARTMENT OF TREASURY, DIVISION OF PURCHASE
AND PROPERTY

FOR

COVID-19 TEST COLLECTION SITES IN NEW JERSEY

THIS SECOND EXTENSION AND MODIFICATION ("Second Extension and Modification") of the New Jersey State Waiver Contract AN-100 is made effective as of December 31, 2020, by and between Logistics Health, Inc. ("LHI" or "Contractor"), which is a subsidiary of OptumServe and whose address is 328 Front Street South, La Crosse, WI 54601 and the State of New Jersey, Department of the Treasury, Division of Purchase and Property, whose address is 33 West State Street, 8th Floor, P.O. Box 039, Trenton, New Jersey 08625-0039, on behalf of the State of New Jersey, Department of Law & Public Safety (collectively, the "State"). LHI and the State are collectively the "Parties."

WHEREAS the Parties entered into the State Waiver Contract AN-100 to expand access to COVID-19 testing in vulnerable urban settings by establishing testing collection sites in six cities, namely Camden, Elizabeth, Newark, Paterson, Trenton, and Atlantic City, which would provide 100 tests each day, six days a week per site; and

WHEREAS, State Waiver Contract AN-100 consists of the following documents (the "Original Contract"):

- A. The Agreement in Connection with New Jersey State Waiver No. AN-100, dated July 17, 2020 between the Contractor and the State (the "Agreement");
- B. The State of New Jersey Standard Terms and Conditions (Rev: 10/21/19) ("Standard Terms and Conditions"), as amended by the Waivered Contracts Supplement to the State of New Jersey Standard Terms and Conditions ("Waivered Contracts Supplement," and collectively with the Standard Terms & Conditions, "Terms and Conditions");
- C. OptumServe's Proposal ("Schedule A"), dated May 12, 2020;
- D. Final Price Proposal ("Schedule B"); and
- E. Scope of Work ("Schedule C").

WHEREAS, the Original Contract was effective on July 17, 2020 and was set to expire on October 18, 2020; and

WHEREAS, the Original Contract was modified and extended by agreement ("First Extension and Modification") effective on October 18, 2020 and is set to expire on December 31, 2020; and

WHEREAS, pursuant to the Original Contract, collection testing sites were established by LHI in Camden, Elizabeth, Newark, Paterson, Trenton, and Atlantic City and began operations on or about August 20, 2020; and

WHEREAS, individual sites began testing on different dates spanning from August 20, 2020 in Trenton to September 22, 2020 in Newark; and

WHEREAS, to date, testing has not been conducted on a six-day per week basis in each of the site cities; and

WHEREAS, despite extending the Original Contract until December 31, 2020 and relocating testing collection sites within the named urban cities, until recently, the number of individuals submitting to testing at the six established collection sites has been significantly lower than 100 per day per site; and

WHEREAS, to increase the number of vulnerable individuals receiving testing services to 100 tests per day and to capture the testing days that were lost between the effective date of the Original Contract and the date that test specimen collection began, the Parties wish to extend the Original Contract until February 15, 2021 and relocate some or all of the existing test collection site locations in Atlantic City, Camden, Trenton, Paterson, Newark and Elizabeth, as determined by the Department at Health, at no cost to the State.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The recitals are incorporated herein by reference as if set forth at length.
2. The parties agree that agreement between LHI and the State consists of the following documents (which shall be collectively referred to as the "Contract"):
 - a. This "Second Extension and Modification";
 - b. The "First Extension and Modification";
 - c. The Original Contract; and
 - d. Revised Scope of Work ("Schedule C"), as described in Section 4 below.
3. The Contract, and all of its terms and conditions, is hereby extended to February 15, 2021 at no additional cost to the State to allow utilization of the allocated 468 total testing days (26 days of testing per month, utilizing 1 testing team in each of the 6 test collection sites). The State will not modify the contract pricing except as set forth in Paragraph 4 below.
4. The Scope of Work, which is Attachment C to the Original Contract, which was modified by the First Extension and Modification, is modified as follows:

a. New Paragraph 14

- 14.1. LHI shall provide a daily written communication to the State of the burn rate of the allocated testing days and anticipated completion date of testing activities. Once 85% of the maximum testing days have been utilized (398 out of 468), LHI and the State shall convene a discussion regarding future contract activities.
- 14.2. In the event that LHI is not projected to complete utilization of the allocated total testing days prior to February 15, 2021, the State will have the exclusive option to prorate final payment to LHI to account for the actual number of testing days utilized or permit LHI to extend its period of performance at no additional cost to the State until the full amount of total testing days has been utilized. This option will be communicated in writing by the State to LHI no later than February 10, 2021.
- 14.3. All work conducted by LHI during this extension period shall be completed in accordance with this Statement of Work.

b. New Paragraph 15

- 15.1. LHI shall relocate some or all of the existing test collection site locations in Atlantic City, Camden, Trenton, Paterson, Newark and Elizabeth, as determined by the Department at Health, at no cost to the State.
 - 15.2. Due to low testing volume, LHI shall relocate the test collection sites to new cities, as determined by the Department of Health.
 - 15.3. The Department of Health shall advise LHI of the relocation site(s) referenced in paragraph 15.1 in writing. LHI shall relocate the site(s) within ten (10) business days of the Department of Health advising LHI of the new test collection site location. Notice of the relocation site(s) shall be provided by the Department of Health to LHI no less than 10 business days prior to the date when specimen collection is expected to begin. Specimen collection at a relocation site shall not begin until the Department of Health and/or LHI visits and each approve the site and the Department of Health provides approval to LHI to begin specimen collection.
5. The Contract, including the First Extension and Modification and this Second Extension and Modification and all attachments as noted in the recitals and in Paragraph 2 represent the entire agreement between the Parties and shall not be amended or modified except by the express written consent of both parties in the manner provided for in the agreement.

6. Except as specifically modified herein, the Parties reaffirm that all terms and conditions of the Original Contract, as amended by the First Extension and Modification, remain in full force and effect. In the event of a conflict in the terms and conditions among the documents comprising the Contract, the listed order in Paragraph 2 shall prevail for purposes of the interpretation thereof (listed from highest ranking to lowest ranking). For the avoidance of doubt, the Terms and Conditions shall prevail over any other terms not otherwise amended by this Second Extension and Modification or any other written agreement signed by the parties.

The Parties agree to be bound by all other terms and conditions of the Original Contract not otherwise modified by the First Extension and Modification and this Second Extension and Modification.

The Parties agree hereto that this Second Extension and Modification may be executed in counterparts, with each original signed page to become part of the original document.

IN WITNESS WHEREOF, the parties have executed this Second Extension and Modification as of the date of executed by both parties below.

For the New Jersey Department of Health

Signature: _____

Eric Anderson

Date: _____

1-6-2021

For Logistics Health, Inc.

Signature: _____

Anne Finch

Anne Finch

Digitally signed by
Anne Finch
Date: 2021.01.07
10:45:28 -06'00'

Date: _____

1/7/2020

For the Department of Treasury, Division of Purchase and Property

Signature: _____

Amy F. Davis

Date: _____

1/8/21

Approved as to Form:

GURBIR S. GREWAL

Attorney General of the State of New Jersey

By: /s/ Connor V. Martin, Deputy Attorney General