

**STATE OF LOUISIANA**

**COOPERATIVE ENDEAVOR AGREEMENT**

**BETWEEN**

**THE LOUISIANA DEPARTMENT OF HEALTH**

**AND**

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THIS COOPERATIVE ENDEAVOR AGREEMENT, hereinafter sometimes referred to as the “CEA” or the “Agreement,” is made and entered into by and between the Louisiana Department of Health (LDH) of the State of Louisiana, herein also referred to as “State”, “LDH” and/or “Agency”, and \_\_\_\_\_, hereinafter “Contracting Party” or “Contractor”, on the \_\_\_\_ day of \_\_\_\_\_, 2020. The Louisiana Department of Health of the State of Louisiana and Contractor are collectively referred to herein as the “Parties.”

**ARTICLE I**

**WITNESSETH:**

**1.1** WHEREAS, Article VII, Section 14(c) of the Constitution of the State of Louisiana provides that “for a public purpose, the state and its political subdivisions...may engage in cooperative endeavors with each other, with the United States or its agencies, or with any public or private association, corporation, or individual;” and

**1.2** WHEREAS, the Agency desires to cooperate with Contractor in the implementation of the Project as hereinafter provided;

**1.3** WHEREAS, the Agency has the authority to enter into this Agreement as evidenced by its governmental purpose of providing health and medical services for the uninsured and medically indigent citizens of Louisiana in accordance with Louisiana Revised Statutes R.S. 36:251 (B) and (C)(1);

**1.4** WHEREAS, the public purpose is described as improving the quality of life and care of citizens of Louisiana as part of its ongoing COVID-19 response efforts which include, but are not limited to, the provision of a medical monitoring station location whereby COVID-19 positive individuals who meet the following criteria would be placed and provided with any necessary treatment, medical services, assistance with activities of daily living, and related services and necessary services as detailed further in this Agreement (collectively, the “Services”), and would be isolated in order to lessen the spread of COVID-19 among other vulnerable individuals and populations:

Individuals eligible to be placed at the medical monitoring station pursuant to this Agreement shall be those individuals:

- (1) who are COVID-19 positive;
- (2) who do not meet admission criteria for other licensed healthcare facilities, such as hospitals or nursing homes, or who are not appropriate for placement at other licensed congregate healthcare settings (*e.g.*, isolation issues, lack of capacity);
- (3) who need assistance with activities of daily; and

- (4) who have been referred and/or approved by LDH to enter such medical monitoring station.

Such individuals are hereby sometimes referred to as a “referred eligible individual”.

**1.5** WHEREAS, the State and/or Agency has a reasonable expectation of receiving a benefit or value described in detail that is at least equivalent to or greater than the consideration described in this Agreement;

**1.6** WHEREAS, the transfer or expenditure of public funds or property is not a gratuitous donation;

**1.7** WHEREAS, the individuals that are the expected population to benefit from this CEA are currently being treated at the Morial Convention Center Medical Monitoring Station in New Orleans, Louisiana, or that will meet the eligibility criteria listed below. In order to provide these services, the State of Louisiana is charged with maintaining and continuing to re-purpose a large convention center. Further, in order to staff this facility, the State is providing staff via a staff contract for which the State currently believes is not the most efficient staffing vehicle given current volume;

**1.8** WHEREAS, hospitals within the State of Louisiana have expressed an interest in temporarily “re-purposing” currently underutilized, unused or unoccupied space within their facilities to treat those same type of individuals. The State of Louisiana believes this will be more cost effective and will serve to keep the individuals closer to their home communities;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Parties hereto agree to services as follows as part of the “Project” described more fully below:

## **ARTICLE II**

### **STATEMENT OF PUBLIC PURPOSE AND PROJECT**

**2.1 Project:** The Project includes the utilization of a separate hospital wing, floor, or section that is no longer being used for the provision of licensed and/or certified hospital services on an inpatient or outpatient basis. Instead, the provider has temporarily de-licensed such space and has temporarily re-designated or re-purposed the applicable wing, floor, or section of the building as a medical monitoring station in order to place referred eligible individuals, provide the necessary care and treatment to said individuals, and to properly isolate the individuals in order to lessen the chance of COVID-19 spreading to vulnerable individuals or populations.

**2.2 Purpose:** The Public Purpose of this CEA is to utilize the above-mentioned Project in order to lessen the spread of COVID-19 among the general population, among vulnerable individuals and populations, and provide the necessary COVID-19 treatment in a more cost effective manner.

## **ARTICLE III**

### **SCOPE OF SERVICES; DELIVERABLES**

**3.1 Deliverables:** Contractor shall provide for LDH an operational medical monitoring station with a minimum of ten (10) beds in no less than five (5) rooms [private or semi-private rooms only] and shall provide the following services at the medical monitoring stations in accordance with the terms and conditions contained in this Agreement:

- a. Referred Eligible Individuals

Each individual that receives services in the medical monitoring station pursuant to this Agreement shall meet all of the following criteria:

- (1) Individual is COVID-19 positive;
- (2) Individual does not meet admission criteria for other licensed healthcare facilities, such as hospitals or nursing homes, or is not appropriate for placement at other licensed congregate healthcare settings (*e.g.*, isolation/transmission issues, lack of capacity);
- (3) Individual needs assistance with activities of daily living; and
- (4) Individual has been referred and/or approved by LDH to enter such medical monitoring station.

b. COVID-19 Placement

Contractor agrees to assist LDH with placement and treatment of referred eligible individuals; such individuals do not meet the level of care required for admission into a licensed healthcare facility, such as a hospital or nursing home, or are not appropriate for placement in a licensed congregate healthcare setting. The Contractor agrees that the referred eligible individuals will be assessed and Contractor will certify they do not meet such admission criteria and/or are not appropriate for placement in a licensed congregate healthcare setting. The Contractor agrees that the referred eligible individuals will be housed/placed in an unlicensed wing, floor, or section of the hospital building that has been temporarily “repurposed” specifically for the placement and treatment of these individuals; such space/location shall be a medical monitoring station; such space/location shall be approved by LDH for such purpose. The Contractor agrees that a referred eligible individual will not be denied placement/services in the MMS, provided that the MMS is not at full capacity. The Contractor agrees that the area will be separate from any other health care provider(s) that may be utilizing the building in question so that the risk of COVID-19 spread is kept to a minimum. The Contractor agrees that it will provide LDH with a daily census of referred eligible individuals housed in this temporary medical monitoring station and provide a detail as to why each referred eligible individual meets the criteria to be at the medical monitoring station and warrants the services provided.

The Contractor agrees to provide and utilize the appropriate personal protective equipment (PPE) and infection control procedures in order to lessen the chances of disease spread / transmission among treatment staff. The Contractor agrees to provide their infection control policies and procedures to LDH prior to signing this CEA.

c. COVID-19 Services

Contractor agrees to provide any and all services listed in this Agreement to provide for the care and treatment, including necessary COVID-19 treatment, of all referred eligible individuals at the medical monitoring station. The Contractor will continually monitor each referred eligible individual’s symptoms, and response to treatment, to determine any deterioration of the individual’s condition that may require hospital admission or more intensive level of care than is then being provided. If the contractor determines that hospital admission is medically warranted and necessary, the contractor shall work to facilitate an orderly transfer to a hospital.

Contractor shall have a written policy/procedure regarding evacuation procedures, including provisions for continuity of care for the referred eligible individuals at the MMS. Contractor shall provide a copy of such written policy/procedure to LDH for review.

d. Claims for Services

No claim for services furnished or requested for reimbursement by Contractor, not provided for in this Agreement to referred eligible patients, or provided unnecessarily as an “add-on” service, shall be allowed by the State. In the event the State determines that certain costs which have been reimbursed to Contractor pursuant to this Agreement are not allowable, the State shall have the right to set off and withhold said amounts from any amount due the Contractor under this Agreement for costs, and expressly reserves any and all rights afforded under law for such collection or reimbursement. Notwithstanding the aforementioned, if Contractor performs additional services that have been requested by the State, either verbally or in writing, in addition to those stipulated services under this Agreement, or any attachments made a part hereto, the State agrees to reimburse contractor for those expenses.

As the services under this Agreement are provided in the MMS and not a licensed healthcare provider, submission of claims by Contractor (or its representatives, subcontractors, agents, or assigns) to the Louisiana Medicaid Program for any Medicaid recipient that may enter the MMS is prohibited. Contractor agrees not to submit claims for MMS services provided under this Agreement to the Louisiana Medicaid Program. If Contractor subcontracts any MMS services under this Agreement, Contractor shall require the subcontractor to agree not to submit claims to the Louisiana Medicaid Program for such MMS services.

e. Staffing Requirements. Contractor shall provide the appropriate staff necessary to provide the services described, outlined and referenced in this Agreement, and any Attachments thereto, which are included herein and made part hereof, to the referred eligible individuals at the medical monitoring station. The staff shall be sufficient to meet the needs of each referred eligible individual, and, at a minimum, shall include the following:

(1) Direct Care Staff: The Contractor agrees to provide direct care staff for the referred eligible individuals. Direct Care Staff includes, but is not limited to: registered nurses, licensed practical nurses, certified nurse aides, aides and respiratory therapists. Such staff shall not be assigned to work in another licensed healthcare provider during the same shift worked in the medical monitoring station.

(2) Additional Medical Staff: The Contractor agrees to provide additional medical staff to provide assessment, oversight, and necessary prescriptive authority for the referred eligible individuals. Such additional medical staff includes, but is not limited to: physicians, nurse practitioners, and physician assistants. Contractor shall designate appropriate medical staff, acting within scope of practice, to provide medical oversight at the MMS.

(3) Administrative and Supplemental Staff: The Contractor agrees to provide additional administrative staff and support staff to provide administrative, management/operational, and monitoring services for the medical monitoring station, and to provide all wrap-around and required services to each referred eligible individual. Such administrative and support staff include, but are not limited to: administration officials, social workers, discharge planners, housekeeping staff, dietary staff, and cleaning/janitorial staff.

Additionally, Contractor shall provide a staffing matrix to LDH for approval; Contractor shall report any and all changes to the staffing matrix to LDH.

Further, Contractor agrees that no person or entity that has been excluded from any state Medicaid program or any federal healthcare program may be employed, contracted or

subcontracted with, or otherwise engaged to perform any services provided under this Agreement.

- f. Documentation Requirements. The Contractor agrees to maintain records that clearly indicate the specific services provided to specific individuals. These records shall be individualized and kept in a separate secure location. The records shall be kept confidential, in accordance with applicable federal and state laws, and treated as medical records of the placement facility. The record, at a minimum, should identify the individual's medical status, any and all treatment provided or ordered by the facility, dates of treatment/services, the name of any treating physician, and documentation of all discharge planning.

LDH will coordinate with Contractor to mutually agree on approved forms for reporting and for documentation of services rendered by Contractor. The Contractor agrees to provide the below mentioned Contract Monitor with monthly status and progress reports sufficient to allow the contract monitor to assess compliance with the above deliverables on a monthly basis. The Contractor shall provide to LDH the following reports on a daily basis, or as otherwise indicated by LDH: census report, discharge report, and bed capacity report. Additionally, the Contractor shall provide to LDH the following reports on a weekly basis, or as otherwise indicated by LDH: patient care records reports and other reports required by LDH. The patient care record report shall include, but not be limited to, the following information: full name of patient, date of admit and date of discharge, services and treatment provided, and outcome. If the Contract Monitor determines any deficiencies in either the procedure of report submission or the substantive content of the reports, the parties agree to work together in good faith to remedy any identified deficiencies.

All client information, medical records and reports shall be provided to the State for record-keeping and reimbursement purposes, but Contractor is the original owner of this data. Pursuant to the provisions of La. R.S. 44:1, et seq., LDH may be required to release such data as required under applicable Louisiana law.

- g. Technical Requirements. The Contractor will be required to transmit all non-proprietary data, which is relevant for record-keeping and reimbursement purposes to LDH/State on a regular schedule. Final determination of relevant data, schedule of transmission of data, and method of transmission of data will be made by LDH based on collaboration between both parties, and will be communicated by LDH to Contractor in writing.
- The Contractor is responsible for procuring and maintaining hardware and software resources, which are sufficient to successfully perform the services, detailed in this Agreement.
  - The Contractor shall adhere to state and federal regulations and guidelines as well as industry standards and best practices for systems and functions required to support the requirements of this Agreement.
  - Any confidential information must be encrypted to FIPS 140-2 standards when at rest or in transit.
  - Contractor owned resources must be compliant with industry standard physical and procedural safeguards (NIST SP 800-114, NIST SP 800-66, NIST 800-53A, ISO 17788, etc.) for confidential information (HITECH, HIPAA Part 164).
  - Any Contractor use of flash drives or external hard drives for storage of LDH data must first receive written approval from the State and upon such approval shall adhere to FIPS 140-2 hardware level encryption standards.

- Contractor shall provide notification to the LDH of any and all technical issues, software and hardware problems, regulatory concerns, or any other matter that emerges preventing fulfillment of service delivery as outlined in this agreement.

#### **ARTICLE IV**

#### **CONTRACT MONITOR**

**4.1** The Contract Monitor for this CEA is \_\_\_\_\_, or his / her successor.

**4.2** **Monitoring Plan:** During the term of this agreement, Contractor shall discuss the progress and results of the project with the State's Contract Monitor. These discussions shall include, but are not necessarily limited to, ongoing plans for the continuation of the project and any deficiencies noted, including mechanisms for resolution of said deficiencies. The Contract Monitor shall review and analyze Contractor's progress and results to ensure their compliance with contract requirements and ensure that the services provided were accurately invoiced by the Contractor with relevant data and supporting documentation to identify the referred eligible individual/patient, the treatment provided and that said services are reimbursable costs as provided by this Agreement and state and federal law. Payments will be made to Contractor after written acceptance by LDH Contract Monitor of the payment task and approval of an invoice.

**4.3** The Contract Monitor shall also review and analyze Contractor's written Progress Reports and Invoices to ensure compliance with the Scope of Services. The Contract Monitor shall ensure that activities are completed on a monthly basis during the course of this Agreement as follows:

- a. Compare the Reports to the provision of services, goals and objectives outlined in this contract to determine the progress made;
- b. Contact Contractor to secure any missing deliverables;
- c. Maintain telephone and/or e-mail contact with Contractor on contract activity and, if necessary, make on-site visits to Contractor sites in order to review the progress on, and completion of, Contractor's services to assure that performance goals are being achieved, and to verify information when needed; and
- d. Assure that the invoices are in compliance with approved Payment Terms, contacting Contractor for further details, information or documentation when necessary.

**4.4** At all times during the course of this CEA, Contracting Party shall inform Contract Monitor of any problems, delays or adverse conditions which will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project results by established time schedules and goals. A statement describing the action taken or contemplated by the Contracting Party and any assistance that may be needed to resolve the situation shall accompany contracting Party's disclosure.

**4.5** The Contractor agrees to meet with the Contract Monitor at his / her request within a reasonable timeframe. Contractor recognizes that there may be times when an immediate meeting, by phone or otherwise, may be necessary in the discretion of the Contract Monitor. In those instances, the Contractor agrees to comply with those requests or document the good faith efforts to so timely comply.

#### **ARTICLE V**

#### **PAYMENT TERMS AND INVOICES**

**5.1** In consideration for the services described above, the State hereby agrees to pay the Contractor in

accordance with the following rate schedule. Contractor shall invoice LDH on a monthly basis and payment shall be due to Contractor within thirty (30) days of invoice, unless the Contractor Monitor denies approval. In such a circumstance, the Contract Monitor shall notify Contractor of any additional information that is needed to possibly approve the invoice or deny the invoice within thirty (30) days of invoice submission. If Contractor provides information sufficient to the Contract Monitor, payment shall be made with thirty (30) days of such submission. The Contractor's Invoices should contain detail regarding the services provided in the performance of their contract services. All Contractor invoices are due within fifteen (15) days after the month in which the services are allegedly performed. All payment for services are subject to the approval of the Contract Monitor. Payment shall be made in accordance with the following:

#### 5.1.1 Per Diem Rate

The State shall pay Contractor an all-inclusive per diem rate for each referred eligible individual who receives treatment and services in Contractor's medical monitoring station, provided that such treatment and services are provided to referred eligible individuals pursuant to the appropriate standard of care. The all-inclusive per diem rate shall be One Thousand Five Hundred (\$1,500.00) Dollars per day. For the first day of stay in the MMS and for the last day of the stay in the MMS (*i.e.*, discharge date), the MMS will be reimbursed fifty (50%) percent of the per diem if the individual is at the MMS for up to (and including) twelve (12) hours on those days and will be reimbursed the full Per Diem rate if the individual is at the MMS for more than twelve (12) hours on those days. The all-inclusive per diem rate is intended to cover all costs and expenses associated with the operations and services provided at the medical monitoring station, and shall include, but not be limited to:

- a. Placement in and use of area, equipment and services of the medical monitoring station;
- b. All medical and other staffing necessary to render care, services, and treatment to the referred eligible individuals within the Contractor's medical monitoring station; such staffing shall be the responsibility of the Contractor; Contractor shall verify licensure and/or certification status of all medical and healthcare professional staff rendering services in the Contractor's medical monitoring station ;
- c. All reasonable and/or necessary supplies needed to meet the needs of the referred eligible individuals within the Contractor's medical monitoring station;
- d. Nutrition services, including tube feedings and specialized diets, for the referred eligible individuals;
- e. Oxygen;
- f. Laundry services for bedding, linens, and personal items, as needed;
- g. Housekeeping services;
- h. Prescribing and/or providing medications for the duration of the referred eligible individual's COVID-19 isolation stay;
- i. Personal hygiene products;
- j. Durable medical equipment (DME) needs;
- k. PPE needs of each staff and referred eligible individual;
- l. Follow-up COVID-19 lab testing and other necessary lab services; and
- m. Case management and discharge planning<sup>1</sup>.

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<sup>1</sup> Unless otherwise approved by LDH, discharge planning by the MMS shall begin a minimum of two days before actual discharge and shall consist of coordination and communication with the referred eligible individual, his/her responsible party and/or family, and any receiving facility.

### 5.1.2 Additional Payments for Additional Services

Further, the State shall pay Contractor the following additional supplemental rates on referred eligible individuals whose medical condition(s) mandates and necessitates any of these additional services; the medical record of such referred eligible individual shall sufficiently document the medical necessity of such additional services and Contractor shall submit attestation to LDH that certifies that the referred eligible individual's medical condition mandates and necessitates any of these additional services. LDH shall review any medical records and attestations as deemed necessary to ensure proper payment.

- a. Transportation to dialysis treatment, if such dialysis treatments are not available in the medical monitoring station and if the LDH-contracted transportation entity is not available. Such supplement rate shall be Forty (\$40.00) Dollars for transportation to the dialysis treatment and shall be Forty (\$40.00) Dollars for return transportation from the dialysis treatment to the MMS, per dialysis treatment.
- b. Transportation to medically necessary medical appointments, provided that the LDH-contracted transportation entity is not available. Such supplemental rate shall be Forty (\$40.00) Dollars for transportation to the medical appointment and shall be Forty (\$40.00) Dollars for return transportation from the medical appointment to the MMS, per medical appointment.
- c. Provision of Physical Therapy, if provided at the medical monitoring station by the Contractor or Contractor's agent, to improve physical movement or functional abilities and to prevent decubitus ulcers. Such supplemental rate shall be Sixteen (\$16.00) Dollars per 15-minute increment of physical therapy provided.
- d. Provision of Wound Care that is required to treat decubitus ulcers, bed sores, or other wounds. Such supplemental rate shall be Twenty-four (\$24.00) Dollars per 15-minute increment of wound care provided.

### 5.1.3 Additional Payments for Medical Equipment

Further, upon prior written approval by LDH, the State shall pay Contractor for specialized or non-routine medical equipment that is determined to be medically necessary for a referred eligible individual. LDH, at its sole discretion, will determine whether the medical equipment is medically necessary for a particular referred eligible individual.

**5.2** This Agreement is inclusive of all charges referenced above. The Parties acknowledge and agree that there will not be any additional reimbursement for the services provided under this CEA.

**5.3** Payment of invoices under this Agreement will be allowed only for services and expenses occurring during the term of the CEA. Payment is contingent upon the availability of funds and any applicable legislative approvals and / or appropriations.

**5.4** In the event payment is made to Contracting party in error or for services not performed by Contracting party or not approved by Agency, or for expenses not actually incurred, Agency shall deduct from any future payment due Contracting party for the sums owed to the Agency prior to remitting any difference to the Contracting party.



**5.5** Taxes. Contracting Party hereby agrees that the responsibility for payment of taxes from the funds thus received under this agreement and/or legislative appropriation shall be Contracting Party's obligation and identified under Federal tax identification number [tax ID].

## **ARTICLE VI**

### **TERMINATION FOR CAUSE**

**6.1** Either Party may terminate this Agreement for cause based upon the other Party's failure to comply with the terms and/or conditions of the Agreement. The terminating Party shall give the defaulting Party written notice specifying the fault. If within fifteen (15) days after receipt of such notice, the defaulting Party shall not have corrected such failure then the terminating Party, at its option, may place the defaulting Party in default and the Agreement shall terminate on the date specified in such notice. For instances involving fraud, the Parties to this CEA agree that this Agreement may be terminated immediately, effective upon the date specified in such Notice of Termination.

## **ARTICLE VII**

### **TERMINATION FOR CONVENIENCE**

**7.1** Either Party may terminate the Agreement at any time by giving the other Party thirty (30) days written notice. Upon receipt of notice, Contracting Party shall, unless the notice directs otherwise, (a) immediately begin discharge planning for any individuals in the medical monitoring station and (b) not place additional individuals in the medical monitoring station in connection with the performance of this Agreement. Contracting Party shall be entitled to payment under the terms of this Agreement for services rendered up to the date of termination, to the extent that the services have been delivered/performed satisfactorily as determined by LDH.

## **ARTICLE VIII**

### **OWNERSHIP AND CONFIDENTIALITY**

**8.1** All work product, including records, reports, documents and other material delivered or transmitted to Contracting Party by the State shall remain the property of the State, and shall be returned by Contracting Party to the State, at Contracting Party's expense, at termination or expiration of this agreement. All work product including records, reports, documents, or other material related to this Agreement and/or obtained or prepared by Contracting Party in connection with performance of the services contracted for herein shall become the property of the State, and shall, upon request, be returned by Contracting Party to the State at Contracting Party's expense at termination or expiration of this agreement. The State shall not be restricted in any way whatsoever in the use of such material.

**8.2** Furthermore, at any time during the term of this Agreement, and finally at the end of this engagement, the State shall have the right to require the Contracting Party to furnish copies of any and all documents, memoranda, notes, or other material, obtained or prepared in connection with this Agreement within five (5) days of receipt of written notice issued by the State.

**8.3** Confidentiality and Business Associate Agreement. The above referenced work product and "Confidential Data" shall be held confidential by the Contracting Party and shall not be shared with any other entity without the express consent of the State. Contractor agrees not to disclose, release, reveal, show, sell, rent, lease, loan, or otherwise grant access to the Confidential Data, which shall be limited to the minimum number of individuals necessary to achieve the purpose of this Agreement and to those individuals on a need-to-know basis only. Upon completion of the purpose of the Agreement, Contractor shall return to LDH and/or destroy/sanitize all Confidential Data in the possession of Contractor that it does not hold in possession as

record custodian.

The parties shall execute a Business Associate Agreement related to the services provided under this Agreement, such that Contractor shall be considered a “business associate” of LDH with respect to all Services provided under this Agreement; the BAA shall include and apply to all PHI that Contractor receives from LDH as part of providing Services under this Agreement.

**8.4** Copyright. No work product, including records, reports, documents, memoranda or notes obtained or prepared by the Contracting Party under this Agreement shall be the subject of any copyright or application for copyright on behalf of Contracting Party.

## **ARTICLE IX NON-ASSIGNMENT**

**9.1** Contracting Party shall not assign any interest in this agreement and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the State; such consent may be withheld by State in State’s sole discretion. Provided however, that claims for money due or to become due to Contracting Party from the State may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State. Additionally, the Contracting Party shall not subcontract any work to any party without the prior written consent of the State; such consent may be withheld by State in State’s sole discretion.

## **ARTICLE X AUDITS**

**10.1** It is hereby agreed that the Legislative Auditor of the State of Louisiana, the Office of the Governor, Division of Administration, Federal Emergency Management Agency (FEMA), General Accounting Office, or other state or federal auditors shall have the option of auditing all records and accounts of Contracting Party that relate to this agreement, upon request. Additionally, Contractor will be required to submit to LDH Office of Public Health and/or LDH Program Integrity all required reports / supporting documents to meet FEMA reimbursement guidelines and to undergo post-payment review. Reports may include, but are not limited to Summary Sheets, Time Logs, Daily Activity Logs, and any other documents that LDH determines necessary. Any such reports should be submitted at the time of invoicing.

**10.2** The Contracting Party and any subcontractors paid under this Agreement shall maintain all books and records pertaining to this Agreement for a period of four years after the date of final payment under the prime contract and any subcontract entered into under this Agreement or four years from the date of termination of the prime contract and any subcontract entered into under this Agreement, whichever is later.

## **ARTICLE XI AMENDMENTS IN WRITING**

**11.1** Any alteration, variation, modification, or waiver of provisions of this agreement shall be valid only when it has been reduced to writing, executed by all parties and approved by the Director of the Office of State Procurement, Division of Administration.

**ARTICLE XII**  
**FISCAL FUNDING CLAUSE**

**12.1** In the event funds are not budgeted or appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the State as to such current or succeeding fiscal year, and said Agreement shall become null and void, and no right of action shall accrue to the benefit of the Contracting Party, its successors or assigns for any further payments.

**ARTICLE XIII**  
**TERM OF CONTRACT**

**13.1** This Agreement shall be effective as of the date first written above and shall continue for an initial term of six (6) months, unless sooner terminated as provided in Paragraphs VI or VII above. This Agreement may be continued for a term of six (6) months upon written agreement by both Parties.

**ARTICLE XIV**  
**DISCRIMINATION CLAUSE**

**14.1** The Contracting Party agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, as amended, the Age Act of 1975, as amended, and Contracting Party agrees to abide by the requirements of the Americans with Disabilities Act of 1990, as amended. Contracting Party agrees not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, sexual orientation, age, national origin, disability, political affiliation, veteran status, or any other non-merit factor. Any act of discrimination committed by Contracting Party, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this agreement.

**ARTICLE XV**  
**HOLD HARMLESS AND INDEMNIFICATION; INSURANCE**

**15.1** The Contracting Party shall indemnify, save and hold harmless the State and/or Agency against any and all claims, losses, liabilities, demands, suits, causes of action, damages, and judgments or sums of money to any party accruing against the State and/or Agency growing out of, resulting from, or by reason of any act or omission of the Contracting Party, its agents, servants, independent contractors, or employees while engaged in, about, or in connection with the discharge or performance of the terms of this Agreement. Such indemnification shall include the State and/or Agency's fees and costs of litigation, including, but not limited to, reasonable attorney fees.

**15.2** The Contractor shall secure and maintain at all times during the term of this Agreement, at Contractor's sole expense, general liability, worker's compensation, and professional liability insurance covering Contractor and its employees for the Services rendered under this Agreement.

**15.3** LDH agrees to defend, indemnify, and hold Contractor harmless from and against all liability, losses, damages, claims, causes of action, and expenses (including reasonable attorneys' fees and court costs) (individually, a "Claim" and collectively, the "Claims"), brought by a third party that arise out of or relate to the Services if caused by the intentional acts or gross negligence of LDH. LDH further agrees to cooperate reasonably with Contractor, and at all times in compliance with all applicable laws and regulations, to ensure that Contractor enjoys the full benefit of any immunity that may be provided from liability provided by La. R.S. §29:771, and any other applicable immunity afforded to Contractor, the State, LDH, or entities acting on any of their behalf under state or federal law. The parties agree that the State and LDH are not conferring, and are not obligated to confer, any immunity that is not afforded under federal or state law.

## **ARTICLE XVI**

### **PARTIAL INVALIDITY; SEVERABILITY**

**16.1** If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

## **ARTICLE XVII**

### **ENTIRE AGREEMENT; MODIFICATION IN WRITING**

**17.1** It is understood and agreed that the terms and conditions described in this Agreement constitute the entire agreement between LDH and Contractor with respect to subject matter hereof and that this Agreement supersedes any and all prior negotiations, representations, understandings, discussions, or agreements with respect to same. LDH and Contractor agree that there are no other terms or conditions of the relationship governing the Services described herein that are not described within this Agreement, either written or oral between the parties, including without limitation any prior agreement(s) between the parties hereto, which agreement(s) are hereby terminated, and that any change, modification, amendment, supplement, or revision of this Agreement will be only effective upon a writing duly executed by both LDH and Contractor. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same Agreement.

**17.2** This Agreement may be modified or amended at any time by mutual consent of the parties, provided that, before any modification or amendment shall be operative and valid, it shall be reduced to writing, and signed by all parties and approved by the Director of the Office of State Procurement, Division of Administration.

## **ARTICLE XVIII**

### **CONTROLLING LAW**

**18.1** The validity, interpretation, and performance of this Agreement shall be controlled by and construed in accordance with the laws of the State of Louisiana, except for its conflict of laws provisions. Venue of any action brought with regard to this Agreement shall be in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana.

**ARTICLE XIX**  
**LEGAL COMPLIANCE**

**19.1** The State shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, *et seq.*) and the Louisiana Procurement Code in carrying out the provisions of this Agreement.

**ARTICLE XX**  
**RELATIONSHIP BETWEEN THE PARTIES; EXCLUSION OF BENEFITS**

**20.1** The Contracting Party is engaged by the State for the purposes set forth in this Agreement. The relationship between the Contracting Party and the State shall be, and only by, that of an independent contractor and the Contracting Party shall not be construed to be an employee, agent, partner, or in joint venture with, the State. LDH shall neither have nor exercise any direction or control over the methods, techniques, or procedures by which Contractor or its staff perform the Services hereunder. Neither Contractor nor any Contractor staff shall have employee status with LDH or be entitled to participate in any plan or arrangements providing pension, health, and welfare or any other benefits to LDH employees. Neither LDH nor any LDH staff shall have employee status with Contractor or be entitled to participate in any plan or arrangements providing pension, health, and welfare or any other benefits to Contractor employees.

**ARTICLE XXI**  
**ACKNOWLEDGMENT OF EXCLUSION OF WORKERS' COMPENSATION COVERAGE**

**21.1** The parties expressly agree that the Contracting Party is an independent Contracting Party as defined by La. R.S. 23:1021(7) and, as such, expressly agree that the State and/or Agency shall not be liable to the Contracting Party or to anyone employed by the Contracting Party for any benefits or coverage as provided by the Workers' Compensation Law of the State of Louisiana.

**ARTICLE XXII**  
**FORCE MAJEURE**

**22.1** Neither party to this Agreement shall be responsible to the other party hereto for any delays or failure to perform any part of the Agreement caused by any events or circumstances reasonably beyond the immediate control of the party prevented from performing, including, but not limited to, acts of God.

**ARTICLE XXIII**  
**EMPLOYMENT OF STATE PERSONNEL**

**23.1** The Contracting Party certifies that it has not employed and will not employ any person to engage in the performance of this Agreement who is, presently, or at the time of such employment, an employee of the State of Louisiana.

**ARTICLE XXIV**  
**COVENANT AGAINST CONTINGENT FEES**

**24.1** The Contracting Party warrants that it has not employed or retained any entity or person, other than

a bona fide employee working solely for the Contracting Party, to solicit or secure this Agreement, and that it has not paid or agreed to pay any entity or person, other than a bona fide employee working solely for the Contracting Party, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the State and/or Agency shall have the right to annul this Agreement without liability or, in State and/or Agency discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **ARTICLE XXV**

### **NO BOYCOTT OF ISRAEL**

**25.1** In accordance with La. R.S. 39:1602.1, for any contract for \$100,000 or more and for any contractor with five or more employees, the Contracting Party, or any Subcontractor, hereby certifies it is not engaging in a boycott of Israel, and shall, for the duration of this Agreement, refrain from a boycott of Israel. The State reserves the right to terminate this Agreement if the Contracting Party, or any Subcontractor, engages in a boycott of Israel during the term of this Agreement.

## **ARTICLE XXVI**

### **ATTACHMENTS AND EXHIBITS**

**26.1** A listing of Attachments and Exhibits to this CEA are found in Attachment A, *List of Attachments and Exhibits*. Attachment A, and all attachments and/or exhibits referenced therein, are attached and made a part of this agreement by reference.

## **ARTICLE XXVII**

### **NOTICES**

**27.1** All notices and other communications pertaining to this Agreement shall be in writing and shall be transmitted either by personal hand-delivery (and receipted for) or if sent by United States Postal Service certified mail, return receipt requested, postage prepaid, or by Federal Express, United Parcel Service, or other nationally recognized overnight carrier. All notices by a party pertaining to this Agreement shall be addressed as follows:

If to LDH:	Louisiana Department of Health P.O. Box 629 Baton Rouge, LA 70821-0629 Attn: <b>(INSERT NAME)</b>
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If to Contractor:	<b>(INSERT NAME)</b>
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THUS DONE AND SIGNED AT Baton Rouge, Louisiana on the \_\_\_\_ day of \_\_\_\_\_, 2020.

**WITNESSES:**

**Louisiana Department of Health**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
[Authorized Name], [Title]

THUS DONE AND SIGNED AT \_\_\_\_\_, Louisiana on the \_\_\_\_ day of \_\_\_\_\_, 2020.

**WITNESSES:**

**[CONTRACTOR]**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
[Name]  
[Title]

**ATTACHMENT A**

**ATTACHMENT AND EXHIBIT LIST**

List of Attachments

Attachment A: Attachment and Exhibit List

Attachment B: HIPAA

List of Exhibits

Exhibit I: Board Resolution/ Delegation of Authority/Sole Proprietor Letter