

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings & General Services (the "State") and Concordance Healthcare Solutions, LLC, with a principal place of business in Tiffin, OH (the "Contractor") that the contract between them originally dated as of November 6, 2020, Contract # 40928, as amended to date, (the "Contract") is hereby amended as follows:

- I. **Maximum Amount.** The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$750,000.00 to \$2,250,000.00 representing an increase of \$1,500,000.00.
- II. **Attachment A, Scope of Services.** The scope of services is amended as follows:

Section one (1) of Attachment A is amended by the addition of the following requirements:

Additional products available, upon quotation; Contractor agrees to quote pricing at best-then-available pricing for government and/or institutional purchasers:

State purchasers are instructed to communicate and coordinate with contractor, at time of any potential order, with regard to then-current availability, timeline to delivery, pricing, and product details:

KN95 masks meeting applicable KN95 standards

KF94 masks meeting applicable KF94 standards

Rapid Antigen &/or Molecular Diagnostic COVID Test Kits, of manufacturer(s) and model(s) duly authorized by an applicable US Food and Drug Administration (FDA) Emergency Use Authorization (EUA).

NIOSH-approved N95 masks, other than those already listed under this contract prior to this Amendment.

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and

penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor’s principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State’s debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

This document consists of 2 pages. Except as modified by this Amendment No. 1, all provisions of the Contract remain in full force and effect.

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

STATE OF VERMONT

CONCORDANCE HEALTHCARE SOLUTIONS, LLC

By: _____

By: _____

Name: Jennifer M.V. Fitch

Name: _____

Title: Commissioner - Buildings and General Services

Title: _____

Date: _____

Date: _____

STANDARD CONTRACT

1. **Parties.** This is a contract between the State of Vermont, Department of Buildings and General Services, (hereinafter called “State”), and Concordance Healthcare Solutions, LLC, with a principal place of business in Tiffin, OH, (hereinafter called “Contractor”). Contractor’s form of business organization is Corporation. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is commodities generally on the subject of Honeywell N95 respirators, and related equipment and supplies. Detailed requirements to be provided by Contractor are described in Attachment A.

3. **Maximum Amount.** In consideration of the commodities to be provided by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$750,000.00.

4. **Contract Term.** The period of contractor’s performance shall begin on November 6, 2020 and end on November 5, 2022, with the State having two options to extend, of one year each.

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Termination/Cancellation/Rejection.** The State specifically reserves the right upon written notice to immediately terminate the contract or any portion thereof at no additional cost to the State, providing, in the opinion of its Commissioner of Buildings and General Services, the products supplied by Contractor are not satisfactory or are not consistent with the terms of this Contract. The State also specifically reserves the right upon written notice, and at no additional cost to the State, to immediately terminate the contract for convenience and/or to immediately reject or cancel any order for convenience at any time prior to shipping notification.

8. **Attachments.** This contract consists of 10 pages including the following attachments which are incorporated herein:

Attachment A - Statement of Work

Attachment B - Payment Provisions

Attachment C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision date 12/15/2017)

Attachment D – State of Vermont - Federal Terms Supplement (Non-Construction) for all Contracts and Purchases of Products & Services connected with 2020 Pandemic (04/08/2020)

9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment D
- (3) Attachment C (Standard Contract Provisions for Contracts and Grants)
- (4) Attachment A
- (5) Attachment B

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the State of Vermont:

By the Contractor: Concordance Healthcare Solutions, LLC

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: Jennifer Fitch

Name: _____

Title: Acting Commissioner

Title: _____

Buildings & General Services

ATTACHMENT A – STATEMENT OF WORK

The Contractor shall provide:

- 1. Honeywell N95 respirators and related equipment and supplies:
 - a. DC365N95HC Honeywell N95 respirators, FDA and NIOSH approved, USA-made, universal sizing.
 - b. DC301N95 Honeywell N95 respirators, NIOSH approved, USA-made, universal sizing.

Either Can be purchased by case, or by the pallet-load of 4800; 20 units per box/10 boxes per case/200 units per case; 24 cases per pallet.

Contractor shall combine a mix of types of mask on a single pallet, if necessary and practicable, to make efficient shipping and economic use of assembling a fully-loaded pallet.

Pricing information is in Attachment B

- c. 330114 Kit Fit Test Bitrex w/Fit Test + Sensitivity Solutions (MANF #193170).
 - d. 330119 Solution Fit Test Replacement for MANF #193170 Fit Test Kit (MANF #193171).
- 2. Specific purchases shall take place under Purchase Orders, which may be issued from time to time under this contract; any such Purchase Orders shall each identify and define product type, quantity, price, and delivery schedule for any product(s) covered by each Purchase Order.
 - a. Initial order commitment of a) one Kit Fit Test Bitrex w/Fit Test + Sensitivity Solutions, b) 17,000 DC301 NIOSH approved masks, and c) 273,000 DC365 FDA and NIOSH approved masks shall be delivered to the State of Vermont as identified by Purchase Order issued forthwith after execution of this Contract.
 - b. After initial order commitment, product will be ordered as needed, etc.
- 3. **WARRANTY:** If applicable, each product purchased hereunder shall include a manufacturer’s written warranty, which must be based on commercial use, and extend for a minimum term of one (1) year from the date a Product is available for use by the purchaser, or such longer period as set forth in the written warranty.
- 4. **REPORTING REQUIREMENTS:** Contractor will be required to submit quarterly product sales report to the Purchasing Agent pursuant to the schedule below detailing the purchasing of all items under this Contractor. Contractor’s reporting shall state "no activity" for any month in which there is no activity during a quarterly reporting period.
 - a. The reports shall be an excel spreadsheet transmitted electronically to the Purchasing Agent.
 - b. Reports are due for each quarter as follows:

Reporting Period	Report Due
January 1 to March 31	April 30
April 1 to June 30	July 31

July 1 to September 30	October 31
October 1 to December 31	January 31

- c. Failure to meet these reporting requirements may result in suspension or termination of this Participating Addendum.
- d. Notwithstanding the fact that any payment obligation for sales by contractor to any political subdivision or college, pursuant to “Purchasing Entities,” below, shall be solely between the political subdivision or college and the contractor, the contractor must include, in reporting to State, the figures on quantities sold by contractor to, and amounts paid to contractor by, any such political subdivisions or independent colleges.
- 5. **DELIVERY:** Responsibility for product delivery remains with Contractor until the product is properly delivered and signed for. Contractor shall securely and properly pack all shipments in accordance with accepted commercial practices. Upon delivery, all packaging and containers shall become the property of the State, unless otherwise stated. Delivered goods that do not conform to the specifications or are not in good condition upon receipt shall be replaced promptly by the Contractor.
- 6. **QUALITY:** All products will be new and unused. All products provided by the Contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting the requirements of this section will be deemed unacceptable and returned to the Contractor for credit at no charge to the State.
- 7. **DEFAULT:** In case of default of the Contractor, the State may procure the materials or supplies from other sources and hold the Contractor responsible for any excess cost occasioned thereby, provided, that if public necessity requires the use of materials or supplies not conforming to the specifications they may be accepted and payment therefore shall be made at a proper reduction in price.
- 8. **Primary Contacts.** The Parties will keep and maintain current at all times a primary point of contact for this contract. The primary contacts for this this Contract are as follows:

e. **For the Contractor:**

Name: Michael Heal
Phone: 714/788-8108
Email: MHeal@concordancehs.com

f. **For the State:**

Name: Trevor R. Lewis, State Commodity Procurement Administrator
Address: 109 State Street, Montpelier, VT 05633-3001
Phone: 802/828-2217
Fax: 802/828-2222
Email: Trevor.R.Lewis@vermont.gov

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials and shall specify the address to which payments will be sent. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.
4. Contractor shall submit detailed invoices sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Contract # for this contract.
5. **PRICING:** Contractor shall provide all products F.O.B. delivery to the ordering facility. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State. No charge for packing, shipping, or for any other purpose will be allowed over and above the price quoted.
 - a. DC365N95HC Honeywell N95 respirators, FDA and NIOSH approved, USA-made, universal size.
 - b. DC301N95 Honeywell N95 respirators, NIOSH approved, USA-made, universal size.
 - (i) Price for either type mask, in any quantity, is \$236 per case, which equates to \$1.18 per mask.
 - (ii) Either can be purchased by case, or by the pallet-load of 4800; 20 units per box/10 boxes per case/200 units per case; 24 cases per pallet;
 - (iii) Contractor shall combine a mix of types of mask on a single pallet, if necessary and practicable, to make efficient shipping and economic use of assembling a fully-loaded pallet.
 - c. Contractor shall charge a flat shipping fee not to exceed \$150 per pallet of product shipped.
 - d. 330114 Kit Fit Test Bitrex w/Fit Test + Sensitivity Solutions (MANF #193170) AT \$171.17 Each.
 - e. 330119 Solution Fit Test Replacement for MANF #193170 Fit Test Kit (MANF #193171) at \$18.41 PK (3 to Package).
 - f. All other product and/or equipment provided shall be quoted on an as needed basis.

6. Following complete delivery of each individual delivery of the items, and the State's written confirmation to the Contractor of the State's acceptance of those items, Contractor will invoice the State in accordance with the pricing specified for any purchase order (PO) placed.

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017**

“Attachment C: Standard State Provisions for Contracts and Grants” (revision version dated December 15, 2017) constitutes part of this Agreement and is hereby incorporated by reference as if fully set forth herein and shall apply to the purchase of all goods and/or services by the State under this Agreement. A copy of this document is available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>.

ATTACHMENT D
STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)
for all Contracts and Purchases
of Products and Services Connected with 2020 Pandemic

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more certify that 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 shall 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 recipient who in turn will forward the certification(s) to the awarding agency

PROCUREMENT OF RECOVERED MATERIALS

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
4. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
5. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

6. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA. **a.** Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

CONTRACTOR BREACH, ERRORS AND OMISSIONS

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.
2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

TERMINATION FOR CONVENIENCE

1. General
 - a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
 - b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
 - c. No compensation will be allowed for items eliminated from the Contract.
 - d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

2. Contractor Obligations

After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

- a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.

- c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.
- d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.
- e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.
- f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

3. Claim by Contractor

After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

4. Negotiation

Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. Settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.