



CONTRACT AMENDMENT

DATE: 5/6/2024	AMENDMENT AMOUNT: \$0.00
ADVANTAGE CONTRACT #: MA 18P 20090100000000000023	
DEPARTMENT AGREEMENT #: DRPC-21-800 C	
START DATE: 12/1/2020	END DATE: 11/30/2026



This Contract is between the following State of Maine Department and Provider:

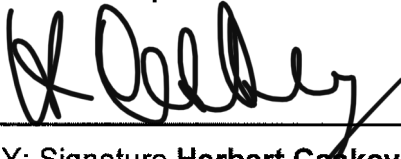
STATE OF MAINE DEPARTMENT		
DEPARTMENT NAME: Health and Human Services		
ADDRESS: 109 Capitol St		
CITY: Augusta	STATE: ME	ZIP CODE: 04333-0011
PROVIDER		
PROVIDER NAME: LIBERTY HEALTHCARE CORPORATION		
DBA:		
ADDRESS: 401 E CITY AVE STE 820		
CITY: BALA CYNWYD	STATE: PA	ZIP CODE: 19004
VENDOR CUSTOMER #: VC1000054103	FEDERAL UEI #:	

Each signatory below represents that the person has the requisite authority to enter into this Contract. The parties sign and cause this Contract to be executed.

Department Representative:

Provider Representative:

 
 BY: Signature **Benjamin Mann** Date
Deputy Commissioner of Finance

 5.20.24
 BY: Signature **Herbert Caskey** Date
President & CEO

Upon final approval by the Division of Procurement Services, a case details page will be made part of this contract.

AMENDMENT

The contract is hereby amended as follows: (Check and complete all that apply)

<input checked="" type="checkbox"/>	Amended Period	Original Start Date: 12/1/2020	Amendment Start Date: 12/1/2024
		Current End Date: 11/30/2024	New End Date: 11/30/2026
		Reason: No cost extension	
<input checked="" type="checkbox"/>	Amended Contract Amount	Adjustment Amount: \$0.00	New Contract Amount: \$0.00
		Reason: No change	
<input checked="" type="checkbox"/>	Amended Scope of Work	The Scope of Work in Rider A is amended as follows: No change	
<input checked="" type="checkbox"/>	Other	Describe the Changes: No further changes	
Agreement Amendment Summary		Original Agreement	\$ 0.00
		Amendment A	\$ 0.00
		Amendment B	\$ 0.00
		Amendment C	\$ 0.00
		Revised Total	\$ 0.00

All other terms and conditions of the original contract and subsequent contract amendments remain in full force and effect.



AMENDMENT

DATE: 3/2/2021

ADVANTAGE CONTRACT #: MA 18P 2009010000000000023

DEPARTMENT AGREEMENT #: DRPC-21-800A

AMENDMENT AMOUNT: \$ 0.00

This Amendment, is between the following Department of the State of Maine and Provider:

State of Maine DEPARTMENT

DEPARTMENT: Health and Human Services

Address: 109 Capitol Street

City: Augusta

State: ME

Zip Code: 04333-0011

PROVIDER

PROVIDER: Liberty Healthcare Corporation

Address: 401 E City Ave, Ste 820

City: Bala Cynwyd

State: PA

Zip Code: 19004

Provider's Vendor Customer #: VC1000054103

Each signatory below represents that the person has the requisite authority to enter into this Contract Amendment. The parties sign and cause this Contract Amendment to be executed.

Department of Health and Human Services

Liberty Healthcare Corporation

Handwritten signature of Benjamin Mann

Handwritten date 3/24/21

Handwritten signature of Herbert Caskey

Signature Benjamin Mann, Deputy Commissioner of Finance
Date

Signature Herbert Caskey, M.D., Pres & CEO
Date

Amendment rev. May 2020

Upon final approval by the Division of Procurement Services, a case details page will be made part of this contract.

AMENDMENT

The contract is hereby amended as follows: (Check and complete all that apply)

<input checked="" type="checkbox"/>	Amended Scope of Work:	The Scope of work in Rider A is amended as follows (see Attachment A) Additional site address added.	
Agreement Amendment Summary:		Original Agreement	\$0.00
		Amendment A	\$0.00
		Revised Total	\$0.00

All other terms and conditions of the original contract and subsequent contract amendments remain in full force and effect.

ATTACHMENT A

Changes to Agreement Terms and Conditions

- **Rider A Section II Part A is deleted and replaced in its entirety with the following:**

Original Language:

Hospitals – This includes the Department’s two psychiatric institutions, Dorothea Dix Psychiatric Center (DDPC) and Riverview Psychiatric Center (RPC).

1. DDPC located at 656 State Street, Bangor, Maine.
2. RPC located at 250 Arsenal Street, Augusta, Maine.

Revised Language:

Hospitals - This includes the Department’s two psychiatric institutions, Dorothea Dix Psychiatric Center (DDPC) and Riverview Psychiatric Center (RPC).

1. DDPC located at 656 State Street and 81 State Hospital Drive, Bangor, Maine.
2. RPC located at 250 Arsenal Street, Augusta, Maine.



SERVICE CONTRACT

DATE: 11/23/2020

ADVANTAGE CONTRACT #: MA 18P 20090100000000000023

DEPARTMENT AGREEMENT #: DRPC-21-800

CONTRACT AMOUNT: \$ Unencumbered – Work will be performed by Delivery Order

START DATE: 12/1/2020 END DATE: 11/30/2022

This Contract, is between the following Department of the State of Maine and Provider:

State of Maine DEPARTMENT

DEPARTMENT: Health and Human Services

Address: 109 Capitol Street

City: Augusta State: ME Zip Code: 04333-0011

PROVIDER

PROVIDER: Liberty Healthcare Corporation

Address: 401 E City Ave, Ste 820

City: Bala Cynwyd State: PA Zip Code: 19004

Provider's Vendor Customer #: VC1000054103

Each signatory below represents that the person has the requisite authority to enter into this Contract. The parties sign and cause this Contract to be executed.

Department of Health and Human Services

Liberty Healthcare Corporation

Signature Benjamin Mann, Deputy Commissioner of Finance

Signature Herbert Caskey, M.D., Pres & CEO

Date 12/7/20

Date 12-11-20

Service Contract (SC) rev. June 2019 (dsv1)

Upon final approval by the Division of Procurement Services, a case details page will be made part of this contract.

DEPARTMENT AND PROVIDER POINT OF CONTACTS

DEPARTMENT CONTRACT ADMINISTRATOR: The following person is designated as the Contract Administrator on behalf of the Department for this Contract. All financial reports, invoices, correspondence and related submissions from the Provider as outlined in Rider A, Reports, shall be submitted to:

Name: **Valerie Andreasen**
Email: **valerie.andreasen@maine.gov**
Address: **109 Capitol Street, SHS 11**
City: **Augusta** State: **ME** Zip Code: **04333-0011**
Telephone: **207-287-6886**

DEPARTMENT PROGRAM ADMINISTRATOR: The following person is designated as the Program Administrator. This person will be able to respond to routine administrative questions pertaining to the Contract; they will not be able to alter the scope of the Contract.

Name: **Wendy Waltz**
Email: **wendy.m.waltz@maine.gov**
Address: **250 Arsenal Street, SHS 11**
City: **Augusta** State: **ME** Zip Code: **04333-0011**
Telephone: **207-624-4679**

DEPARTMENT PROGRAM MANAGER: The following person is designated as the Program Manager. This person will be able to respond to programmatic questions pertaining to the Contract. The Program Manager will not be able to alter the scope of the Contract.

Name: **Matthew Davis**
Email: **matthew.j.davis@maine.gov**
Address: **250 Arsenal Street, SHS 11**
City: **Augusta** State: **ME** Zip Code: **04333-0011**
Telephone: **207-624-4658**

PROVIDER CONTACT: The following person is designated as the Contact Person on behalf of the Provider for the Contract. All contractual correspondence from the Department will be submitted to:

Name: **Charlie Sproule**
Email: **charlies@libertyhealth.com**
Address: **401 E City Ave, Ste 820**
City: **Bala Cynwyd** State: **PA** Zip Code: **19004**
Telephone: **(610) 668-8800**
Provider's DUNS #: **N/A**

RIDERS

<input checked="" type="checkbox"/>	The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply)
<input checked="" type="checkbox"/>	Funding and Payment Rider
<input checked="" type="checkbox"/>	Rider A – Scope of Work
<input checked="" type="checkbox"/>	Rider B – Terms and Conditions
<input checked="" type="checkbox"/>	Rider D – Additional Requirements
<input checked="" type="checkbox"/>	Rider G – Identification of Country in Which Contracted Work will be Performed
<input checked="" type="checkbox"/>	Rider – Exceptions
<input checked="" type="checkbox"/>	Appendix A – Hospital Staffing Delivery Order Template

FUNDING AND PAYMENT RIDER

1. **FUNDING TOTAL. \$ Unencumbered – DHHS will use on an as-needed basis.**

The sources of funds and compliance requirements for this Contract follow:

State General Fund / Dedicated/Special Revenue \$ Unencumbered – DHHS will on an as-needed basis.

2. **INVOICES AND PAYMENT.** The Department will pay the Provider as follows: Payment terms are net 30 from the date the State receives a proper invoice. Invoices will only be paid against an approved Delivery Order and shall contain sufficient detail in accordance with the Delivery Order to allow proper cost allocation. Invoices shall be accompanied by all of the necessary and complete supporting documents.

Invoices for payment, submitted on forms approved by the Department. No invoice will be processed for payment until approved by the Department. All invoices require the following:

- Provider letterhead with Provider name and payment address;
- A unique invoice number;
- The DHHS Contract number for this Contract;
- The Advantage DO number for the Delivery Order;
- The invoice date and the total amount of the invoice; and
- The detailed billing data for each resource, including hospital, resource name, title, billable rate, rate description, and net amount billed during period

Delivery Orders will include a mark-up rate of 20%. The sum of the Resource hourly rate plus the mark-up rate will cover all salary, compensation, applicable employment taxes, insurances, approved travel costs incurred by the resource, and required malpractice costs (including tail coverage) to ensure the Provider fully complies with the terms and conditions of this Contract.

Delivery Orders shall be invoiced no more frequently than every two weeks.

All invoices, including the final invoice, must be submitted no later than forty-five (45) days after the last day of the month for which the service being billed for was performed. Payments are subject to the Provider's compliance with all items set forth in this Contract and subject to the availability of funds. No payment will be made if the Provider does not comply with these terms.

**RIDER A
SCOPE OF WORK**

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II. DEFINITIONS

BASIC ACRONYMS	
DDPC	Dorothea Dix Psychiatric Center
RPC	Riverview Psychiatric Center

- A. **Hospitals** – This includes the Department’s two psychiatric institutions, Dorothea Dix Psychiatric Center (DDPC) and Riverview Psychiatric Center (RPC).
 - 1. DDPC located at 656 State Street, Bangor, Maine.
 - 2. RPC located at 250 Arsenal Street, Augusta, Maine.

- B. **Employee** – A Resource who is an employee of the Provider and receives a W-2 at year end.

- C. **Independent Contractor** – A Resource who is self-employed and receives a 1099-Misc at year end.

- D. **Medical Staff** – Individuals hired by or contracted with the Provider to provide medical coverage for the admission, treatment, and discharge of patients at the Hospital(s). Medical Staff includes but is not limited to Psychiatrists, Primary Care Physicians, Psychologists, Physician Assistants, Nurse Practitioners, Residents, and/or Clinical Director Assistants.

- E. **Resource** – An Employee or Independent Contractor hired by or contracted with the Provider to perform a specific assignment. Resources may include clinical and/or non-clinical staff and may be long-term or short-term assignments.

III. INTRODUCTION/OVERVIEW

The purpose of this agreement is to provide Payroll Services at the Department’s psychiatric institutions. The individual resources are medical and clinical professionals who are hired to provide medical coverage for the admission, treatment, and discharge of patients at the hospital(s). They may include, but are not limited to, psychiatrists, primary care physicians, psychologists, physician assistants, nurse practitioners, residents, and/or clinical director assistants.

IV. DELIVERABLES

The Provider shall perform all services and maintain all standards and requirements for services provided under this Agreement and all Delivery Orders under this Agreement, in accordance with the below:

- A. Follow the Delivery Order Process. The following process outlines the typical steps the Department will use to engage Resources for Payroll Services under this Contract.
 - 1. DDPC and RPC will send the Provider a Job Description which will contain the duties required and the job schedule expectations.
 - 2. The Provider must agree in writing and in advance of work performed.
 - 3. Once the Provider agrees with the Department, the Department will create a Hospital Staffing Delivery Order which includes, but is not limited to, the following information:
 - a. The Resource Name
 - b. The Resource Type
 - c. Start and End Dates of engagement
 - d. A description of duties
 - e. The list of necessary skills
 - f. Job Performance Expectations including scheduled working hours
 - g. The hourly rate, multiplier and total bill rate.
 - h. An indication if a subcontractor is used. The subcontractor's name should be included.

Appendix A is the Hospital Staffing Delivery Order Template that should be used for procuring these services.

- 4. Once the Department approves the DO, it will route to the State's Division of Procurement Services (part of the Department of Administrative and Financial Services) for final approval.
 - 5. Once approval is applied, the Provider will receive a copy of the DO via email.
 - a. The email is generated from the procurement contact information in the Provider's Vendor file.
 - 6. No work is authorized until this process is complete.
- B. Payroll Functions – Provide payroll functions for Department selected Resources as follows:
 - 1. Identifying the selected Resource as an Independent Contractor or Employee;
 - 2. Processing weekly time cards;
 - 3. Being responsible for all payroll withholding and benefit requirements as applicable; and
 - 4. Preparing quarterly and annual withholding reports as required by State and Federal employment guidelines.
- C. Employment Applications – Provide the Hospital(s) with the employment application for distribution to potential Resource candidates. Resource candidates are responsible for submitting the employment application to the Provider's administrative office.
- D. HR/Payroll Record Keeping – Perform HR/Payroll Record keeping requirements for Human Resources/Payroll Services.
- E. Rules, Regulations, and Applicable Standards and Hospital(s) Policies – Comply with all State and Federal rules, regulations and applicable standards and Hospital(s) policies.
- F. Hiring, Record Keeping, and Termination Procedures
 - 1. The hourly wage for Resources will be determined by the Hospital(s). However, the Department may request the vendor to compare the hourly rate and/or annual salary with market-based rates.

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2. Involve the Department and/or Hospital in the Resources annual performance review process.
- G. Travel Reimbursement –Resources who travel as part of his/her assignment are reimbursed in accordance with the State’s travel policy
1. Invoice the Hospital(s) for the allowable travel costs. The invoice shall include details regarding the miles traveled, receipts for expenses and any other necessary documentation.
 2. Adhere to requests for a detailed audit related to travel records within five (5) business days.
 3. All travel must be preapproved by the Department.
- H. Policies and Employee Handbook – Resources shall review and understand the Provider’s policies and employee handbook.
1. Request any Department and/or Hospital-specific policies that the Resource must adhere to and assure that the Resource is familiar with any key policies required by the Department and/or Hospital.
 2. State of Maine policies regarding use of State-owned equipment, confidentiality of information and any other “Statewide” policy shall be incorporated in the list of policies the Resource will adhere to while assigned to the Hospital(s).
- I. Determine Resource Hours – Collaborate with the Hospital(s) to determine the exact hours for the individual Resource on a case by case basis.
1. In the event overtime is authorized by the Hospital(s), overtime compensation will be paid based upon the agreement between the Hospital(s) and the Provider.
 2. Reimbursement for overtime will be made for actual hours worked.
 3. Reimbursement will not be made for:
 - a. Holidays observed by the State;
 - b. Time off for illness;
 - c. Time off for vacation or other personal time off; or
 - d. For time not worked as a result of early dismissal of the Resource due to weather or other causes.
- J. Professionalism and Completion of Tasks –Resources shall report to work consistently and when required, exhibit an appropriate degree of professionalism and complete all required tasks as assigned.
1. Hospital shall monitor the performance of the Resource and provide periodic communications with the Provider.
 2. Coordinate and facilitate meetings with the Hospital(s) and the individual Resource when work performance concerns arise, or reprimands are warranted.
 - i. Prior to discussing disciplinary action or termination of the Resource, the Hospital(s) will discuss any issues relating to the individual Resource with the Provider.
 - ii. The Hospital and Provider shall collaborate and conduct any separation of assignment/employment with the individual Resource as needed.
 - iii. The Hospital(s) reserves the right to have the Resource removed for performance issues after Hospital’s written notice to Provider.
 - iv. If a Resource is removed from an assignment, the Provider shall be available in person to ensure that the Resource is not in possession of any State property or data and exits State premises without incident.
 3. After Hospitals’ written notice to Provider, Provider shall immediately terminate and/or place the Medical Staff Resource on an administrative leave of absence with pay, as determined by the Hospital(s), when:
 - i. He/she loses Medical Staff privileges at the Hospital(s) secondary to revocation or suspension of the Medical Staff’s Maine practice license, or conviction of a felony; and/or
 - ii. He/she loses Medical Staff privileges at the Hospital(s) due to failure to meet the standards of the Hospital Medical Staff by-laws.
- K. Conversion of the Resource to State Employment – Cooperate with the Department in the instance of the Resource being selected to be hired under a State payroll line at the Hospital(s), in converting the Resource in an efficient, effective, and timely manner, and in accordance with State human resource procedures.
1. Transitions must happen in a mutually agreeable timeframe.

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- 2. The Provider shall not receive any additional compensation as a result of these transitions.
- L. The Provider may use the subcontractor, **Advance Sourcing Concepts, LLC** or additional subcontractors as agreed upon by both parties to provide payroll services for the following job classifications, or additional job classifications as agreed upon by both parties:
 - 1. Job Title 1 – Physician Employee
 - 2. Job Title 2 – Nurse Practitioner Independent Contractor
 - 3. Job Title 3 – Physician Assistant Independent Contractor
 - 4. Job Title 4 – Psychologist Independent Contractor

V. REPORTS

A. Required Reports

The Provider shall track and record all data/information necessary to complete the reports listed in the table below:

	<u>Name of Report or On-Site Visit:</u>	<u>Description or Appendix #:</u>
1.	Quarterly Summary	This report provides a summary of the resources that were resourced under this Agreement. The report should include, but is not limited to, the following information: the DO number, the name of the Hospital, the total amount of DO, start and end dates, the name of resource, the title of resource, the hourly rate, the multiplier, the total bill rate, the number of hours worked to-date, the amount billed to-date, and the amount remaining.
2.		

B. Reporting Schedule for Above listed Required Reports

The Provider shall submit all of the reports listed in the table below to the Department in accordance with the deadlines established within the table:

	<u>Name of Report or On-Site Visit:</u>	<u>Period Captured by Report or on-site visit:</u> <i>(“Each year/quarter/ month/week”)</i>	<u>Due Date:</u> <i>(“# days after each year/quarter/ month/week”)</i>	<u>Submit reports in accordance with Department and Provider Point of Contacts Section of this Agreement to:</u>
1.	Quarterly Summary	Each quarter	Thirty (30) days after each quarter	Program Administrator

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				Contract Administrator
2.				

The Provider understands that the reports are due within the timeframes established and that the Department will not make subsequent payment installments under this Agreement until such reports are received, reviewed and accepted.

The Provider further agrees to submit such other data and reports as may be reasonably requested by the Contract Administrator.

**RIDER B
TERMS AND CONDITIONS**

1. BENEFITS AND DEDUCTIONS. If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.
2. INDEPENDENT CAPACITY. In the performance of this Contract, the parties hereto agree that the Provider, and any agents and employees of the Provider, shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.
3. DEPARTMENT'S REPRESENTATIVE. The Contract Administrator shall be the Department's representative during the period of this Contract. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Contract are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.
4. CHANGES IN THE WORK. The Department may order changes in the work, the Contract Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.
5. SUB-AGREEMENTS. Unless provided for in this Contract, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Contract Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Contract must be annotated "approved" by the Contract Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.
6. SUBLETTING, ASSIGNMENT OR TRANSFER. The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Contract Administrator. No subcontracts or transfer of Contract shall in any case release the Provider of its liability under this Contract.
7. EQUAL EMPLOYMENT OPPORTUNITY. During the performance of this Contract, the Provider agrees as follows:
 - a. The Provider shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms

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- of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.
- b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.
 - c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining Contract, or other Contract or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.
 - e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
 - f. Providers and subcontractors with Contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs, which programs must conform with applicable state and federal laws, rules and regulations.
 - g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
8. EMPLOYMENT AND PERSONNEL. The Provider shall not engage on a full-time, part-time or other basis during the period of this Contract, any (a) state employee or (b) any former state employee who participated in any way in the solicitation, award or administration of this Agreement. This restriction shall not apply to regularly retired employees or any employee who has out of state employment for a period of twelve (12) months.
9. WARRANTY. The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Contract and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Contract. For breach or violation of this warranty, the Department shall have the right to annul this Contract without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
10. ACCESS TO RECORDS. As a condition of accepting an Contract for services under this section, a Provider must agree to treat all records, other than proprietary information, relating to personal services work performed under the Contract as public records under the freedom of access laws to the same

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extent as if the work were performed directly by the Department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the Provider and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the Contract and information concerning employee and Contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Contract and make such materials available at its offices at all reasonable times during the period of this Contract and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

11. TERMINATION. (a) The performance of work under the Contract may be terminated by the Department whenever for any reason the Contract Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the date on which such termination becomes effective. Upon such termination, the Department shall pay the Provider for work performed by the Provider prior to the date of Notice of Termination. (b) Either party may terminate this Agreement for cause by providing a written notice of termination stating the reason for the termination. Upon receipt of the notice of termination, the defaulting party shall have fifteen (15) business days to cure the default. If the default is of such a nature that it cannot be cured within fifteen (15) business days, the defaulting party shall have such additional time, as the parties may agree to, to cure the default, provided the defaulting party has taken steps to cure the default with the initial 15 days.
12. GOVERNMENTAL REQUIREMENTS. The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.
13. GOVERNING LAW. This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.
14. STATE HELD HARMLESS. The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all third party claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.
15. NOTICE OF CLAIMS. The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed that is related in any way to the Contract or which may affect the performance of duties under the Contract, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Contract or which may affect the performance of duties under the Contract.
16. APPROVAL. This Contract must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

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17. INSURANCE. The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Contract with adequate liability coverage to protect itself and the Department from suits. Providers insured through a “risk retention group” insurer prior to July 1, 1991, may continue under that arrangement. Prior to or upon execution of this Contract, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.
18. NON-APPROPRIATION. Notwithstanding any other provision of this Contract, if the State does not receive sufficient funds to fund this Contract and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Contract.
19. SEVERABILITY. The invalidity or unenforceability of any particular provision, or part thereof, of this Contract shall not affect the remainder of said provision or any other provisions, and this Contract shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
20. ORDER OF PRECEDENCE. In the event of a conflict between the documents comprising this Agreement, the Order of Precedence shall be:
- Exceptions Riders
 - Rider B Terms and Conditions
 - Rider A Scope of Work
 - Funding and Payment Rider
 - Rider D Included at Department's Discretion
 - Rider E Included at Department's Discretion
 - Rider F Included at Department's Discretion
 - Rider G Identification of Country in which contracted work will be performed
 - Business Associate Agreement included at Department's Discretion
 - Other Included at Department's Discretion
21. FORCE MAJEURE. The performance of an obligation by either party shall be excused in the event that performance of that obligation is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party.
22. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State’s option to withhold for the purposes of set-off any monies due to the Provider under this Contract up to any amounts due and owing to the State with regard to this Contract, any other Contract, any other Contract with any State department or agency, including any Contract for a term commencing prior to the term of this Contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.
23. ENTIRE CONTRACT. This document contains the entire Contract of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The

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parties expressly agree that they shall not assert in any action relating to the Contract that any implied waiver occurred between the parties, which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Contract, or to exercise an option or election under the Contract, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Contract shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Contract or at law.

24. 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 Provider.
25. DEBARMENT, PERFORMANCE, AND NON-COLLUSION CERTIFICATION. By signing this Contract, the Provider certifies to the best of Provider's knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this Contract:
- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.
 - b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:
 - i. Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.
 - ii. Violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
 - iv. Have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.
 - c. Have not Entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

**RIDER D
ADDITIONAL REQUIREMENTS**

1. **CONFIDENTIALITY.** To the extent that the services carried out under this Agreement involve the use, disclosure, access to, acquisition or maintenance of information that actually or reasonably could identify an individual or consumer receiving benefits or services from or through the Department ("Protected Information"), the Provider agrees to a) maintain the confidentiality and security of such Protected Information as required by applicable state and federal laws, rules, regulations and Department policy, b) contact the Department within 24 hours of a privacy or security incident that actually or potentially could be a breach of Protected Information and c) cooperate with the Department in its investigation and any required reporting and notification of individuals regarding such incident involving Protected Information. To the extent that a breach of Protected Information is caused by the Provider or one of its subcontractors or agents, the Provider agrees to pay the cost of notification, as well as any financial costs and/or penalties incurred by the Department as a result of such breach."

To the extent the Provider under this Agreement is considered a Business Associate under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA) and its updates and associated regulatory requirements, rules and standards, including those issued under the Health Information Technology for Economic and Clinical Care Act (HITECH), the Provider shall execute the Department's Business Associate Agreement template (BA Agreement). The terms of the BA Agreement shall be incorporated into this Agreement by reference. Provider agrees that failure of Provider to execute and deliver such BA Agreement to the Department or to adhere to the terms of the BA Agreement shall result in breach of the underlying Agreement, and that remedies available to the Department for breach of the Agreement apply hereto.

2. **LOBBY.** No Federal or State appropriated funds shall be expended by the Provider for influencing or attempting to influence, as prohibited by state or federal law, an officer or employee of any Federal or State agency, a member of Congress or a State Legislature, or an officer or employee of Congress or a State Legislature in connection with any of the following covered actions: the awarding of any Agreement; the making of any grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any Agreement, grant, or cooperative agreement. The signing of this Agreement fulfills the requirement that providers receiving over \$100,000 in Federal or State funds file with the Department with respect to this provision. If any other funds have been or will be paid to any person in connection with any of the covered actions specified in this provision, the Provider shall complete and submit a "Disclosure of Lobbying Activities" form available at: <https://www.gsa.gov/forms-library/disclosure-lobbying-activities>.
3. **DRUG-FREE WORKPLACE.** By signing this Agreement, the Provider certifies that it shall comply with the drug-free workplace requirements of the Drug-Free Workplace Act (41 U.S.C. Ch. 81) by:
 - a) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Provider's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
 - b) establishing a drug-free awareness program to inform employees about—
 - i) the dangers of drug abuse in the workplace;
 - ii) the Provider's policy of maintaining a drug-free workplace;
 - iii) available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) the penalties that may be imposed on employees for drug abuse violations;

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- c) making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph (a);
- d) notifying the employee in the statement required by subparagraph (a) that as a condition of employment in the contract the employee will—
 - i) abide by the terms of the statement; and
 - ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after the conviction;
- e) notifying the Department ten (10) days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of a conviction;
- f) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by section 8104 of this title; and
- g) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (a) to (f).

4. ENVIRONMENT TOBACCO SMOKE. By signing this Agreement, the Provider certifies that it shall comply with the Pro-Children Act of 1994, P.L. 103-227, Part C, which requires that smoking not be permitted in any portion of any indoor facility owned, leased, or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments by Federal grant, Agreement, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or MaineCare funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

Also, the Provider of foster care services agrees that it will comply with Resolve 2003, c. 134, which prohibits smoking in the homes and vehicles operated by foster parents.

- 5. MEDICARE AND MAINECARE ANITI-KICKBACK. By signing this Agreement, the Provider agrees that it shall comply with the dictates of 42 U.S.C. 1320a-7b(b), which prohibits the solicitation or receipt of any direct or indirect remuneration in return for referring or arranging for the referral of an individual to a Provider of goods or services that may be paid for with Medicare, MaineCare, or state health program funds.
- 6. PUBLICATIONS. When issuing reports, brochures, or other documents describing programs funded in whole or in part with funds provided through this Agreement, the Provider agrees to clearly acknowledge the participation of the Department of Health and Human Services in the program. In addition, when issuing press releases and requests for proposals, the Provider shall clearly state the percentage of the total cost of the project or program to be financed with Agreement funds and the dollar amount of Agreement funds for the project or program.
- 7. OWNERSHIP. All notebooks, plans, working papers, data, or other work produced in the performance of this Agreement, which are related to specific deliverables under this Agreement, are the property of the Department and upon request shall be turned over to the Department.
- 8. SOFTWARE OWNERSHIP. Upon request, the State and all appropriate federal agencies shall receive a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to do so, all application software produced in the performance of this Agreement, including, but not limited to, all source, object, and executable code, data files, and job control

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language, or other system instructions. This requirement applies only to software that is a specific deliverable under this Agreement, or is integral to the program or service funded under this Agreement, and is primarily financed with funding provided under this Agreement.

9. PROVIDER RESPONSIBILITIES / SUB AGREEMENTS. The Provider is solely responsible for fulfillment of this Agreement with the Department. The Provider assumes responsibility for all services offered and products to be delivered whether or not the Provider is the manufacturer or producer of said services.
 - a) Sub-agreements.
 - i) All sub-agreements must contain the assurances of Rider B, Rider D, and Rider I of this Agreement;
 - ii) All sub-agreements must be signed and delivered to the Department's Agreement Administrator within five (5) business days following the execution date of the sub-agreement.
 - iii) See Rider B Section 5.
 - b) Relationship between Provider, Subcontractor and Department. The Provider shall be wholly responsible for performance of the entire Agreement whether or not subcontractors are used. Any sub-agreement into which the Provider enters with respect to performance under this Agreement shall not relieve the Provider in any way of responsibility for performance of its duties. Further, the Department will consider the Provider to be the sole point of contact with regard to any matters related to this Agreement, including payment of any and all charges resulting from this Agreement. The Department shall bear no liability for paying the claims of any subcontractors, whether or not those claims are valid. The Provider is responsible for ensuring that all staff, employees, subcontractors, or other individuals or entities providing any services on behalf of the Provider clearly explain, verbally and in writing, to clients and families their relationship to the Provider and the Provider's relationship to the Department.
 - c) Liability to Subcontractor. The requirement of prior approval of any sub-agreement under this Agreement shall not make the Department a party to any sub-agreement or create any right, claim or interest in the subcontractor or proposed subcontractor against the Department. The Provider agrees to defend (subject to the approval of the Attorney General) and indemnify and hold harmless the Department against any claim, loss, damage, or liability against the Department based upon the requirements of Rider B, Section 14.
10. RENEWALS. This Agreement may be renewed at the discretion of the Department.
11. NO RULES OF CONSTRUCTIONS. The parties acknowledge that this Agreement was initially prepared by the Department solely as a convenience and that all parties hereto, and their counsel, have read and fully negotiated all the language used in the Agreement. The parties acknowledge that, because all parties and their counsel participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement that construes ambiguous or unclear language in favor of or against any party because such party drafted this Agreement.
12. CONFLICT OF INTEREST. The Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Provider further covenants that in the performance of this Agreement, no person having any such known interests shall be employed. [See also Rider B, #8]
13. WHISTLEBLOWER PROTECTION.
 - a) This Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

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- b) The Provider shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
 - c) The Provider shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.
14. FUNDING SOURCES REDUCED. Notwithstanding any other provision of this Agreement, if the United States Government or any department of the United States Government, has de-appropriated or suspended funds for this Agreement, or where the Governor of the State of Maine has curtailed funds for this Agreement then the Department is not obligated to make payment under this Agreement to the extent of such de-appropriation, suspension or curtailment of funds. In the event of such de-appropriation, suspension or curtailment of funds, the Agreement shall be modified accordingly.
15. CHANGE OF OPERATIONS. The Provider shall report to the Agreement Administrator and Program Administrator any anticipated changes of the Provider's operations, including but not limited to mergers, acquisitions, or closings, at the earliest possible date and no later than sixty (60) days prior to the anticipated closure date, with the exception of reasonably unforeseen circumstance.
16. TOBACCO FREE FACILITY. This policy outlines the prohibited use of tobacco products (cigarettes, cigars, chewing tobacco and any other tobacco-related substance) on the campus. This policy is applicable to all hospital staff, patients, physicians, visitors, students, volunteers, vendors, contracted and per diem employees.
17. FRAGRANCE FREE ENVIRONMENT. Chemical compositions in many fragrances pose health risks to some people. Therefore, in an effort to promote a healthy environment, The Department prohibits the use of perfume, cologne, and heavily scented products within the hospital.

This policy will apply to staff, visitors and all those served by the hospital.

Staff, patients and all visitors to the Hospital are requested to avoid the use of personal fragrances such as perfumes and colognes. The policy also addresses "heavily scented products" which include air fresheners, scented candles, potpourri and other similar personal fragrance products.

18. BACKGROUND CHECKS. The Provider agrees to conduct background checks on all employees, temporary staff persons, persons contracted or hired, consultants, volunteers, students, and other persons who may provide services under this Agreement. The results of each background check shall be made available to the Program Administrator within five (5) days of completion and prior to the person providing services under this agreement. The cost of performing each background check shall be the responsibility of the Provider. The methods of performing the background checks must first be approved by the Department in writing and will include information from the Bureau of Motor Vehicles, the Sex Offender Registry, and the Maine State Bureau of Investigation. If services to be provided under this agreement include services to minor children then the background check will include information from the Department's Office of Child and Family Services regarding substantiated findings of abuse or neglect of a child. If services to be provided under this agreement are to be performed by a person who is professionally licensed then the background check will include information from the appropriate licensing board or entity regarding the status of the person's license. The Provider must receive written permission from the Department before making any changes to such methods.

The Provider shall not hire or retain in any capacity any person who may directly provide services to a client under this Agreement if that person has a record of:

- a) any criminal conviction that involves client abuse, neglect or exploitation;
- b) any criminal conviction, classified as Class A, B or C or the equivalent of any of these, or any reckless conduct that caused, threatened, solicited or created the substantial risk of bodily injury to another person within the preceding two years; or

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- c) any criminal conviction resulting from a sexual act, contact, touching or solicitation in connection to any victim.

The Provider shall not hire or retain in any capacity any person who may directly provide services to a client who is minor child under this Agreement if that person has a record of substantiated abuse or neglect of a child.

The Provider shall not hire or retain a person to perform any service under this agreement that is required to be performed by a person with an appropriate license unless it has confirmation from the appropriate licensing board or entity that the person has a license in good standing.

19. TANF SUBRECIPIENT REQUIREMENTS. To the extent the contract utilizes Temporary Assistance for Needy Families (TANF) funding, the Provider acknowledges that it is aware of the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (2 CFR 200 (Uniform Guidance), that TANF block grant funding is being used to fund the contract, to what extent TANF funding is being used and that TANF is governed by the Social Security Act, Title IV (Part A of Title IV), and TANF Regulations 45 CFR Chapter II (Parts 260 through 265)) and that it agrees that it shall:

- a) Ensure that funds are expended in accordance with state laws and procedures for the state's own funds and allow the Department to review the Provider's financial management system, in accordance with 2 CFR 200.302.
- b) Ensure that effective internal controls are used, which includes complying with federal statutes and taking prompt action in instances of non-compliance, in accordance with 2 CFR 200.303.
- c) Ensure that funds are spent in accordance with 2 CFR 200.305.
- d) Monitor program performance and, if required, submit performance reports, data on program objectives and the progress towards meeting those objectives, and additional pertinent data, in accordance with 2 CFR 200.328.
- e) Retain program, financial and statistical records for at least five years from the end of each program year, in accordance with 2 CFR 200.333.
- f) Conduct a Single Audit in accordance with 2 CFR 200 Subpart F, if applicable.

20. CLEAN AIR AND CLEAN WATER. By signing this agreement, the Provider agrees that it will 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).

**RIDER G
IDENTIFICATION OF COUNTRY
IN WHICH CONTRACTED WORK WILL BE PERFORMED**

Please identify the country in which the services purchased through this contract will be performed:

- United States. Please identify state: PA, ME
- Other. Please identify country: Enter Country

Notification of Changes to the Information

The Provider agrees to notify the Division of Procurement Services of any changes to the information provided above.

Rider – Exceptions

Rider D ADDITIONAL REQUIREMENTS 9. PROVIDER RESPONSIBILITIES / SUB AGREEMENTS is amended to read as follows

9. PROVIDER RESPONSIBILITIES / SUB AGREEMENTS. The Provider is solely responsible for fulfillment of this Agreement with the Department. The Provider assumes responsibility for all services offered and products to be delivered whether or not the Provider is the manufacturer or producer of said services.
 - a. Sub-agreements.
 - i. All sub-agreements must contain the assurances of Rider B, Rider D, and the Cost Analysis of this Agreement;
 - ii. All sub-agreements must be signed and delivered to the Department’s Agreement Administrator within five (5) business days following the execution date of the sub-agreement.
 - iii. See Rider B Section 5.
 - b. Relationship between Provider, Subcontractor and Department. The Provider shall be wholly responsible for performance of the entire Agreement whether or not subcontractors are used. Any sub-agreement into which the Provider enters with respect to performance under this Agreement shall not relieve the Provider in any way of responsibility for performance of its duties. Further, the Department will consider the Provider to be the sole point of contact with regard to any matters related to this Agreement, including payment of any and all charges resulting from this Agreement. The Department shall bear no liability for paying the claims of any subcontractors, whether or not those claims are valid.
 - c. Liability to Subcontractor. The requirement of prior approval of any sub-agreement under this Agreement shall not make the Department a party to any sub-agreement or create any right, claim or interest in the subcontractor or proposed subcontractor against the Department. The Provider agrees to defend (subject to the approval of the Attorney General) and indemnify and hold harmless the Department against any claim, loss, damage, or liability against the Department based upon the requirements of Rider B, Section 14.

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See Attached Appendix A – Hospital Staffing Delivery Order Template