

AGREEMENT FOR FORENSIC TOXICOLOGY SERVICES

This agreement ("Agreement"), dated as of January 1, 2023 ("Effective Date") is by and between the County of Sonoma, a political subdivision of the State of California (hereinafter "County"), and NMS Labs (hereinafter "Consultant"), a Pennsylvania corporation authorized to operate in the State of California.

RECITALS

WHEREAS, Consultant represents that it is a duly qualified and accredited laboratory, experienced in the preparation of forensic toxicology testing and related services; and

WHEREAS, in the judgment of the Sheriff-Coroner, it is necessary and desirable to employ the services of Consultant to provide forensic toxicology laboratory testing and related services.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

I. Scope of Services.

1.1 Consultant's Specified Services. Consultant shall perform the services described in Exhibit "A," attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in Exhibit "A" and pursuant to Article 7, Prosecution of Work. In the event of a conflict between the body of this Agreement and Exhibit "A", the provisions in the body of this Agreement shall control.

1.2 Cooperation With County. Consultant shall cooperate with County and County staff in the performance of all work hereunder.

1.3 Performance Standard. Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. County has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release. If County determines that any of Consultant's work is not in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with County to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this

Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

1.4 Assigned Personnel.

- a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time County, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from County.
- b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by County to be key personnel whose services were a material inducement to County to enter into this Agreement, and without whose services County would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of County.
- c. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

2. Payment. For all services and incidental costs required hereunder, Consultant shall be paid on a time and material/expense basis in accordance with the budget set forth in Exhibit B, provided, however, that total payments to Consultant shall not exceed \$120,000 per year, without the prior written approval of County. Consultant shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of the County Department receiving the services. The bills shall show or include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed. Unless otherwise noted in this Agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County.

Pursuant to California Revenue and Taxation code (R&TC) Section 18662, the County shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

If Consultant does not qualify, County requires that a completed and signed Form 587 be provided by the Consultant in order for payments to be made. If Consultant is qualified, then the County requires a completed Form 590. Forms 587 and 590 remain valid for the

duration of the Agreement provided there is no material change in facts. By signing either form, the Consultant agrees to promptly notify the County of any changes in the facts. Forms should be sent to the County pursuant to Article 12. To reduce the amount withheld, Consultant has the option to provide County with either a full or partial waiver from the State of California.

3. Term of Agreement. The term of this Agreement shall be from January 1, 2023 to December 31, 2025, with the option to extend for two additional one-year periods, unless terminated earlier in accordance with the provisions of Article 4 below.

4. Termination.

4.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, County shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

4.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, County may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

4.3 Delivery of Work Product and Final Payment Upon Termination.

In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to County all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.4 Payment Upon Termination. Upon termination of this Agreement by County, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Consultant.

4.5 Authority to Terminate. The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Purchasing Agent or Sheriff-Coroner, in

consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

5. Indemnification. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant's obligations under this Section apply whether or not there is concurrent or contributory negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. County shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

6. Insurance. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit C, which is attached hereto and incorporated herein by this reference.

7. Prosecution of Work. The execution of this Agreement shall constitute Consultant's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

8. Extra or Changed Work. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Changes which do not exceed the delegated signature authority of the Department may be executed by the Sheriff-Coroner in a form approved by County Counsel. The Board of Supervisors or Purchasing Agent must authorize all other extra or changed work which exceeds the delegated signature authority of the Department Head. The parties expressly recognize that, pursuant to Sonoma County Code Section 1-11, County personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of the County.

9. Representations of Consultant.

9.1 Standard of Care. County has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant's work by County shall not operate as a waiver or release.

9.2 Status of Consultant. The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to Article 4, above, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

9.3 No Suspension or Debarment. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If the Consultant becomes debarred, consultant has the obligation to inform the County

9.4 Taxes. Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold County harmless from any liability which it may incur to the United States or to the State of California as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case County is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish County with proof of payment of taxes on these earnings.

9.5 Records Maintenance. Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

9.6 Conflict of Interest. Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by

County, Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with County disclosing Consultant's or such other person's financial interests.

9.7 Statutory Compliance/Living Wage Ordinance. Consultant agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement may be subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

9.8 Nondiscrimination. Without limiting any other provision hereunder, Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

9.9 AIDS Discrimination. Consultant agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

9.10 Assignment of Rights. Consultant assigns to County all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to County in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as County may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of County. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of County.

9.11 Ownership and Disclosure of Work Product. All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of County. County shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly

notice, bill or payment is sent by facsimile or email, the notice, bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

13. Miscellaneous Provisions.

13.1 No Waiver of Breach. The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

13.2 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and County acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

13.3 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

13.4 No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

13.5 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

13.6 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

13.7 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No

modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

13.8. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

13.9 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

13.10. Counterpart; Electronic Signatures. The parties agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and together which when executed by the requisite parties shall be deemed to be a complete original agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered, be valid and effective for all purposes, and shall have the same legal force and effect as an original document. This Agreement, and any counterpart, may be electronically signed by each or any of the parties through the use of any commercially-available digital and/or electronic signature software or other electronic signature method in compliance with the U.S. federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.), or other applicable law. By its use of any electronic signature below, the signing party agrees to have conducted this transaction and to execution of this Agreement by electronic means.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

NMS LABS

By: 
Dan Monahan, President and CEO

Date: October 28, 2022

COUNTY OF SONOMA

By: 
Mark Essick, Sheriff-Coroner

Date: 12/12/22

APPROVED AS TO FORM FOR COUNTY:

By: 
County Counsel

Date: November 3, 2022

CERTIFICATES OF INSURANCE
REVIEWED, ON FILE, AND APPROVED AS
TO SUBSTANCE FOR COUNTY:

By: 
Department Analyst

Date: 11/3/2022

Exhibit A Scope of Work

During the term of this Agreement, Consultant (“Laboratory”) shall perform the following services to the County upon the request of the Sheriff’s Office:

1. Chain of Custody

Laboratory shall maintain a strict chain of custody which clearly documents the name, date, and time that Laboratory personnel handle, inspect, analyze, store, or transport specimens which are under Laboratory’s control, from the time the samples are removed from the Sheriff’s Office and until they are returned. Laboratory shall use reasonable care to protect the confidentiality of the specimens.

2. Transport

Laboratory shall provide all containers and supplies necessary for specimen collection, identification, storage, and transportation. Laboratory shall supply pre-printed forms for Sheriff’s Office staff to request and identify the testing services needed, as well as to document chain of custody and control of each specimen.

Laboratory shall provide all packing and shipping materials needed for Sheriff’s Office staff to send specimens to Laboratory for testing. Sheriff’s Office staff will ship specimens via FedEx unless other shipping options are discussed and agreed upon with Laboratory.

3. Storage

Laboratory will ensure that all samples are stored appropriately, either in a refrigerated or frozen environment, to ensure against loss, contamination, or deleterious change.

4. Retention

Laboratory shall provide all specimen retention and disposal services. Specimens shall be retained for a period of two (2) years unless Sheriff’s Office staff explicitly requests either a longer retention period or that specimens be returned. Sheriff’s Office shall pay for shipping expenses related to such return requests.

5. Testing

Laboratory shall have the ability to conduct forensic toxicology testing services in order to assist with cause of death determination. Laboratory shall contact the Sheriff’s Office regarding cases in which analytes found outside of the requested scope of analysis may require additional testing or directed analysis. Laboratory should have a documented record of its ability to handle routing and non-routine specimens, e.g., blood, serum, plasma, urine, vitreous, bile, hair, organs, bone, decomposed tissue, embalmed or exhumed bodies.

Laboratory should indicate whether it has the capability for online ordering and online result reporting.

6. Lab Reports

For each test conducted, Laboratory shall provide:

- a. A typewritten or computer generated report that fully documents the toxicological tests or other laboratory analysis performed, as well as the results obtained.
- b. Each report must contain, at a minimum, the following information:
 - i. Subject name
 - ii. Sheriff's Office case number
 - iii. Name of Sheriff's Office personnel authorizing the work
 - iv. Date specimen received and date report released
 - v. Specific test(s) requested and performed
 - vi. Complete descriptions of results obtained
 - vii. Statement of negative findings
- c. All test reports shall be signed by a toxicologist who is certified by the American Board of Forensic Toxicology.
- d. Test reports shall be completed within 10-15 days of sample receipt. Laboratory will notify the Sheriff's Office of any unanticipated delay in report delivery.

7. Customer Service

Laboratory shall specify and provide a direct account manager who can respond to inquiries made by the Sheriff's Office within one (1) business day of the request.

Customer service shall also include access to a toxicologist who can provide support to Sheriff's Office personnel regarding testing results or reports, at no additional cost, during business hours (Pacific Time), Monday through Friday.

Laboratory shall keep the Sheriff's Office informed of any advances or changes to the breadth of testing offered by Laboratory and shall provide related information and documentation upon request.

8. Expert Testimony

A toxicologist certified by the American Board of Forensic Toxicology shall be available to provide expert courtroom testimony on initial screening and confirmation of testing and procedures, as requested by the Sheriff's Office. The fee for the expert witness shall be negotiated in advance of the testimony between the laboratory and the agency or department requesting the expert witness (e.g. Sheriff's Office, District Attorney's Office).

**Exhibit B
Rates**

Upon request of the Sheriff-Coroner or designee, Consultant shall perform toxicology tests according to the rates below.

NMS Labs agrees that in the event of a price decline, the benefit of such lower price shall be extended to the County. NMS Labs will notify the County by email of any price decline and any additional discounts.

AQCODE	Description	Year 1-3 Pricing	Year 4 Pricing	Year 5 Pricing
Basic Postmortem Panel				
8051B	Postmortem, Basic, Blood (Forensic)	\$133.00	\$140.00	\$147.00
8041B	Postmortem, Basic w/Vitreous Alcohol Confirmation, Blood (Forensic)	\$133.00	\$140.00	\$147.00
8061B	Postmortem, Basic w/o Alcohol, Blood (Forensic)	\$142.00	\$149.00	\$157.00
8061U	Postmortem, Basic w/o Alcohol, Urine (Forensic)	\$142.00	\$149.00	\$157.00
8083B	Postmortem, Basic w/Vitreous Alcohol and 6-MAM Confirmation, Blood (Forensic)	\$145.00	\$152.00	\$160.00
8051FL	Postmortem, Basic, Fluid (Forensic)	\$218.00	\$229.00	\$240.00
8051SP	Postmortem, Basic, Serum/Plasma (Forensic)	\$154.00	\$162.00	\$170.00
8051TI	Postmortem, Basic, Tissue (Forensic)	\$272.00	\$286.00	\$300.00
8051U	Postmortem, Basic, Urine (Forensic)	\$154.00	\$162.00	\$170.00
Expanded Postmortem Panel				
8052B	Postmortem, Expanded, Blood (Forensic)	\$209.00	\$219.00	\$230.00
8042B	Postmortem, Basic w/Vitreous Alcohol Confirmation, Blood (Forensic)	\$209.00	\$219.00	\$230.00
8062B	Postmortem, Expanded w/o Alcohol, Blood (Forensic)	\$255.00	\$268.00	\$281.00
8062U	Postmortem, Expanded w/o Alcohol, Urine (Forensic)	\$255.00	\$268.00	\$281.00
8084B	Postmortem, Expanded w/Vitreous Alcohol and 6-MAM Confirmation, Blood (Forensic)	\$221.00	\$232.00	\$244.00
8052FL	Postmortem, Expanded, Fluid (Forensic)	\$532.00	\$559.00	\$587.00
8052SP	Postmortem, Expanded, Serum/Plasma (Forensic)	\$266.00	\$279.00	\$293.00
8052TI	Postmortem, Expanded, Tissue (Forensic)	\$581.00	\$610.00	\$641.00
8052U	Postmortem, Expanded, Urine (Forensic)	\$266.00	\$279.00	\$293.00
Other Postmortem Tests				
1919FL	Electrolytes and Glucose Panel (Vitreous), Fluid (Forensic)	\$77.00	\$81.00	\$85.00
7542B	Ethanol - Title 17, Blood - Send Out	\$118.00	\$124.00	\$130.00
7542SP	Ethanol - Title 17, Serum/Plasma - Send Out	\$118.00	\$124.00	\$130.00
7542U	Ethanol - Title 17, Urine - Send Out	\$118.00	\$124.00	\$130.00
1002B	Carbon Monoxide Exposure Biouptake Screen, Blood	\$54.00	\$57.00	\$60.00
5654B	Carbon Monoxide Exposure Biouptake Confirmation, Blood	\$75.00	\$79.00	\$83.00
53249FL	Alcohols and Acetone Confirmation, Vitreous Fluid (Forensic) reflex on the 8083B/8084B panels	\$90.00	\$95.00	\$99.00

All other pricing for the initial term of the contract will be billed at the 2022 Fee Schedule prices. After the initial term of the contract, all other pricing will be billed according to the prevailing fee schedule for that year. Any findings that are part of the surveillance library as an out-of-scope finding on the expanded panel (8042B/8052B/8084B) will have an additional charge for confirmation if the client chooses to have the compound confirmed to be included in the final report. Compounds in this surveillance library are designer opioids, fentanyl analogs, and designer benzodiazepines.

Expert Testimony: Consultant shall, if requested, provide expert testimony relative to the work performed, at the rates specified below:

A. Court Testimony and Depositions - in support of NMS Labs analytical testing services

- i. Expert Testimony – Hourly Rate: \$263/hour
- ii. Expert Testimony – Daily Rate: \$2,625/day

Testimony time is the Expert's time door to door and includes in-person testimony, full video testimony, depositions, pre-trial prep and travel time. County is responsible for all travel related expenses, mileage, meals, flights, hotel, etc.

All fees are calculated on an hourly basis. Daily rate will be applied after 10 hours of time spent on any of the above activities related to each testimony event.

B. Expert Opinions – written expert opinion reports in support of NMS Labs analytical testing services

- i. Senior Toxicologist Review - \$420/hour
- ii. Toxicologist Review - \$368/hour

An Expert Opinion report includes the Expert's time for consultation, review of documentation, research and preparation of a written report. All fees are calculated on an hourly basis.

C. Other Services

- i. Litigation packet preparation: \$79/hour
- ii. Certified Lab Reports, Affidavits, Chain of Custody Documentation: \$79/each

Expenses not expressly authorized by the Agreement shall not be reimbursed.

Total payments made to Consultant under this Agreement shall not exceed one hundred twenty-thousand dollars (\$120,000.00) per year without prior written approval of County. Payments shall be made only upon the satisfactory completion of the services as determined by County.

Exhibit C
Insurance Requirements
Template #5

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

Workers Compensation and Employers Liability Insurance

- a. Required if Consultant has employees as defined by the Labor Code of the State of California.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. *Required Evidence of Insurance*: Certificate of Insurance.

If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Consultant.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County. Consultant is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the County.
- d. County of Sonoma, its Officers, Agents and Employees, Attn: Sheriff's Office 2796 Ventura Avenue, Santa Rosa, CA 95403, shall be endorsed as additional insureds for liability arising out of operations by or on behalf of the Consultant in the performance

of this Agreement.

- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “f” definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a “separation of insureds” or “severability” clause which treats each insured separately.
- h. Required Evidence of Insurance:
 - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
 - ii. Certificate of Insurance.

Automobile Liability Insurance

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- c. Insurance shall cover hired and non-owned autos.
- d. Required Evidence of Insurance: Certificate of Insurance.

Professional Liability/Errors and Omissions Insurance

- a. Minimum Limits: \$1,000,000 per claim or per occurrence; \$1,000,000 annual aggregate.
- b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County.
- c. If Consultant’s services include: (1) programming, customization, or maintenance of software: or (2) access to individuals’ private, personally identifiable information, the insurance shall cover:
 - i. Breach of privacy; breach of data; programming errors, failure of work to meet contracted standards, and unauthorized access; and
 - ii. Claims against Consultant arising from the negligence of Consultant, Consultant’s employees and Consultant’s subcontractors.
- d. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- e. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- f. Required Evidence of Insurance: Certificate of Insurance specifying the limits and the claims-made retroactive date.

Standards for Insurance Companies

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

Documentation

- a. The Certificate of Insurance must include the following reference: Agreement for Forensic Toxicology Services.
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.
- c. The name and address for Additional Insured endorsements and Certificates of Insurance is: County of Sonoma, its Officers, Agents and Employees, Attn: Sheriff's Office 2796 Ventura Avenue, Santa Rosa, CA 95403.
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

Policy Obligations

Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Material Breach

If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Consultant, County may deduct from sums due to Consultant any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.