

MASTER SERVICE AGREEMENT

This Master Service Agreement (the “**Agreement**”) is effective January 21, 2021 (the “**Effective Date**”), and is made by and between Alameda Unified School District (“**Alameda Unified**”), a school district with administration located at 2060 Challenger Drive, Alameda, CA and National Labs, Inc. (“**Provider**”), a corporation with headquarters located at 3948 Trust Way, Hayward, CA94545. Alameda Unified and Provider are each individually referred to herein as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Provider is an independent business engaged in providing specialized business services; and

WHEREAS, Alameda Unified desires to engage and contract for the services of Provider to perform certain tasks as set forth in detail below; and

WHEREAS, Provider desires to enter into this Agreement and perform as an independent contractor for Alameda Unified under the terms and conditions set forth below.

Agreement contingent on Governing Board Approval. The district shall not be bound by the terms of this agreement until it has been formally approved or ratified by the District’s Governing Board, and/or Executive Cabinet as its designee, and no payment shall be owed or made to Contractor absent formal approval.

NOW, THEREFORE, in consideration of the above recitals and mutual covenants contained herein, the Parties agree as follows:

1. **DUTIES OF PROVIDER**

- 1.1 **Specific Duties.** Provider shall provide on-site Covid-19 specimen collection and Covid-19 testing of said specimens to Alameda Unified, with such specific reasonable requirements as the Parties may mutually agree upon from time to time during the Term, as defined in **Section 2.1** (Term) below (herein referred to as the “**Services**”). Should any provision in any exhibits or attachments hereto conflict with any of the provisions in this Agreement, this Agreement shall control unless such conflicting provision specifically states otherwise.
- 1.2 **Scopes of Work.** The details of the Services to be performed by Provider under this Agreement shall be specified in writing on terms and in a form acceptable to the Parties (each, a “**Scope of Work**”). An approved Scope of Work is attached hereto as **Exhibit A-1**. Each Scope of Work shall follow the form of Exhibit A-1 and shall include, as appropriate, the scope of the work to be performed, time line, budget, other deliverables, as well as a payment schedule. Each Scope of Work shall be subject to all of the terms and conditions of this Agreement, in addition to the specific details set forth in the Scope of Work. A Scope of Work may be entered into by Alameda Unified or, as applicable, a Alameda Unified Affiliate. For purposes of this Agreement, “**Affiliate**” shall mean a person or business entity that directly or indirectly controls or is controlled by, or is under common control with, Alameda Unified. The term “**control**,” including the terms “**controlled by**” or “**under common control with**,” means the possession of, directly or indirectly, the capability to control the direction of the management and policies through the ownership of voting securities. Affiliates may become a Party to this Agreement by such Affiliate executing a Scope of Work. Any such Affiliate will be bound to the terms and conditions under this Agreement and shall have the rights and obligations applicable to Alameda Unified under this Agreement for the respective Scope of Work.
- 1.3 **Provider Obligations.** Provider shall be diligent in the performance of Services, and be professional in its commitment to meeting its obligations hereunder. The Services shall be performed in a professional manner, consistent with industry standards, and in accordance with applicable laws and regulations.
- 1.4 **Equipment, Supplies and Other Overhead Items.** Provider shall furnish all tools, equipment, supplies or other overhead items necessary to perform the Services required under this Agreement, unless, and only to the extent that, the applicable Scope of Work specifies otherwise.

- 1.5 **Reporting.** Provider will keep Alameda Unified informed and up to date regarding progress of performance of the deliverables in the Scope of Work. Provider will provide regular updates to Alameda Unified with respect to the project, key deliverables and progress against plan.
- 1.6 **Compliance with Law/Material Breach.** Each Party represents and warrants that in the performance of its obligations under this Agreement, it will comply with all applicable laws, rules or regulations. Failure by either Party to comply with any Applicable Law as required hereby shall be considered a material breach of this Agreement. In the event of a determination that this Agreement is not in compliance with any Applicable Law, then the parties shall negotiate in good faith to bring this Agreement into compliance. All amendments to this Agreement to bring this Agreement into compliance must be mutually agreed to by both parties in writing. If such agreement cannot be reached, either party may terminate this Agreement by written notice to the other party.

2. **TERM, TERMINATION AND SURVIVAL**

- 2.1 **Term.** This Agreement commences as of the Effective Date and shall continue thereafter for twelve (12) months (the “**Initial Term**”). Upon the expiration of the Initial Term, the Parties, by mutual agreement, may extend this Agreement for additional terms, provided such agreement is reduced to writing and executed by both of the Parties (each a “**Renewal Term**”). The Initial Term and any subsequent Renewal Term(s) are collectively referred to herein as the “**Term**” and are subject to the provisions for early termination set forth in this Agreement. As per Scope of Work **Exhibit A-1**, either party in its sole discretion shall have the right to terminate this SOW without cause by giving the other party thirty (30) days’ written notice thereof.
- 2.2 **Termination of Agreement – Failure to Perform.** In the event that either Party ceases to perform the Services or breaches its obligations as required hereunder for any reason, the other Party shall have the right to terminate this Agreement upon thirty (30) days’ prior written notice to the defaulting Party specifying the default; provided, however, if said defaulting Party cures the default within the said thirty (30) day period, this Agreement shall continue in full force and effect as if no default had occurred.

3. **PAYMENT TERMS**

- 3.1 **Fees.** No direct fees will be invoiced to Alameda Unified School District. Per the Scope of Work, specimens will be accompanied by insurance information. There is mutual agreement from all parties that insurance will be billed appropriately, following all state and federal guidelines. National labs assumes the full responsibility for billing insurance information per specimen. Alameda Unified commits to providing and assisting in obtaining accurate insurance information.
- 3.2 **Invoicing.** No invoicing to take place based on direct to insurance billing of specimens.

4. **INDEPENDENT CONTRACTOR; CERTAIN LIABILITIES.** Provider agrees that it is an independent contractor and not the agent, employee, or franchisee of Alameda Unified or its Affiliates. This Agreement does not constitute a hiring by either Party of the other and nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Alameda Unified and Provider, or between Alameda Unified and any person providing the Services on behalf of Provider, including without limitation Provider’s employees and independent contractors (including but not limited to advisors, auditors, and attorneys) (collectively “**Provider Workers**”).

Provider agrees that the Provider Workers are not Alameda Unified employees for any purposes. Provider further agrees that it is solely responsible for all employer obligations to Provider Workers including, without limitation: all wages and compensation (including any overtime payments); all benefit and insurance coverages (including workers’ compensation insurance, unemployment insurance, and required health care coverage under the Affordable Care Act); all federal and state income tax withholdings and remittance; all federal and state health and safety requirements; and all similar employer obligations.

This Agreement does not create or evidence any joint venture or partnership of the Parties and Alameda Unified shall not be liable for any obligations incurred by Provider (including all obligations pertaining to Provider Workers) unless specifically authorized in writing. Neither Party shall have any authority to incur, create or assume any liability or any other obligation, express or implied, in the name of, or on behalf of, the

other Party. Provider shall be solely responsible for any and all injuries, including death, to all persons and any and all loss of damage to property, which may result from performance under this Agreement.

- 4.1 Waiver of Benefits.** Provider waives and foregoes any right that it may have to receive benefits given by Alameda Unified to its regular employees, including, but not limited to health and welfare insurance, paid vacation, sick leave, profit sharing or 401(k) plan benefits, stock distributions or any other Alameda Unified employee benefit (collectively, “**Alameda Unified Benefits**”). Provider is solely responsible for the provision of benefits to Provider Workers. Provider shall ensure that such waiver is effective independent of the employment status of Provider or Provider Workers as adjudged for taxation purposes or for any other or purpose.
- 4.2 Taxes/Withholding.** Provider acknowledges that no income, social security, Medicare, unemployment or other taxes shall be withheld, accrued, remitted by Alameda Unified for the benefit of Provider or Provider Workers. Provider will be solely responsible for all employment insurance and taxes, licensing requirements, government approvals and filings, or any other registration, authorization or permit required in connection with the performance of its obligations hereunder. Provider is solely responsible for determining and fulfilling Provider’s Federal and State tax obligations including the filing of tax returns and payment of taxes in accordance with the applicable provisions of Federal and State law. Provider is solely responsible for determining and fulfilling any income tax, social security, workers compensation, and any other employment-related obligation related to Provider’s engagement of Provider Workers.
- 4.3 Persons Hired by Provider.** Provider assumes all risks and hazards encountered in the performance of Provider’s and Provider Workers’ duties under this Agreement. Provider shall be solely responsible for hiring, firing, supervising, directing and managing all persons, needed to provide the Services and perform the tasks and duties necessary to complete the deliverables described in the operative Scope of Work. Provider shall be solely responsible for training and managing any and all persons hired through a professional staffing network. All personnel staffed must have a professional third-party background check conducted. Contractor is not required to comply with E.C. 45125.1 because contractor’s services will be directly supervised at all times that the contractor is in the presence of students. Provider will not discriminate in hiring and employment practices on grounds of race, religion, age, nationality, social or ethnic origin, sexual orientation, gender, gender identity or expression, marital status, pregnancy, political affiliation, or disability. Provider alone will be responsible for properly classifying the Provider Workers under the California Labor Code, the Fair Labor Standards Act, and any other applicable law.
- 4.4 Access and Assets.** If the performance of Services require Provider Workers to have physical access to Alameda Unified’s premises and/or facilities (e.g. badge, physical space); or (b) technical access to Alameda Unified’s systems and/or technology environment (e.g. network access, email address, VPN connection); or (c) any other Alameda Unified issued technology assets (e.g. PC / laptop, mobile devices), then Provider and Provider Workers shall promptly provide all necessary information, completed documentation, executed forms and written confirmations required. Provider further promises and agrees, at its sole expense, to conduct a criminal background check for each of its Provider Workers, as well as for the employees of its Sub-Contractors, who will have physical access to Alameda Unified’s premises and/or facilities. Criminal background checks shall include, but not be limited to, the following checks: (i) Social Security Number (SSN) trace; (ii) National Criminal Database; and (iii) National Sexual Offender Registry search. The completion of the criminal background check of a Provider Worker and/or the employees of its Sub-Contractor must be confirmed by Provider prior to Alameda Unified granting physical access to Provider Worker(s). Provider further promises and agrees that all Provider Workers shall always comply with Alameda Unified policies, standard operating procedures, and guidelines specifically applicable to the Services and more generally applicable to the provision of physical access and technical and technological assets.
- 5. INSURANCE.** At all times during the Term of this Agreement, Provider shall maintain commercial general liability coverage of \$1,000,000 per occurrence and \$3,000,000 in aggregate with a carrier having Best’s rating of A-VIII or above. In addition, Provider shall maintain workers’ compensation insurance as required by law, and such policy shall include a waiver of subrogation. Provider’s insurance, with the exception of workers’ compensation, shall include Alameda Unified as an additional insured. Within thirty (30) days of execution of the Agreement, Provider shall provide to Alameda Unified (or upon request Alameda Unified’s Affiliate) certificates of insurance evidencing the above specifications.

6. **CONFIDENTIAL INFORMATION**

- 6.1** **Definition.** As used herein, “Confidential Information” shall mean any and all technical and non-technical information, whether tangible or intangible, disclosed or provided to a Party and/or one or more of its affiliates (the “**Receiving Party**”) by or on behalf of the other Party and/or one or more of its affiliates (the “**Disclosing Party**”) in written, oral or electronic form in connection with this Agreement, and any future discussions about potential engagements; provided that Alameda Unified shall be considered the Disclosing Party and Provider shall be considered the Receiving Party with respect to Work Product. Confidential Information will be deemed to include, without limitation:
- 6.1.1** any technology, inventions, patent filings not yet public, products, chemical compounds and compositions, formulations, molecules, precursors, methods, concepts, ideas, plans, processes, specifications, characteristics, techniques, know-how and assays; clinical information such as raw data, scientific preclinical or clinical data, regulatory dossiers, observations, records, databases, dosing regimens, clinical studies or protocols, posters, presentations and abstracts, product pipelines, timelines and schedules; business information such as development, marketing, sales, pricing and commercialization plans, forecasts, proposals, customer lists, suppliers, consulting relationships, operating, performance and cost structures, and any other non-public information, whether scientific, clinical or financial in nature, relating directly or indirectly to the business of the Disclosing Party; and
 - 6.1.2** any material that is or has been prepared by or for the Receiving Party and that contains, reflects, interprets or is based directly or indirectly upon any Confidential Information provided by or on behalf of a Party and/or one or more of its affiliates; and
 - 6.1.3** the existence and terms of this Agreement, and the fact that Confidential Information has been made available to the Receiving Party.
- 6.2** **Use: Disclosure.** The Receiving Party shall use the Confidential Information solely in the performance of the Agreement. The Receiving Party shall not use the Confidential Information for any other purpose, including but not limited to using it in connection with the development or commercialization of any process or product on behalf of itself or any entity other than the Disclosing Party, or using it in connection with any submission to any governmental agency, including any patent office or regulatory authority, or the like, on behalf of itself or any entity other than the Disclosing Party, without the express written permission of the Disclosing Party. The Receiving Party shall disseminate Confidential Information only to those of the Receiving Party’s workers necessary for the Receiving Party to perform its obligations under this Agreement. The Receiving Party acknowledges that all of the Receiving Party’s workers granted access to Confidential Information shall be advised of the confidential nature of the information received and of the Receiving Party’s obligations to protect the Confidential Information under this Agreement. The Receiving Party agrees that all of the Receiving Party’s workers with access to Confidential Information shall agree, or have agreed, in writing to obligations no less stringent than the confidentiality obligations set forth in this Agreement. A breach of the confidentiality or non-use obligations set forth in this Agreement by Receiving Party’s workers shall be deemed a breach by Receiving Party. The Receiving Party agrees to notify the Disclosing Party immediately in writing upon any loss, misuse, misappropriation, or other unauthorized disclosure of the Confidential Information that may come to the Receiving Party’s attention.
- 6.3** **Degree of Care.** The Receiving Party shall hold the Confidential Information in strict confidence, and shall take all reasonable precautions to protect the Confidential Information at all times from unauthorized disclosure, publication, or use, including, without limitation, using at least the same degree of care as it employs to protect its own Confidential Information of like nature (but in any event no less than a reasonable degree of care), acting in a manner consistent with its obligations under this Agreement.
- 6.4** **Transmission of Confidential Information.** Without limiting any obligations under the Agreement, the Receiving Party shall use an industry standard secure method when transmitting Confidential Information and ensure that no Confidential Information is commingled with any other party’s information. Confidential Information must never be transmitted over a network without the technical safeguards in place that are designed to provide appropriate protection.

- 6.5 **Exclusions.** The confidentiality, non-disclosure and non-use obligations of this Agreement shall not apply to Confidential Information disclosed to the Receiving Party that: (i) was in the Receiving Party possession before receipt of the Confidential Information from the Disclosing Party, as evidenced by written records or other documented evidence; (ii) is independently developed by the Receiving Party without the use of the Confidential Information as evidenced by written records or other documented evidence; (iii) is or becomes publicly available through no fault of the Receiving Party or (iv) is rightfully received by the Receiving Party on a non-confidential basis from a third party without breach of a duty of confidentiality. As used herein, the term “publicly available” shall mean that such information is readily accessible to the general public in a written publication or other form of recording that may be obtained without assuming obligations of confidentiality. “Publicly available,” shall not mean information the substance of which must be pieced together from a number of different publications or other sources.
- 6.6 **Legally Required Disclosures.** Nothing in this Agreement shall preclude the Receiving Party from making any disclosure of Confidential Information that is required by applicable law or regulation or by a valid order of a court or other governmental body having jurisdiction, provided that the Receiving Party uses its best efforts to limit the scope of the required disclosure, provides notification to the Disclosing Party as soon as Receiving Party becomes aware of such requirement, and cooperates with the Disclosing Party in seeking an appropriate protective order, confidential treatment, or similar remedy limiting the subsequent use and disclosure of any information required to be disclosed.
- 6.7 **Privacy Laws.** Provider shall treat all information relating to an identified or identifiable natural person (“**Protected Data**”) as confidential in accordance with all applicable laws, including without limitation (i) the Health Information Portability and Accountability Act of 1996, as amended from time to time, and any regulation and official guidelines (as amended from time to time) promulgated under that Act (“**HIPAA**”) and (ii) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (“**GDPR**”), as appropriate. Each party shall protect the privacy, integrity, security, confidentiality and availability of the Protected Data disclosed to, used by, or exchanged by the Parties by implementing and maintaining privacy and security policies, procedures, and practices, and administrative, physical and technological safeguards and security mechanisms that reasonably and adequately protect the confidentiality, integrity and availability of the Protected Data created, received, maintained or transmitted under this Agreement, all as required by all applicable laws. In the event HIPPA requires any addition to or modification of this Agreement, the parties shall use commercially reasonable efforts to agree upon such additions or modifications in a timely manner. If such agreement cannot be reached in a timely manner, either party may terminate this Agreement by written notice to the other party.
7. **NO TRANSFER OR LICENSE.** Nothing in this Agreement is intended to grant or transfer any right to either Party under any patent, copyright or other intellectual property right of the other Party, nor shall this Agreement grant or transfer to either Party any right in or to the Confidential Information except as expressly set forth herein. None of the Confidential Information which may be disclosed by Alameda Unified shall constitute any representation, warranty, assurance, guarantee or inducement by Alameda Unified to Provider, including, without limitation, with respect to the non-infringement of intellectual property rights, or other rights of third persons.
8. **ACCOUNTING AND RECORD KEEPING; FACILITY AUDITS**
- 8.1 **Accounting and Record Keeping.** Provider shall keep full and accurate records and accounts of all its activities in connection with this Agreement. All records relating to this Agreement, including, but not limited to, Provider’s and any of its authorized Affiliates’ and Sub-Contractors’ invoices, shall be available for inspection and audit by Alameda Unified and its Affiliates’ employees and independent contractors (including but not limited to advisors, auditors, and attorneys) (collectively, “**Representatives**”) at all reasonable times and upon reasonable notice during the Term of the Agreement and for five (5) years thereafter. Inspections and audits conducted pursuant to this subsection shall be at Alameda Unified’s sole expense, provided that Provider and its Affiliates and Sub- Contractors shall provide all records and resources reasonably required for facilitating such inspections and audits free of charge. In the event an audit reveals an overpayment by Alameda

Unified, Provider shall make all payments required to eliminate such overpayment within thirty (30) days after Alameda Unified's demand therefor.

- 8.2 Facility Audits.** At all reasonable times and upon reasonable notice during the Term of the Agreement and for one (1) year thereafter, Provider shall permit Alameda Unified and its Representatives to inspect and audit the Provider's and any of its authorized Affiliates' and Sub-Contractors' facilities, systems, and operations related to the Services, including, without limitation, records related to the Provider's and any of its Affiliates' and Sub-Contractors' standard operating procedures. Inspections and audits conducted pursuant to this subsection shall be conducted during normal business hours and at Alameda Unified's sole expense, provided that Provider and its authorized Affiliates and Sub-Contractors shall provide all access and resources reasonably required for facilitating such inspections and audits free of charge.
- 8.3 Reservation of Rights and Remedies.** Alameda Unified's exercise of (or failure to exercise) any right of inspection or audit set forth in this **Section 8** (Accounting and Record Keeping; Facility Audits) shall not be deemed a waiver or failure by Alameda Unified to enforce any provision of this Agreement and shall not prejudice any other rights or remedies of Alameda Unified.
- 8.4 Confidential Information of Provider.** Any information disclosed or provided by or on behalf of Provider and/or one of its Affiliates or Sub-Contractors to Alameda Unified in connection with inspections or audits conducted by or at the direction of Alameda Unified pursuant to this **Section 8** (Accounting and Record Keeping; Facility Audits) shall be deemed Provider's confidential information; provided; however, that any information that is Alameda Unified's Confidential Information shall not also be deemed Provider's confidential information.

9. **REPRESENTATIONS AND WARRANTIES**

- 9.1 Performance of Services.** Provider represents and warrants that Provider has expertise in providing services comparable in type, scope, complexity and purpose to the Services and that it has exercised and will continue to exercise in the performance of the Services, that standard of skill, care and diligence reasonably to be expected of a properly qualified contractor in providing services comparable in type, scope, complexity and purpose to the Services provided hereunder. Additionally, Provider represents and warrants that Provider shall obtain and maintain all licenses and training necessary and appropriate to perform the Services.
- 9.2 Authority.** Provider represents and warrants that Provider has the full power, capacity and authority to enter into and perform this Agreement and Provider and Provider Workers are not parties to any other existing agreement which would prevent any of them from entering into this Agreement or which would adversely affect Provider's performance under this Agreement. Provider further represents that there is no pending or threatened litigation that would have a materially adverse impact on its performance under this Agreement.
- 9.3 Non-Infringement.** Provider represents and warrants that Provider's performance of the Services under this Agreement, including the delivery of any Work Product, prepared or provided by Provider, or the use thereof by Alameda Unified, shall not infringe the intellectual property rights of a third party. Further, Provider represents and warrants that in performing the Services, neither Provider nor Provider Workers shall make any unauthorized use of any Confidential Information or proprietary information of any other party, or infringe the intellectual property rights of any other party.
- 9.4 Organization.** Provider hereby represents and warrants that it is corporation, duly organized, validly existing and in good standing under the laws of its state of California, and that the execution and delivery by Provider of this Agreement has been duly and validly authorized by all necessary corporate action on the part of Provider.
- 9.5 Compliance with Laws.** Provider warrants that at all times during the Term, the performance of the Services and the operation of Provider's business shall comply with all applicable laws.

10. **COMPLIANCE WITH ANTI-BRIBERY ANTI-CORRUPTION LAWS**

- 10.1** Provider represents and warrants that: (i) it is aware of the terms of any applicable anti-bribery anti-corruption laws governing the jurisdictions in which Provider will provide Services and any other applicable local, country, or regional anti-bribery anti-corruption laws (collectively, "**ABAC Laws**")

and that at all times during the term of this Agreement Provider shall stay apprised of any amendments, changes or other modifications to all applicable ABAC Laws; (ii) neither it nor any of Provider Workers or Sub-Contractors is an employee, officer or agent of a governmental authority or regulatory authority, or a candidate for foreign public office, within any jurisdiction where Services will be provided; and (iii) Provider has never been subject to any investigation, litigation, or disciplinary action relating to allegations of fraud or corruption by any governmental or regulatory authority.

- 10.2** Provider agrees that in performing the Services under this Agreement, it will refrain from any activity which may constitute a violation of any applicable ABAC Laws. Without limiting the generality of the foregoing, Provider agrees that it will not offer, promise, or pay, indirectly or directly, money or any other thing of value to any government official, political party official, political candidate, or any relative, business associate or employee thereof, or to any other third party while knowing that such item of value or portion thereof may be offered, promised or given to a government official, political party official, political candidate or employee thereof in violation of any applicable ABAC Laws in the jurisdictions where Services are provided. Alameda Unified may terminate this agreement immediately in the event of any violation by Provider of any applicable ABAC Law. Provider agrees to indemnify and hold Alameda Unified harmless from any breaches of, or misrepresentations concerning, the above.
- 10.3** Provider shall permit and be fully cooperative with, upon the request, and at the sole discretion, of Alameda Unified, audits by Alameda Unified or its agents, and hereby agrees that such auditors shall have full and unrestricted access to, and to conduct reviews of all records related to the work performed for, or services or equipment provided to, Alameda Unified and to report any violation of any applicable ABAC Laws with respect to: (i) the effectiveness of existing compliance programs and codes of conduct; (ii) the origin and legitimacy of any funds paid to Alameda Unified; (iii) its books, records and accounts, or those of any of its subsidiaries, joint ventures or affiliates, related to work performed for, or services or equipment provided to, Alameda Unified; (iv) all disbursements made for or on behalf of Alameda Unified; and (v) all funds received from Alameda Unified in connection with work performed for, or services or equipment provided to, Alameda Unified.
- 10.4** Should Provider become the subject of a disciplinary action, government investigation, or litigation involving allegations of fraud or corruption, it will inform Alameda Unified in writing of the action, investigation, or litigation within ten (10) business days of the time Provider becomes aware of the allegations against it.

11. DISPUTE RESOLUTION

- 11.1 Governing Law; Venue.** This Agreement is made under and shall be construed according to the laws of the State of California without regard to any conflict of law principles that would provide for the application of the law of another jurisdiction. Any disputes under this Agreement shall be brought in the state courts and the Federal courts located in the Northern District of California, and the Parties hereby consent to the personal jurisdiction and exclusive venue of these courts. To the extent permitted by applicable law, each of the parties hereto irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this agreement.
- 11.2 Resolution of Disputes.** The Parties shall first attempt to settle any and all disputes arising out of or in connection with or relating to the execution, interpretation, performance, or nonperformance of this Agreement or any other certificate, agreement, or other instrument between, involving, or affecting the Parties, including, without limitation, the validity, scope, and enforceability of this Agreement (each, a “**Dispute**”) through good faith negotiation before resorting to litigation. The Parties shall conduct and complete such good faith negotiation involving substantive participation by senior management for each Party within thirty (30) days of a Dispute notice, which shall set forth the nature of any Dispute between the Parties. All Dispute notices shall be sent in accordance with **Section 15.1** (Notices) herein. Parties, upon written agreement, can adjust time limits specified within this **Section 13** (Dispute Resolution).
- 11.3 Equitable Relief.** Nothing in this **Section 13** (Dispute Resolution) shall be construed to restrict either Party’s right to seek and obtain injunctive relief in a court of competent jurisdiction located in San Francisco, California, in the event a Party has breached or threatens to breach any of its obligations under **Section 6** (Confidential Information) or **Section 7** (No Transfer or License). For purposes of

seeking injunctive relief, both Parties irrevocably submit to the jurisdiction of the state and Federal courts located in San Francisco, CA.

12. **INDEMNIFICATION**

12.1 **Provider.** Provider shall defend, indemnify and hold harmless Alameda Unified, its directors, officers, employees, suppliers, successors, and assigns from and against all liabilities, losses, damages, expenses, charges and fees (including reasonable attorney's fees) sustained or incurred by Alameda Unified in connection with third-party claims arising out of or attributable to: (i) any breach of this Agreement by Provider, Provider Workers or Provider's Sub-Contractors; (ii) any breach of applicable law or regulation by Provider, Provider Workers or Provider's Sub-Contractors; (iii) any negligence or willful misconduct by Provider, Provider Workers or Provider's Sub-Contractors, as applicable, in the performance of this Agreement; or (iv) any allegations that Services and/or Work Product infringes any third-party's intellectual property right, including without limitation, a copyright, patent or a trademark.

12.2 **Alameda Unified.** Alameda Unified shall defend, indemnify and hold harmless Provider, its directors, officers, Provider Workers, Sub-Contractors, suppliers, successors, and assigns from and against all liabilities, losses, damages, expenses, charges and fees (including reasonable attorney's fees) sustained or incurred by Provider in connection with third-party claims arising out of or attributable to: (i) any breach of this Agreement by Alameda Unified; (ii) any breach of applicable law or regulation by Alameda Unified, or (iii) any negligence or willful misconduct by Alameda Unified or its employees or contractors, as applicable, in the performance of this Agreement.

12.3 **Indemnification Procedure.**

12.3.1 **Notice.** In the event any such claim contemplated in **Section 12** (Indemnification) is made, or action initiated, the Party seeking indemnification hereunder (the "**Indemnified Party**") shall promptly notify the other Party (the "**Indemnifying Party**") in writing of such actual or threatened claim to enable the Indemnifying Party to arrange for the defense of such claim, provided, however that failure to give prompt written notice shall not limit the rights to indemnification hereunder except to the extent that the Indemnifying Party is materially prejudiced by such failure.

12.3.2 **Cooperation.** The Indemnified Party shall cooperate with the Indemnifying Party in the investigation, defense and settlement of any claims when the Indemnifying Party controls the defense of any such claims. The Indemnifying Party shall provide a diligent defense against and/or final settlement of any claims brought or actions filed for the loss which is the subject of the foregoing indemnity.

12.3.3 **Control of Defense.**

- (a) **Indemnifying Party.** The Indemnifying Party shall have sole control over the defense and the right to enter into a full and final monetary settlement of the claims, at the Indemnifying Party's sole expense and discretion, provided that the Indemnifying Party shall not agree to any settlement which imposes injunctive relief on, requires an admission of fault by, or does not include a complete release of the Indemnified Party without the consent of the Indemnified Party. In any such proceeding, the Indemnified Party shall have the right to retain its own counsel and participate in the defense of the claims, at the Indemnified Party's expense, provided that the Indemnified Party shall not consent to the entry of any judgment or enter into any settlement with respect to the claims without the prior written consent of the Indemnifying Party, which consent must not be unreasonably withheld.
- (b) **Indemnified Party.** In the event that: (i) the Indemnifying Party has failed to retain counsel reasonably satisfactory to the Indemnified Party within a reasonable time; or (ii) the Indemnified Party reasonably determines that there exists a conflict of interest between the parties in the conduct of any such defense or settlement, the Indemnified Party may assume the control of the defense and the Indemnifying Party shall be responsible for any damages, attorneys' fees, costs, judgments, fines and amounts paid in settlement, that the Indemnified Party may incur resulting

from, arising out of, relating to, in the nature of, or caused by the claims to the fullest extent provided in this Agreement.

14. MISCELLANEOUS PROVISIONS

- 14.1 **Notices.** All notices or reports permitted or required under this Agreement will be in writing and will be sent by personal delivery or reputable expedited delivery service with signature required. All such notices or reports will be deemed given upon receipt. Notices shall be addressed and sent to the Party concerned at the addresses set forth below in this Section, or as a Party may subsequently specify in writing to the other Party.

Notices to Provider shall be sent to:

National Labs, Inc.
3948 Trust Way
Hayward, CA 94545
Attn: Ron Perkes, President and Executive Director

Notices to Alameda Unified shall be sent to:

Alameda Unified School District
2060 Challenger Dr
Alameda, CA 94501
Attn: Tim Erwin, Chief of Human Resources

- 14.2 **No Implied Licenses.** No right or license is granted under this Agreement by either Party to the other, either expressly or by implication, except those specifically set forth herein.
- 14.3 **Headings.** The headings and section identifiers contained in this Agreement are for convenience of reference only, shall not be deemed to be a substantive part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.
- 14.4 **Waivers.** All waivers must be in writing and signed by the Party to be charged. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 14.5 **Counterparts.** This Agreement may be executed in one or more counterparts (including by .pdf), each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.
- 14.6 **Parties In Interest.** This Agreement shall be binding upon and shall inure to the benefit of the respective permitted successors and assigns of each of the Parties hereto (if any). No person who is not a Party shall have any rights hereunder as a third-party beneficiary or otherwise.
- 14.7 **Assignment.** Provider may not assign its rights or obligations under this Agreement without the prior written consent of Alameda Unified, which consent may be given or withheld in Alameda Unified's sole and absolute discretion. Alameda Unified may transfer or assign this Agreement or any Scope of Work, or any of its rights and obligations under this Agreement or any Scope of Work, in whole or in part, without Provider's consent, to any: (i) Affiliate; (ii) wholly-owned subsidiary or successor-in-interest; or (iii) any third party with which it merges, or consolidates, or to which it transfers (by assignment, license, or otherwise) all or substantially all of its assets to which this Agreement (or, in the case of a transfer or assignment of a Scope of Work, such Scope of Work) relates.
- 14.8 **Force Majeure.** If either Party hereto is prevented from carrying out its obligations under this Agreement by events beyond its reasonable control, acts of God or government, natural disasters, including earthquakes or storms, fire, political strife, terrorism, failure or delay of transportation, then such Party's performance of its obligations hereunder shall be excused during the period of such events and for a reasonable period of recovery thereafter, and the time for performance of such obligations shall be automatically extended for a period of time equal to the duration of such events;

provided, however, that the Party claiming force majeure shall promptly notify the other Party of the existence of such force majeure, shall use commercially reasonable efforts to avoid or remedy such force majeure and shall continue performance hereunder with the utmost dispatch whenever such force majeure is avoided or remedied. When such circumstances arise, the Parties shall discuss what, if any, modification of the terms of this Agreement may be required in order to arrive at an equitable solution.

- 14.9 **Severability.** If any provision of this Agreement should be held invalid or unenforceable, the remaining provisions shall be unaffected and shall remain in full force and effect, to the extent consistent with the intent of the Parties as evidenced by this Agreement as a whole.
- 14.10 **Approvals.** When approval of either Party is required, such approval may be given or withheld in such Party's sole and absolute discretion, without regard to the reason or basis for granting or withholding such consent, unless such approval is expressly required not to be unreasonably withheld.
- 14.11 **Entire Agreement: Amendment.** This Agreement constitutes the final, complete and exclusive agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, communications, negotiations or understandings between the Parties with respect to the matters addressed herein. No modification of or amendment to this Agreement will be effective unless in writing and signed by both Parties.
- 14.12 **Drug-Free/Smoke-Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on Alameda Unified School District property. No students, staff, visitors, contractors, or subcontractors are to smoke or use drugs or alcohol on these sites

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have caused this Agreement to be executed and delivered by their proper and duly authorized officers effective as of the Effective Date.

ACCEPTED AND AGREED TO:

NATIONAL LABS, INC.

BY: Ronald Perkes

NAME: Ron Perkes

TITLE: President

DATE: Jan 21, 2021

ALAMEDA UNIFIED SCHOOL DISTRICT

By: Shariq Khan
Shariq Khan (Jan 21, 2021 17:54 PST)

NAME: Shariq Khan

TITLE: Chief Business Officer

DATE: Jan 21, 2021

EXHIBIT A-1
Scope of Work

This Scope of Work (“**SOW**”) is effective _____ (the “**SOW Effective Date**”), and is made by and between Alameda Unified School District (“**Alameda Unified**”), a school district located at 2060 Challenger Dr, Alameda, CA 94501, and National Labs, Inc. (“**Provider**”), a corporation with headquarters located at 3948 Trust Way, Hayward, CA 94545. Alameda Unified and Provider are each individually referred to herein as a “**Party**” and collectively as the “**Parties**.”

1. **Governing Agreement.** This SOW constitutes a “**Scope of Work**” under that certain Master Service Agreement by and between the Parties, _____ (the “**Agreement**”). This SOW and the Services contemplated herein include, and are subject to, the terms and conditions of the Agreement, which are incorporated by reference. Capitalized terms used in this SOW and not otherwise defined herein shall have the same meaning as set forth in the Agreement.
2. **Term.** The term of this SOW shall commence on the SOW Effective Date and shall continue thereafter for the following 12 months unless sooner terminated hereunder.
3. **Scope of Services.** The Services to be provided by Provider pursuant to this SOW shall be pursuant to Provider’s Proposal dated January 20, 2021 attached hereto as **Attachment 1 (“Proposal”)**.
4. **Fees and Payment Terms.** No direct fees or payment terms invoiced to Alameda Unified. Mutual agreement is for National Labs to bill insurance information provided for all specimens. Specimen collection staff fees and billing staff fees are the responsibility of National Labs.
5. **Order of Precedence.** To the extent any terms or provisions of this SOW conflict with the terms and provisions of the Agreement, the terms and provisions of the Agreement shall control, except to the extent that this SOW expressly and specifically states an intent to supersede the Agreement on a specific matter. To the extent any terms or provisions of the SOW conflict with the contents of the Proposal, the terms and provisions of this SOW shall control.
6. **Termination.** Alameda Unified in its sole discretion shall have the right to terminate this SOW without cause by giving Provider thirty (30) days’ written notice thereof. Upon termination, Alameda Unified shall be liable to Provider only for the Fees earned for the Services actually performed prior to the notice of termination.
7. **Execution.** This SOW may be executed in one or more counterparts (including by .pdf), each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have caused this SOW to be executed and delivered by their proper and duly authorized officers effective as of the SOW Effective Date.

ACCEPTED AND AGREED TO:

NATIONAL LABS, INC.

ALAMEDA UNIFIED SCHOOL DISTRICT

By:
Name:
Title:
Date:

By:
Name:
Title:
Date:

COVID-19 SCHOOL TESTING PROPOSAL
Alameda Unified School District - Alameda, CA
& National Labs Inc

THIS PROPOSAL outlines the intended resources and testing between National Labs Inc (“Contractor”/ “National Labs”) in Hayward, CA and Alameda Unified School District in Alameda, CA. The mutual goal is to meet local state & county recommendations for supporting school administration and student safety through dedicated Covid-19 surveillance testing. The program detailed within creates a quality-controlled collection site and courier service to ensure specimen integrity for Covid-19 testing.

CA Covid-19 Testing Task Force Lab: National Labs, CLIA 05D2074594

1. Testing Overview

Test Performed: SARS COV-2 RNA - RT PCR (reverse transcription polymerase chain reaction)

Equipment Used: Quant Studio 12, King Fisher Flex, Hamilton

Specimen Type (start): Anterior Nares Swab, Saliva expected mid-late February

Turn Around Time: National Labs commits to a report turn around time of <48 hours post specimen receipt. Current production average is a report turn around time of <24 hours post specimen receipt.

Ordering: Done onsite by the specimen collectors. The initial specimen requires a one-page intake form per specimen or one spreadsheet of all possible faculty and students to be tested. Subsequent testing is done through web portal order entry without an intake form or demographic download.

Reporting: Secure Results Portal will be maintained by National Labs for Alameda Unified School District. Log-in will be provided to designated individuals. All results will be organized by accession, patient name and date of collection. Results will also be downloadable in PDF format. Consolidated spreadsheet summary of all test results performed is provided per batch for internal Human Resource use.

2. Collection Site Overview

Local Set-Up (3 initial sites): A collection station with privacy panels will be set up in the desired locations of Alameda Unified School District

Materials: Test kit supplies provided by National Labs: swabs, transport media, specimen packaging

Staffing: Up to 2 collectors at each site for the expected range of 1100 specimens/week cumulative

Responsibilities: Collecting specimens for Covid-19 testing, overseeing quality control of specimen processing and handling, electronically ordering all specimens on site, cleaning/sanitization of collection area, ensuring specimens are sent safely with courier service to laboratory

Training/Safety: Collecting staff will be provided appropriate personal protective equipment by National Labs and trained on all standard collection/safety policies and procedures by National Labs

Hours Committed: To be determined based on need and best fit for Alameda Unified School District

Hours Breakdown: To be determined based on need and best fit for Alameda Unified School District

3. Pricing Overview

Per Specimen Rate: Insurance information provided with specimen, direct bill to insurance

Initial Expected Weekly Test Range: 1100 specimens/week

Included in Cost: Site Setup, Required Staffing, Specimen Collection Kit, RT-PCR Testing, Web Portal Resulting, Courier/shipping

Signature: 

Email: kiram@nationallabs.com