

STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND   §

**AGREEMENT FOR FORENSIC LABORATORY TESTING SERVICES BETWEEN  
FORT BEND COUNTY AND NMS LABS**

**THIS AGREEMENT** is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and **NMS LABS** (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas. County and Contractor may collectively be referred to as the "Parties" hereinafter.

**WITNESSETH**

**WHEREAS**, County desires that Contractor provide forensic laboratory testing services at the request of the Fort Bend County Medical Examiner's Office; and

**WHEREAS**, the Texas County Purchasing Act, § 262.024(7) Texas Local Govt. Code, exempts from competitive bidding contracts for services that can be obtained from only one source;

**WHEREAS**, the Fort Bend County Commissioners Court specifically finds that Contractor is a sole source provider and therefore grants an exemption from competitive bidding, insofar as any competitive bidding statute might apply; and

**WHEREAS**, Contractor represents that it is qualified and desires to perform such services; and

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows

**AGREEMENT**

**Section 1. Scope of Services**

- A. Contractor shall render Forensic Laboratory Testing Services (the "Services") as described in Contractor's Proposal, dated July 26, 2023, which is attached as Exhibit "A" and incorporated fully by reference. Contractor shall provide qualified personnel to render Services in accordance with Exhibit A to this Agreement.
- B. Contractor's laboratory must hold and retain the accreditations and licensure listed in Exhibit B and those accreditations and licensure(s) required to perform Services during the term of the Agreement. Copies of the accreditations and licensure certificates will be available upon request by County. Contractor shall notify the County's Medical Examiner in writing within 10 business days if any accreditation or

- licensure is revoked, suspended, or otherwise not in good standing during the term of this Agreement.
- C. All personnel performing services will be available for court testimony as necessary and in accordance with Section 3C of this Agreement.
  - D. Services shall be provided only at the request of the Fort Bend County Medical Examiner, and there is no minimum guarantee of services (or any services at all) to be requested.

## **Section 2. Personnel**

- A. Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.
- B. All personnel provided by Contractor shall have the minimum qualifications identified in Exhibit B.
- C. All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

## **Section 3. Compensation and Payment**

- A. Contractor's fees shall be calculated at the rates set forth in the attached Exhibit A though the Parties agree that there is no minimum volume of orders required by County to secure the discounted pricing shown. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A shall not exceed Two Hundred Ten Thousand dollars and 00/100 (\$210,000.00). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order.
- B. All performance of the Scope of Services by Contractor including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.
- C. Upon subpoena, Contractor will provide staff to testify for Court within Fort Bend County. County shall provide confirmation to Contractor, no less than 24 hours' prior to required court appearance that the Contractor will be needed to appear in court. County will be responsible for remitting payment to Contractor for Expert Service fees in accordance with the Contractor's Expert Service Fee Schedule. In the event of court appearances where neither the County nor the State is a party to the proceeding, or in those court appearances under this section, Contractor is not

prohibited by County from charging fees to the non-County party fee in connection with Contractor's participation in the court proceedings.

- D. County will pay Contractor based on the following procedures: Contractor shall submit to County two (2) original copies of invoices, which shall be provided on a monthly basis and capture billing for services completed and rendered in that calendar month. Contractor may submit electronically via: [apauditor@fortbendcountytexas.gov](mailto:apauditor@fortbendcountytexas.gov). County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

#### **Section 4. Limit of Appropriation**

- A. Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum of Two Hundred Ten Thousand dollars and 00/100 (\$210,000.00) specifically allocated to fully discharge any and all liabilities County may incur.
- B. Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed Two Hundred Ten Thousand dollars and 00/100 (\$210,000.00).

#### **Section 5. Time of Performance**

The Parties agree that Agreement is effective as of October 1, 2023 and will terminate on September 30, 2024, unless terminated sooner pursuant to this Agreement. The Parties acknowledge and agree that any Services that have been and will be provided are supported by good and valuable consideration during the Term of this Agreement, the sufficiency of which is acknowledged by the Parties.

#### **Section 6. Modifications and Waivers**

- A. The Parties may not amend or waive this Agreement, except by a written agreement executed by both Parties.
- B. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the Parties, operates as a waiver or estoppel of any right, remedy, or condition.
- C. The rights and remedies of the Parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

## **Section 7. Termination**

- A. Termination for Convenience: County may terminate this Agreement at any time upon thirty (30) days written notice issued by the Purchasing Agent.
- B. Termination for Default
  - 1. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
    - a. If Contractor fails to perform Services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;
    - b. If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.
  - 2. If, after termination, it is determined by County that for any reason whatsoever that Contractor was not in default, or that the default was excusable, services may continue in accordance with the terms and conditions of this Agreement or the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7A above.
- C. Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those Services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.
- D. If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

## **Section 8. Ownership and Reuse of Documents**

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request. Nothing in this Agreement

will be construed to waive the requirements of § 205.009 of the Texas Local Government Code.

### **Section 9. Inspection of Books and Records**

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four (4) years.

### **Section 10. Insurance**

- A. Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies, and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
1. Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
  2. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
  3. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
  4. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- B. County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of Contractor shall

contain a waiver of subrogation in favor of County and members of Commissioners Court.

- C. If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Contract and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time the work under this Contract is completed.
- D. Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- E. No cancellation of or changes to the certificates, or the policies, may be made without thirty (30) days prior, written notification to Fort Bend County.
- F. Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of Contractor.

#### **Section 11. Indemnity**

**CONTRACTOR SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.**

#### **Section 12. Confidential and Proprietary Information**

- A. Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.
- B. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its

own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

- C. Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.
- D. Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
- E. Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

- F. Contractor expressly acknowledges that County is subject to the Texas Open Meetings Act, TEX. GOV'T CODE ANN. §§ 551.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will comply with the provisions of the Texas Open Meetings Act in relation to the Agreement.

**Section 13. Independent Contractor**

- A. In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.
- B. Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

**Section 14. Notices**

- A. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).
- B. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County  
Attn: Medical Examiner  
3840 Bamore Rd  
Rosenberg, TX 77471

With a copy to: Fort Bend County  
Attn: Purchasing Agent  
301 Jackson Street, Suite 201  
Richmond, Texas 77469

Contractor: NMS Labs  
Attn: Gregory Schuh  
200 Welsh Road  
Horsham, Pennsylvania 19044

- C. Notice is effective only if the party giving or making the Notice has complied with subsections 14(A) and 14(B) and if the addressee has received the Notice. A Notice is deemed received as follows:



1. If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
2. If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

#### **Section 15. Compliance with Laws**

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

#### **Section 16. Performance Warranty**

- A. Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.
- B. Contractor warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A and B.

#### **Section 17. Assignment and Delegation**

- A. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights by Contractor are prohibited under this subsection, whether they are voluntarily or involuntarily, without first obtaining written consent from County.
- B. Neither party may delegate any performance under this Agreement.
- C. Any purported assignment of rights or delegation of performance in violation of this Section is void.

#### **Section 18. Applicable Law**

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The Parties hereto acknowledge that venue is proper in Fort Bend County,

Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

**Section 19. Successors and Assigns**

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

**Section 20. Third Party Beneficiaries**

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

**Section 21. Severability**

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

**Section 22. Publicity**

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

**Section 23. Captions**

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

**Section 24. Conflict**

In the event there is a conflict between this Agreement and the attached exhibit(s), this Agreement controls.

**Section 25. Certain State Law Requirements for Contracts:**

For purposes of section 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Contractor hereby verifies that Contractor and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:

- A. Unless affirmatively declared by the United States government to be excluded

from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.

- B. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Contractor does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in section 808.001 of the Texas Government Code.
- C. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Contractor does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in section 809.001 of the Texas Government Code.
- D. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Contractor does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in section 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in section 2274.001(6) and (7) of the Texas Government Code.

**Section 26. Human Trafficking.**

BY ACCEPTANCE OF CONTRACT, CONTRACTOR ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

*{Remainder of page intentionally left blank}*

*{Execution page to follow}*

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective as noted herein.

**FORT BEND COUNTY**

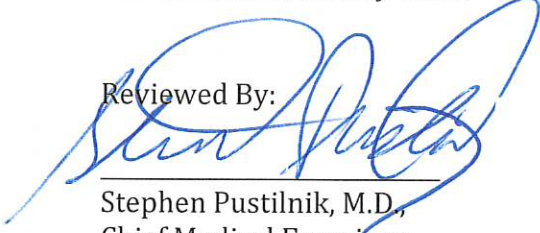
By: \_\_\_\_\_  
KP George, County Judge

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

Reviewed By:

  
\_\_\_\_\_  
Stephen Pustilnik, M.D.,  
Chief Medical Examiner

**NMS LABS**

  
\_\_\_\_\_  
Signature – Authorized Agent

Dan Monahan  
Printed Name

President & CEO  
Title

December 22, 2023  
Date

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$\_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor

Exhibit A: Contractor's Proposal, dated July 26, 2023; and  
Exhibit B: Contractor's Accreditations and Licensure Information

# EXHIBIT A



July 26, 2023

Fort Bend County Medical Examiner's Office  
Attn: Medical Examiner  
3840 Bamore Rd  
Rosenberg, TX 77471

Dear Valued Client:

Thank you for your continued support of NMS Labs for your testing needs. Based upon the projected volumes, NMS is able to offer your facility discounted pricing on our services. The following tests will be discounted from NMS Labs Current List Price Fee Schedule. The discounts offered are based upon testing volume listed as well as a yearly CPI increase of 6.5% for "services by other medical professionals," payroll increase of 4.1%, health insurance/prescription coverage increase of 3.1% and average lab supply increase of 10.27%; the final three increases account for approximately 70% of our total operating costs.

Account Number(s): 148565  
Price Code Number: FBCME

Pricing Effective Date: 10/01/2023  
Pricing Expiration Date: 9/30/2024

Acode	Description	Projected Volume	Current List Price	Discount Price
1002B	Carbon Monoxide Exposure Biouptake Screen, Blood	18	\$87	\$59
1919FL	Electrolytes and Glucose Panel (Vitreous), Fluid (Forensic)	218	\$104	\$70
5654B	Carbon Monoxide Exposure Biouptake Confirmation, Blood	14	\$95	\$76
8050U	Postmortem, Urine Screen Add-on (6-MAM Quantification only) (Forensic)	22	\$36	\$36
8051B	Postmortem, Basic, Blood (Forensic)	568	\$266	\$149
8051FL	Postmortem, Basic, Fluid (Forensic)	9	\$406	\$215
8051SP	Postmortem, Basic, Serum/Plasma (Forensic)	0	\$266	\$149
8051TI	Postmortem, Basic, Tissue (Forensic)	23	\$476	\$279
8051U	Postmortem, Basic, Urine (Forensic)	1	\$266	\$149
8052B	Postmortem, Expanded, Blood (Forensic)	195	\$393	\$227
8052FL	Postmortem, Expanded, Fluid (Forensic)	4	\$646	\$564
8052SP	Postmortem, Expanded, Serum/Plasma (Forensic)	0	\$393	\$227
8052TI	Postmortem, Expanded, Tissue (Forensic)	8	\$714	\$578
8052U	Postmortem, Expanded, Urine (Forensic)	0	\$393	\$227
8054B	NMS TotalTox™ Panel, Blood (Forensic)	3	\$545	\$545



8083B	Postmortem, Basic w/Vitreous Alcohol and 6-MAM Confirmation, Blood (Forensic)	0	\$289	\$161
8084B	Postmortem, Expanded w/Vitreous Alcohol and 6-MAM Confirmation, Blood (Forensic)	0	\$418	\$240
8155B	Postmortem Designer Opioids Add-On, Blood (Forensic)	1	\$193	\$173
8756B	Novel Psychoactive Substances (NPS) Screen 1, Blood	2	\$340	\$321
8756U	Novel Psychoactive Substances (NPS) Screen 1, Urine	0	\$340	\$322
9562U	Synthetic Cannabinoid Metabolites Screen - Expanded, Urine	0	\$129	\$111
9566B	Synthetic Cannabinoids Screen (Add-On), Blood	0	\$187	\$181
99200	Return	0	\$60	\$60

All other testing will be billed at the 2023 fee schedule for the agreement term. NMS Labs will provide prepaid federal express air bills for shipping samples to NMS Labs for testing. Collection kits will be provided at no additional cost. All samples will be retained for a period of twelve (12) months from the date of the final report. Samples will then be discarded after the retention period unless notified by your office in writing with alternate instructions regarding the disposition of the specimens. NMS Labs works diligently to maintain our discounted prices and will evaluate the pricing for this group in 12 months for any necessary pricing increases.

#### Value Added Services

- NMS Labs is operational 24/7 to provide consistent quick turnaround time on comprehensive toxicology, with approximate turnaround time of 10 business days.
- All analytical testing is performed in-house, with no use of an outside reference laboratory for quantitative or confirmation testing.
- Prepaid shipping of samples via Federal Express Standard Overnight (next business day) delivery on Monday through Saturday.
- Forensic Client Support available via phone and email Monday – Friday 7am – 7:30pm Central Time. NMS Labs also provides a 24/7 Emergency Hotline for Public Health Toxicology Related Emergencies where Toxicology testing and/or consultation may be required.
- Dedicated research & development committee (NPS strategy team) structured to offer continuous delivery of toxicology support services of the designer drug toxicology analysis.
- Designer drug analysis scope expansion delivered every 9 months to offer the most up-to-date panels for new and emerging drugs.
- Access to our comprehensive testing catalog of over 2,700 different tests, with specimen storage on all submitted specimens for twelve (12) months.

If you have any questions regarding this communication, please contact me directly.



Sincerely,

A handwritten signature in black ink, appearing to read "Kacie Tross".

Kacie Tross  
NMS Labs – Territory Manager  
(800) 522-6671 x 2039  
Cell phone: 682-252-9202  
[kacie.tross@nmslabs.com](mailto:kacie.tross@nmslabs.com)

cc: NMS Labs D365 Database



# EXHIBIT B



October 1, 2023

Fort Bend County Medical Examiner's Office  
Attn: Medical Examiner  
3840 Bamore Rd  
Rosenberg, TX 77471

Dear Valued Client:

Thank you for the opportunity to have NMS Labs considered as a forensic toxicology resource for the Fort Bend County Medical Examiner's Office. In addition to the rigorous scientific and operational capabilities that NMS Labs will use to support your office, NMS Labs has a long-standing working relationship with various Medical Examiner offices, which offers us a unique depth of understanding of the scientific needs of the forensic agencies in the United States. NMS performs toxicology for 94% of the NAME accredited offices in the United States. Successfully executing this balance of highest quality forensic science support, operational efficiencies, and economical value for many years, assures the Fort Bend County Medical Examiner's Office that NMS Labs is uniquely qualified to sustain this relationship as your forensic toxicology laboratory.

NMS Labs currently performs law enforcement testing, drug identification, and postmortem toxicology for existing forensic crime laboratories as well as clients in need of these services directly from small to large agencies across the United States, Canada and Internationally. As the regulatory standards for forensic lab testing have become more rigorous and the complexity of toxicology testing for novel psychoactive substances and designer opiates has increased due to new and emerging drugs, many Coroners and Medical Examiner Offices have opted to utilize NMS Labs for efficiency, quality, and budgetary savings. NMS Labs has long considered the Fort Bend County Medical Examiner's Office as a partner and valued client who could benefit from our comprehensive services. The listing below outlines the facets of NMS Labs services and the customized offerings that we will use to support the Fort Bend County Medical Examiner's Office as a Key Client, in a comprehensive forensic toxicology relationship.

## **I. Laboratory Accreditations**

### **A. National**

1. ANAB/ANSI National Accreditation Board ISO/IEC 17025:2017 in disciplines of toxicology and seized drugs.
2. College of American Pathologists (CAP) Laboratory Accreditation Program (LAP) and ISO 15189 for Medical Testing Laboratories
3. Clinical Laboratory Improvement Amendments 1988 (CLIA)
4. US Drug Enforcement Agency (DEA) Registration

### **B. Local Government**

1. NMS also carries state specific certifications in toxicology or forensic science disciplines from: PA, NY, CA, CO, FL, LA, ME, MD, OH, RI, and TX

NMS Labs is the only private forensic laboratory to hold both the American Board of Forensic Toxicology (ABFT) and ANAB (ANSI/ASQ National Accreditation Board) in toxicology, a testament to our quality and commitment to scientific leadership and excellence.

The layering of these accreditations and certifications assures the Fort Bend County Medical Examiner's Office that NMS is compliant with the most rigorous accreditation requirements for all forensic toxicology testing and postmortem testing. Our national reach allows us to recognize emerging issues in forensic

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toxicology rapidly and also gain the experience of national best practices that can be shared with Fort Bend County Medical Examiner's Office in a manner that is not available to a dedicated local government laboratory.

## **II. NMS Staff**

- A. Current Staff includes over 25 toxicologists, including 10 doctoral level, F-ABFT (Fellow-American Board of Forensic Toxicology) board-certified toxicologists.
- B. Dedicated Forensic Client support available Monday – Friday from 7AM-7:30 PM Central Time. Staff is available via e-mail and via phone.
- C. Dedicated Forensic Specimen Processing Staff – specially trained in handling postmortem samples to retain specimen integrity, confidentiality, and sample volumes.
- D. Currently employs over 400 individuals at our headquarter laboratory in Horsham, PA, and our six Integrated Services Laboratories (IFS) located in PA, TX, FL, and NC
- E. Multiple ABFT Board Certified toxicologists that are active and hold officer positions in the leading professional organizations of American Academy of Forensic Sciences, Society of Forensic Toxicology (SOFT), National Association of Medical Examiners (NAME) and The International Association of Forensic Toxicology (TIAFT)
- F. NMS Labs has multiple professional staff engaged in the National Commission on Forensic Sciences and Organization of Scientific Area Committees (OSAC). This engagement in the most recent efforts of the Federal Government to Strengthen Forensic Sciences assures the Fort Bend County Medical Examiner's Office that your laboratory provider will be current with the regulatory environment and best practice in postmortem, law enforcement testing, and forensic sciences.
- G. Dedicated experienced Territory Manager assigned to the Fort Bend County Medical Examiner's Office, responsible for overall customer satisfaction. This individual manages the business aspects of working with the Fort Bend County Medical Examiner's Office, as well as being the liaison to assist the Fort Bend County Medical Examiner's Office and NMS Labs in their routine partnership needs.

## **III. Laboratory Operations**

- A. NMS Labs has been in continuous operation as a private forensic toxicology laboratory for over 50 years. NMS Labs was founded as a private laboratory dedicated to servicing the needs of government police agencies and continues with this commitment by offering Fort Bend County Medical Examiner's Office the benefits of our comprehensive toxicology services.
- B. Operational hours are 24 hours/7 days per week, offering sustained, consistent turnaround time on all testing.
- C. Dedicated Forensic Client Support Staff Available by phone and e-mail: Mon – Fri 7AM – 7:30PM Central Standard Time.
- D. In house quality assurance and quality control departments dedicated to continuous quality improvement.
- E. In house research and development department dedicated to method improvements, validation of new methods, and validation of testing for new compounds and novel psychoactive substances (NPS).
- F. Dedicated Expert Services Department manages request for litigation support such as testimony, subpoena management, and expert opinions.
- G. NMS Labs Operations is committed to efficiency and quality with the use of Six Sigma and LEAN approaches to our laboratory operations.
- H. NMS Labs has redundant backup systems for our data and facilities in case of a mass disaster.

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#### **IV. Analytical Capabilities**

- A. Dedicated Depts. of Special Chemistry (Drug Screening), Gas Chromatography (GC), High Performance Liquid Chromatography (HPLC), Liquid Chromatography (LC), Metals, Environmental, Drug Chemistry (Drug Identification of materials Ex. Botanicals, pills, powders, liquids)
- B. NMS Labs has our own in-house instrumentation service engineer to minimize instrument down time.
- C. Instrumentation Duplication – whenever practical, NMS Labs will work to duplicate instrumentation platforms to support back up plans if an instrument is down.
- D. Our comprehensive catalogue of over 2,500 tests is unmatched by our competitors. NMS Labs has the most inclusive acceptance criteria in terms of testable matrices available in addition to our large scope of testable toxicological compounds. We are routinely called upon for the most complex and difficult analysis on the most esoteric specimens including blood, serum/plasma, urine, saliva, hair, vitreous fluid, meconium, bile, gastric contents, fecal matter, umbilical cord tissue, decomposition fluid, skin, brain, lung, muscle, liver, and heart, insect larvae, food and beverage contents, unknown powders and fluids, and metals, among many others. Our laboratory capabilities allow NMS Labs to either test or develop a testing regimen for any sample of toxicological importance.
- E. Rigorous protocol for special forensic investigations requiring expertise and approaches outside of commercial testing.
- F. Driving under the influence Toxicology Panels - NMS Labs offers a large selection of specially designed law enforcement agencies and crime laboratories for: Common Drugs of Abuse, Prescription and Over the Counter Medications, Novel Psychoactive Substances (NPS) as well as many of the synthetic cannabinoids and "bath salts". These novel psychoactive and designer panels are reviewed every 9-12 months to provide you with the most pertinent results in your death investigations.

#### **IV. Evidence Handling and Security**

- A. Specially trained forensic specimen processors
- B. Remote Order Entry through our secure web portal to help eliminate clarifications from handwriting and other discrepancies. Printable submission forms are printed from this software.
- C. Electronic Chain of custody follows all samples from receipt at NMS Labs to Disposition of the evidence.
- D. Secured refrigerated or frozen specimen storage.
- E. Samples may be disposed of by NMS Labs or returned to clients under chain of custody.
- F. Extended Sample Storage is available to comply with individual client requirements.
- G. Standard Operating Procedures (SOP's) to support unique requirements of handling postmortem samples.
- H. Limited Access Facility with security badges and security cameras throughout the interior and exterior of building.

#### **V. Result Reporting**

- A. Reports are available by mail or electronically via NMS Labs secure web portal.
- B. Reports are compliant with the format and contents currently recommended by the 2014 Congressional Report "Strengthening the Forensic Sciences."
- C. NMS is fully integrated with several case management companies such as VertiQ, MDI Log, and Forensic Advantage to assist in death investigation cases.

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**VI. Expert Services**

- A. NMS has a dedicated Expert Services Dept. to manage requests for litigation support.
- B. NMS experts have qualified as experts at multiple levels of court proceeding in the US and internationally, including military courts. NMS is nationally recognized as a leading expert in forensic toxicology and is frequently called upon for our expertise to support both our own testing results and interpret other laboratories findings.

NMS Labs looks forward to the opportunity to discuss the toxicology services that we have to offer the Fort Bend County Medical Examiner's Office. If there are any questions regarding this communication, please contact me at the number below.

Sincerely,

A handwritten signature in black ink, appearing to read "Kacie Tross".

Kacie Tross  
NMS Labs – Territory Manager  
(800) 522-6671 x 2039  
Cell phone: 682-252-9202  
[kacie.tross@nmslabs.com](mailto:kacie.tross@nmslabs.com)

cc: NMS Labs D365 Database



VertiQ Software LLC  
P. O. Box 787 (Mailing Address)  
Morgan Hill, CA 95037  
Phone: 408-778-0608  
Fax: 408-782-0850

## Sole Source Statement for VertiQ Software CME-V3

To Whom It May Concern

VertiQ Software LLC., including its affiliates, subsidiaries, and divisions, are the sole source providers for purchases, upgrades and maintenance of VertiQ Case Management Software System.

VertiQ Software LLC is the only company that can support VertiQ Case Management Software System and associated maintenance services.

VertiQ Software version CME-V3 is integrated with NMS Laboratories. VertiQ works with the NMS team to configure web services that will allow for the importing of Toxicology related data, toxicology results, and running the NMS report from within CME. This allows for seamless, error-free input of data and considerable time savings for staff. Currently NMS is the only Toxicology Laboratory that is integrated with CME-V3.

Additionally, all data concepts in CME-V3 can be queried.

When installed, CME-V3 taken 'out of the box' is a fully functioning application.

As of October 25, 2023, NMS Laboratory is the only toxicology laboratory that is integrated with CME-V3.

Signed: \_\_\_\_\_

Name: Anthony Kessel, CEO

Date: 10/25/2023