MEMORANDUM OF AGREEMENT

by and between

STATE OF NEW MEXICO
DEPARTMENT OF HEALTH SCIENTIFIC LABORATORY DIVISION,

STATE OF COLORADO PUBLIC HEALTH LABORATORY,

STATE OF UTAH PUBLIC HEALTH LABORATORY,

STATE OF ARIZONA PUBLIC HEALTH LABORATORY

THIS MEMORANDUM OF AGREEMENT ("Agreement") is entered into by the State of New Mexico Department of Health Scientific Laboratory Division, the State of Colorado Public Health Laboratory, the State of Utah Public Health Laboratory, and the State of Arizona Public Health Laboratory ("Laboratories") for the purpose of establishing the terms for the provision of testing clinical specimens and environmental samples within the capabilities of each of the laboratories in order to maintain their continuity of operations in the event that any of the laboratories is temporarily unable to perform such testing.

ARTICLE 1. RECITALS

A. The New Mexico Department of Health Scientific Laboratory Division is an agency of the State of New Mexico, established by and operated pursuant to state and federal laws.

B. The Public Health Laboratory in the State of Colorado is operated pursuant to the applicable state and federal laws.

C. The Public Health Laboratory in the State of Utah is operated pursuant to the applicable state and federal laws.

D. The Public Health Laboratory in the State of Arizona is operated pursuant to the applicable state and federal laws.

E. The Laboratories are engaged in the testing of the clinical specimens for infectious and inherited diseases and environmental samples for hazardous compounds in accord with recommendations of the "Core Functions of Public Health Laboratories" (MMWR vol. 51, No. RR-14, September 20, 2002).

F. The Laboratories are all essential parts of the national Laboratory Response Network and registered with the Select Agent Registry. In addition, these laboratories are the Environmental Protection Agency primacy labs for drinking water testing in their

respective States. This Agreement offers the Laboratories a unique opportunity to support each other in the event of a local disruption in their operations, and will provide a means by which continuity of operations can be achieved.

G. The laboratories desire to collaborate in such activities so that they might support each other in the event of a local disruption in their operations, and this Agreement will provide a means by which continuity of operations can be achieved, in order to promote flexibility in responding to changing needs and circumstances and to provide maximum benefit for the parties and the citizens of the states.

ARTICLE 2. TERM

This Agreement will begin January 1, 2013 and will terminate on December 31, 2016 unless earlier terminated as provided in Article 13 of this Agreement or as otherwise provided in the Scope of Work.

ARTICLE 3. SCOPE OF WORK

The Scope of Work of this Agreement shall be described on a project-specific basis consistent with the responsibilities set forth in Article 6 herein. The parties shall initiate specific requests for assistance under the authority of this Agreement through such written documentation as the parties may require. Such requests shall not be considered modifications of this Agreement and shall be binding only upon the parties to the specific request.

ARTICLE 4. SCOPE OF AGREEMENT

A. This Agreement incorporates all of the agreements, covenants and understandings between the parties concerning the subject matter herein. No other agreement or understanding of the parties or their agents shall be valid or enforceable unless stated in this Agreement, except the New Mexico Department of Health Data Use Agreement (Related Agreement) executed by the parties in connection with this Agreement.

B. The Laboratories agree to comply with the terms and conditions which are set forth in this document, as it may be amended from time to time, to the extent not inconsistent with, excluded or modified by a specific provision of this Agreement.

ARTICLE 5. STATUS OF LABORATORIES

Nothing in this Agreement shall be deemed or construed by the parties or by any third party, as creating the relationship of principal and agent, partners, joint ventures or any other relationship between the parties.

ARTICLE 6. RESPONSIBILITIES

A. As a CLIA- and EPA-certified facility, the Laboratories have qualified for testing clinical specimens for infectious diseases of public health significance and environmental specimens for

hazardous chemicals. Each laboratory may seek assistance from the any of the laboratories in carrying out these analyses if:

1. Local events temporarily prevent them from conducting these analyses, or

2. A local event should occur requiring analyses that they are not qualified to run, or

3. They are qualified to run the analysis, but require additional support from a laboratory in a surge capacity.

The support will continue until the need is no longer present or the supporting laboratory is unable or unwilling to continue to offer support. Nothing in this Agreement shall be construed as requiring the parties to provide support for specific requests. If a laboratory declines a request for support it shall not be construed as a breach of this Agreement.

B. The Laboratories agree to:

1. Report the results of the analyses only to the level laboratory submitting the specimens or samples for analysis. The submitting laboratory will be responsible for notifying local entities and reporting test results to health care providers and government officials.

2. The laboratory that is shipping the specimens to another laboratory will have the responsibility of packing, shipping and initiating any required chain of custody forms for the clinical specimens.

3. The laboratory performing analyses will be compensated for the costs of analyses by the submitting state. Reimbursement will occur based upon the published fee schedule of the laboratory performing the testing. If there is a multi-state incident, FEMA may be called upon to assist with covering costs.

ARTICLE 7. ASSIGNMENT

No party will assign or transfer any interest in this Agreement.

ARTICLE 8. LIABILITY, No Waiver of Sovereign Immunity

A. Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation of requirements applicable to the performance of the agreement. Each party shall be liable for its actions in accordance with this agreement and federal and state law, as applicable, including law of sovereign and governmental immunity. No term or terms of this MOA may be construed as an express or implied waiver of sovereign and governmental immunity.

B. In the event of a breach of this Agreement by a laboratory, the remedy will be the right to terminate this Agreement, in whole or in part, by any laboratory without penalty of cost or expenses associated with breach.

ARTICLE 9. AMENDMENTS

No changes, amendments or alterations to this Agreement will be effective unless in writing and signed by all parties.

ARTICLE 10. COMPLIANCE WITH LAWS

The parties will comply with all Federal and State laws relating to provision of services under this Agreement and the associated Data Use Agreement, and will maintain in effect all permits, licenses, governmental approvals and accreditations that may be necessary for that purpose. The parties will notify each other immediately of any material change in such permits, licenses, governmental approvals or accreditation that would adversely affect the ability of the parties to perform under this Agreement.

HIPAA Requirements. The parties agree to comply with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-8 ("HIPAA"), as amended by Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), and the requirements of any regulations promulgated hereunder including without limitation the federal privacy regulations as contained in 45 C.F.R. Part 160 and Subparts164, A & E (the "Federal Privacy Regulations") and the federal security standards as contained in 45 C.F.R. Part 160 and Subparts 164, A & C (the "Federal Security Regulations"). The parties agree not to use or further disclose any protected health information, as defined in 45 C.F.R. § 160.103, or individually identifiable health information, as defined in 42 U.S.C. § 1320d (collectively, the "Protected Health Information"), concerning a patient other than as permitted by this Agreement and the requirements of HIPAA or regulations promulgated under HIPAA including without limitation the Federal Privacy Regulations and the Federal Security Regulations. The parties shall implement appropriate safeguards to prevent the use or disclosure of a patient's Protected Health Information other than as provided for by this Agreement. If a party that receives data pursuant to this Agreement becomes aware that a use or disclosure of such data was a use or disclosure of a patient's Protected Health Information not provided for by this Agreement or in violation of HIPAA, the Federal Privacy Regulations, or the Federal Security Regulations, the party will promptly notify each of the other parties of the use or disclosure. The notification made in accordance with the preceding sentence will not contain any individually identifiable information, except to the party who initially transmitted the data to the receiving party. In the event a party, with the approval of another party in writing, contracts with any contractors and/or agents to whom the party provides a patient's Protected Health Information received from the party, that party shall include provisions in such agreements whereby the contractor and/or agent agree to the same restrictions and conditions that apply to that party with respect to such patient's Protected Health Information. Notwithstanding the foregoing, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by any party by virtue of this Section.

ARTICLE 11. SEVERABILITY

If any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

ARTICLE 12. TERMINATION

This Agreement will be reviewed annually and continued unless terminated by a party by delivering written notice to the other parties at least 30 days prior to termination.

ARTICLE 13. WAIVER OF BREACH

The waiver by any party of a breach or violation of any provision of this Agreement will not operate as, or be construed as, a waiver of any subsequent breach of this Agreement.

ARTICLE 14. FORCE MAJEURE

If any party is unable, wholly or in part, due to a natural disaster or any other extraordinary reason not within its control, to carry out its obligations under this Agreement, the party will give written notice with full particulars of the event causing disability to perform to the other party within a reasonable time after the occurrence of the relied upon cause. Thereafter, the obligations of the party giving such notice will be suspended during the continuance of any inability so caused, but for no longer period, except as may be agreed upon by the parties in writing.

ARTICLE 15. THIRD PARTIES

Nothing in this Agreement, express or implied, is intended to confer any rights, remedies, claims or interests upon a person not a party to this Agreement.

ARTICLE 16. NOTICES

Any notice to be given by this Agreement will be in writing and will be delivered in person or by electronic facsimile, courier service or U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

New Mexico Department of Health
Scientific Laboratory Division
ATTN: Division Director
1101 Camino de Salud NE
Albuquerque, NM 87102

Colorado Department of Public Health and Environment
Laboratory Services Division
ATTN: Laboratory Director
8100 Lowry Blvd.
Denver, CO 80230

Utah Department of Health
(Name of Authorized Representative of Recipient Organization)
Utah Public Health Laboratory
ATTN: Laboratory Director
4431 South 2700 West
Taylorsville, UT 84129-8600

Arizona Department of Health
Bureau of Laboratory Services
ATTN: Laboratory Director
250 North 17th Ave.
Phoenix, AZ 85007

ARTICLE 17. BINDING EFFECT

This Agreement is binding upon, in inures to the benefit of the parties to this Agreement and their respective successors and assigns.

ARTICLE 18. CONFIDENTIALITY

Any protected health and other confidential information which is shared or provided to any party, its contractors, subgrantees or other agency shall be used only for purposes within the scope of this Agreement and the associated Data Use Agreement, and shall be governed by all applicable federal and state confidentiality and privacy law and regulations. The New Mexico Department of Health Scientific Laboratory shall comply with all applicable requirements of HIPAA and execute as a covered entity its Data Use Agreement with each other party to this agreement as data recipients.

APPROVED ON BEHALF OF THE NEW MEXICO DEPARTMENT OF HEALTH:

[redacted]
Authorized Signature Designee

Date 7.29.13

[redacted]
David Mills PhD, Director
Scientific Laboratory Division

Date 7/22/13

[redacted]
Assistant General Counsel
Office of General Counsel

Date 7/25/13

APPROVED ON BEHALF OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

[redacted] Date 7·17·13
~~David A. Butcher~~, Director Laura Gillim-Ross, PhD
Laboratory Services Division

[redacted] Date 7/16/13
Ann Hause
Director, Office of Legal and Regulatory Affairs

APPROVED ON BEHALF OF THE UTAH PUBLIC HEALTH LABORATORY:

[redacted] Date 6/19/13 RvD 6/10/13
Shari Watkins, C.P.A.
Director, Office of Fiscal Operations

[redacted] Date 6/10/13
Robyn Atkinson, PhD
Laboratory Director

APPROVED ON BEHALF OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES:

[redacted] Date 6/6/13
Victor Waddell, Ph.D.
Bureau Chief
Arizona Bureau of State Laboratory Services

[redacted] Date 5/30/13
Christine Ruth
Chief Procurement Officer