

TESTING AGREEMENT

This Testing Agreement (“Agreement”) is entered into by and between Board of Education of Henderson County, Kentucky (“Organization”), and Ethos Holding Corp., doing business as Ethos Laboratories (“Ethos”) (each a “Party” and collectively, the “Parties”). The Parties hereby agree as follows:

1. Scope of Services. Subject to the terms of this Agreement, Ethos shall perform all services required by this Agreement, including those specific services set forth in, and incidental to, the Scope of Services annexed hereto as **Exhibit A**.

2. Testing Site. Organization shall provide an appropriate location (the “Site”) for Ethos to provide testing to determine whether individuals are infected with SARS-CoV-2 (“Testing”). Ethos shall make Testing available at such time(s) as the Parties mutually agree. Organization shall be solely responsible for ensuring the Site: (a) complies with all applicable laws and regulations regarding accessibility; (b) permits social distancing as recommended by the CDC for reducing transmission of COVID-19; and (c) is sufficiently private to protect the confidentiality of individuals’ personal information. Organization shall indemnify and hold harmless Ethos from and against any loss, cost, damage, expense, claim or liability, including reasonable attorney’s fees, resulting from any claim where the injury or damage results from the physical condition of the Site or surrounding area.

3. Patient Consent. Organization shall be solely responsible for obtaining written consent from each individual who undergoes Testing at the Site, including consent for Ethos to provide the Testing results to Organization if applicable.

4. Specimen Collection. Ethos shall be responsible for collecting individuals’ specimens as necessary to perform the Testing.

5. Test Results. Ethos shall be responsible for providing Testing results to individuals and/or to the Organization, as directed by Organization.

6. Compensation. Organization shall not charge Ethos any fee to use the Site. Ethos shall be entitled to compensation for performing the Testing as set forth on **Exhibit B**.

7. Terms and Termination. The term of this Agreement shall be for one (1) year from the Effective Date (the “Initial Term”). Either Party may terminate this Agreement immediately upon written notice to the other. If this Agreement is terminated prior to the expiration of the Initial Term, the Parties may not enter into another similar arrangement until the expiration of the Initial Term.

8. No Referrals. The Parties acknowledge and agree that: (a) the benefits inuring to each hereunder do not require, are not payment for, and are not in any way contingent upon the referral, admission or any other arrangement for the provision of any item or service; (b) notwithstanding anything herein to the contrary, neither Party is required, under this Agreement or any other agreement between the Parties to refer any patient to any health care provider or purchase any item or service for which payment may be made under Medicare, Medicaid or any other governmental health care program from any source; and (c) this Agreement shall not be construed to induce or encourage the referral of patient or the purchase of health care services or supplies.

9. Governing Law. The validity, construction and enforceability of this Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky without regard to its conflict of laws principles.

10. Entire Agreement. This Agreement contains the entire contractual understanding between the Parties. Neither Party shall have any control or obligation to act for the other except as specifically provided for under this Agreement. No amendments or additions to this Agreement shall be binding unless such amendments or additions are in writing and signed by the Parties.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the date(s) indicated below, to be effective as of _____, 2021 (the “Effective Date”).

ETHOS:

Ethos Holding Corp.

By: _____

Title: _____

Date: _____

Address: 29 E 6th St.

Newport, KY 41071

ORGANIZATION:

Board of Education of Henderson County, Kentucky

By: _____

Title: _____

Date: _____

Address: 1805 Second Street

Henderson, KY 42420

EXHIBIT A
Scope of Services

1. Testing will be limited to staff and students of Kentucky K-12 public schools and K-12 private/charter schools to include school district employees and staff (contracted or otherwise) to include but not limited to bus drivers, maintenance, office staff or as determined by the school administrator.
2. Responsible for contracting directly with Kentucky school districts, individual schools and/or private/charter schools to provide testing for K-12 students and staff consistent with the terms specified in this contract.
3. Provide or ensure all necessary resources to provide COVID-19 diagnostic testing in kindergarten through grade 12 (K-12) school districts and private/charter schools within Kentucky to include:
 - a. Collaborate with schools to obtain and maintain records of consent from students/guardians and staff who are tested;
 - b. Onsite personnel, such as a testing coordinator, sample collector(s), and/or other additional staff needed to implement test programs;
 - c. Providing all necessary equipment, barriers, signage, etc. necessary to provide the testing service;
 - d. Logistical and operation support;
 - e. Providing own Personal Protective Equipment (PPE) to perform specimen collection or testing;
 - f. Providing and/or ensuring all supplies necessary for the collection, storage, shipping, and testing of specimens (collection devices, coolers, shippers, lab kits, reagents, consumables, etc.);
 - g. Providing and/or ensuring specimen collection; and
 - h. Providing an online, secure, The Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant patient portal to students/guardians and staff to access test results.
4. Any clinical personnel supplied by the vendor(s) will be required to demonstrate the necessary qualifications to perform any medical services required under the contract.
5. Laboratory service provider shall ensure all workers who perform these services on District property shall have background checks done prior to commencing any work. The Vendor is responsible for all fees associated with obtaining background checks. A copy of each back ground check shall be supplied to school administrator upon request. No employee of the Vendor shall be assigned or allowed on school district property who is a registered sex offender or who is otherwise prohibited by law from being on school district property.
6. Laboratory service provider shall maintain HIPAA compliant unique patient identifier as it relates to all test results, negative or positive, completed Centers for Disease Control (CDC) and DPH required forms. DPH reserves the right to review and audit file.
7. Provide testing with an approved Centers for Disease Control (CDC) test.
 - a. CDC recommends collecting and testing upper respiratory tract specimens (naso-pharyngeal swab or US Food and Drug Administration (FDA)-approved saliva swab). Any additional specimen collection method explicitly approved by the FDA requires submitting supporting documentation.
 - b. Allowable testing includes FDA authorized or approved SARS-CoV-2 PCR, nucleic acid amplification (NAAT), and antigen testing. Serology (i.e. antibody) testing is not allowable.
 - c. Pooled testing using an FDA authorized PCR test and methodology must be approved by DPH prior to implementation. Individual results must be reported for all persons evaluated using pooled testing. All specimens contained in positive pools must be promptly re-tested individually using an FDA authorized PCR test to identify the positive individuals contained within the positive pool. Reimbursement will be provided as a single fee per single specimen collected; no additional reimbursement shall be provided for reflex testing of positive pools.

EXHIBIT B
Ethos' Compensation

Organization authorizes Ethos to seek and obtain reimbursement for all Testing from the Kentucky Cabinet for Health and Family Services ("Payor") at the current year published rates. Organization expressly waives any claim for any compensation or reimbursement from Payor with respect to all Testing performed pursuant to this Agreement. Compensation due to Ethos pursuant to this Agreement shall be limited to the reimbursement remitted to Ethos by Payor. Organization shall not be obligated to pay to Ethos, nor shall Ethos seek from Organization, any compensation due and payable to Ethos under this Agreement.