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OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
STATE OF NEW HAMPSHIRE
DIVISION OF ADMINISTRATION

121 South Fruit Street
Concord, N.H. 03301-2412
Telephone 603-271-3800
Fax 603-271-0597

LOUISE LAVERTU
Executive Director

KIRA HAGEMAN
Director of Administration



March 16, 2016

Her Excellency, Governor Margaret Wood Hassan
And the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the New Hampshire Office of Professional Licensure and Certification to enter into a SOLE SOURCE contract in the amount of \$30,000.00 with the National Association of State Boards of Geology (ASBOG), vendor number 171363, Douglasville, Georgia, for membership in ASBOG and the preparation and scoring of the National Professional Geologist Examinations from May 1, 2016 through April 30, 2018. Further, authorize unencumbered payments under this contract with internal accounting control within the Office of Professional Licensure and Certification. 100% general funds.

Funding is available for FY 016 and FY 017 in account, Office of Professional Licensure and Certification, contingent on continued budget authorization in FY 2018 as follows:

01-21-21-2120-2405 OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

		<u>FY 2016</u>	<u>FY2017</u>	<u>FY2018</u>
020-500201	<u>PUBLICATIONS AND PAMPHLETS</u>	\$4,000	\$8,500	\$8,500
026-500251	<u>ORGANIZATIONAL DUES</u>		\$4,500	\$4,500

EXPLANATION

The Office of Professional Licensure and Certification hereby submits an agreement between the State of New Hampshire, Office of Professional Licensure and Certification and the National Association of State Boards of Geology (ASBOG) commencing May 1, 2016 through April 30, 2018 for membership in ASBOG and the purchase and correction of national professional geologist examinations. Our present contract expires on April 30, 2016. This is a sole-source contract because ASBOG is the only provider of examinations for professional geologists in the

Her Excellency, Governor Margaret Wood Hassan
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country. ASBOG is a non-profit agency therefore no registration certificate from the Secretary of State is attached.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Louise Lavertu". The signature is written in a cursive style with a large initial "L".

Louise Lavertu
Executive Director

Subject: ASBOG membership, preparing, scoring Exams for Professional Geologists FORM NUMBER P-37 (version 1/09)

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Office of Professional Licensure & Certification		1.2 State Agency Address 121 South Fruit Street, Concord NH 03301	
1.3 Contractor Name National Association of State Boards of Geology (ASBOG)		1.4 Contractor Address 6000 Stewart Parkway PO Box 5219 Douglasville, GA 30154	
1.5 Contractor Phone Number 678-713-1251	1.6 Account Number 01-21-21-2120-2405	1.7 Completion Date 4/30/18	1.8 Price Limitation \$30,000
1.9 Contracting Officer for State Agency Louise Lavertu, Executive Director		1.10 State Agency Telephone Number 603-271-2219	
1.11 Contractor Signature <i>Deana Sneyd</i>		1.12 Name and Title of Contractor Signatory Deana Sneyd, Executive Director	
1.13 Acknowledgement: State of Georgia, County of Douglas			
On 3/15/16, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <i>Christina A. Johnson</i>			
1.13.2 Name and Title of Notary or Justice of the Peace Christina A. Johnson, Notary Public			
1.14 State Agency Signature <i>Louise Lavertu</i>		1.15 Name and Title of State Agency Signatory Louise Lavertu, Executive Director	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>Sam Broderick</i> On: 3/15/16			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*"Workers' Compensation"*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

EXHIBIT A

SCOPE OF SERVICES

- I. Membership of the New Hampshire Board of Professional Geologists in the National Association of State Boards of Geology. (ASBOG®)
- II. ASBOG® provides examinations for the Fundamentals of Geology (FG) examination and the Practice of Geology (PG) examination to the New Hampshire Board of Professional Geologists. The examinations are in booklet form and are graded by ASBOG®
- III. Examinations will be administered by the Board on dates specified by ASBOG®.

Exam Prices

Examination	Cost
Fundamentals of Geology Exam	\$150
Practice of Geology Exam	\$250

Organizational Dues for Membership in ASBOG®	Cost
FY 2016	\$4,500
FY 2017	\$4,500

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EXHIBIT B

CONTRACT PRICE, METHOD OF PAYMENT AND TERMS OF PAYMENT

1. The State of New Hampshire ("**STATE**") agrees to compensate the Contractor as follows:

For each **EXAMINATION** given, payment shall be made as set forth below, but only after receipt of invoices for services performed and provided that total payments do not exceed \$30,000.00. The final payment shall be made only after the Contractor has completely performed his/her duties under the **AGREEMENT** and no later than 45 days from receipt of the National Association of State Boards of Geology ("**ASBOG**[®]") invoice.

2. **ASBOG**[®] shall maintain documentation for all charges against the **STATE** under this **AGREEMENT**. The Books, records and documents of **ASBOG**[®], in so far as they relate to work performed, or money received under this **AGREEMENT**, shall be maintained for a period of one (1) full year from the date of final payment, and shall be subject to audit by the State of New Hampshire, at any reasonable time, upon reasonable notice, at the business office of **ASBOG**[®] or such other location as may be mutually agreed upon by the parties hereto. The State of New Hampshire affirms that the **EXAMINATIONS** and related materials provided under this **AGREEMENT** must be kept secret and secure. All copies of the **EXAMINATIONS** and related materials furnished pursuant to this **AGREEMENT** are specifically excluded from any audit or disclosure for any reason except under order of a Court of appropriate jurisdiction.
3. **ASBOG**[®] will receive compensation in the amount of one hundred fifty dollars (\$150.00) for each Fundamentals of Geology (FG) Examination submitted for scoring during the term of this **AGREEMENT**.
4. **ASBOG**[®] will receive compensation in the amount of two hundred dollars (\$250.00) for each Practice of Geology (PG) Examination submitted for scoring during the term of this **AGREEMENT**.
5. **ASBOG**[®] will receive compensation in the amount of twenty-five dollars (\$25.00) for any unused, sealed copies of the **EXAMINATIONS** returned. The **BOARD** is responsible for full payment of charges for **EXAMINATIONS** returned with broken seals to **ASBOG**[®] as prescribed in Paragraphs 3 and 4, above.
6. **ASBOG**[®] will receive compensation in the amount of twenty-five dollars (\$25.00) for each "adjustment" made to the official request of the total number of **EXAMINATIONS** desired by the **BOARD** that is submitted to **ASBOG**[®] past the prescribed 45-day cut-off date defined in Exhibit C, Section 3a of the **AGREEMENT**. For the purposes of this section, an "adjustment" is defined as a written request submitted by the **BOARD** to **ASBOG**[®] to change the total number of **EXAMINATIONS** desired by the **BOARD**.

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7. The **BOARD** shall pay the items contained in Paragraphs 3, 4, 5 and 6 above no later than 45 days from receipt of an **ASBOG**[®] invoice by the **BOARD**.
8. **ASBOG**[®] will receive compensation in the amount of seventy-five dollars (\$75.00) per **EXAMINATION** section for each written request for a post-examination Review; the fee shall be paid by the requesting candidate or the **BOARD** and shall be paid in advance of shipment of Review documentation.
9. **ASBOG**[®] will receive compensation in the amount of seventy-five dollars (\$75.00) per **EXAMINATION** section for each written request for a post-examination manual re-grade; the fee for re-grading shall be paid by the requesting candidate or the **BOARD** and shall be paid in advance of re-grade services
10. In no event shall there be a deferral of **EXAMINATION** fees or refund of any previous payments made under this **AGREEMENT**.
11. **ASBOG**[®] agrees to provide the **BOARD** with notification of future increases in the fee schedule to occur during the term of this **AGREEMENT**, not later than one (1) year prior to the effective date of such change. The parties hereto may agree to a reduction of the fee schedule by written instrument signed by both parties.

EXHIBIT C

SPECIAL PROVISIONS

The National Association of State Boards of Geology ("ASBOG®") and the State of New Hampshire, Joint Board of Licensure and Certification for the New Hampshire Board of Licensure for Professional Geologists ("BOARD") agree to the following special provisions, further agreeing that provisions of the Standard Form P-37 AGREEMENT are modified only where explicitly stated in the special provision:

1. **MEMBERSHIP REQUIREMENT.** Notwithstanding any other provision of this AGREEMENT, ASBOG® reserves the right to refuse shipment of EXAMINATIONS and related materials to the BOARD if the BOARD is not a member in good standing. Good standing shall be defined as a member BOARD which has met all obligations defined in the ASBOG® Charter and Bylaws and has paid all applicable examination access fees and annual dues and has no outstanding charges for EXAMINATIONS, post-examination reviews, manual re-grades or any other fees defined in this AGREEMENT.

2. **OWNERSHIP INTEREST IN EXAMINATIONS.** The EXAMINATION is the work product of ASBOG®. It is a trade secret and ASBOG® holds copyright and other proprietary interests in support of the administration of the EXAMINATIONS. The BOARD acknowledges the requirement and duty to keep the EXAMINATIONS and related materials provided under this AGREEMENT secret and secure. The BOARD agrees not to copy or reproduce in any manner any portion of such material without the written permission of ASBOG® and not to allow any other entity to use, copy or reproduce any of ASBOG®'s proprietary materials. All copies of the EXAMINATIONS and related materials furnished pursuant to this AGREEMENT shall be and remains the property of ASBOG®.

3. **Ordering and Shipment of Examinations.**

- a. The BOARD shall submit a written official request to ASBOG® for the desired number of EXAMINATIONS no later than forty-five (45) days prior to the EXAMINATION administration date.
- b. ASBOG® will provide to the BOARD the ASBOG® Professional Geologists Candidate Handbook for reproduction and distribution to qualified candidates. ASBOG® will also ship the number of controlled copies of the EXAMINATIONS and answer sheets officially requested by the BOARD.
- c. The EXAMINATIONS and all related materials shall be sent by the PARTIES insured and prepaid by a secure and traceable method to meet established deadlines. ASBOG® shall pay all costs associated with shipping the EXAMINATIONS and related materials to the BOARD. The BOARD shall pay all costs associated with shipping the EXAMINATIONS and related materials to ASBOG®.

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4. **ADMINISTRATION OF EXAMINATIONS.**

- a. The **BOARD** shall be solely responsible for the administration of the **EXAMINATIONS**.
- b. The **BOARD** shall administer **EXAMINATIONS** only to those candidates who have met the **BOARD**'s statutory and regulatory prerequisites that qualify the candidates to take the examination.
- c. The **BOARD** shall be responsible for taking appropriate steps to ensure that the security and integrity of the **EXAMINATIONS** and related materials are maintained at all times while said **EXAMINATIONS** and related materials are in the possession and control of the **BOARD**. Said steps shall include, but not be limited to, the following:
 1. The **EXAMINATIONS** shall be given only in the sequence prescribed and on the administration dates specified by **ASBOG**[®].
 2. The **EXAMINATIONS** and related materials shall be kept by the **BOARD** in a safe and secure place, under lock and key, at all times, except during such time as the **EXAMINATIONS** are actually being administered or for the purposes of a Review as outlined in Section 6 herein.
 3. The **BOARD** agrees to follow any and all protocols for secure and uniform administration of the **EXAMINATIONS**.
 4. Candidates shall not be permitted to:
 - (a) bring any references, hand instruments, electronic devices, cellular phones, supplies, or other materials into the testing area other than those specified in the **ASBOG**[®] *Professional Geologists Candidate Handbook*.
 - (b) leave their seat at the **EXAMINATION** administration without first surrendering their **EXAMINATION** booklet, answer sheet and any other **EXAMINATION** materials in their possession.
 5. The **BOARD** shall not permit any **EXAMINATION** or related materials or answers thereto to be examined or inspected by any person, except as authorized by this **AGREEMENT** or as further authorized by **ASBOG**[®] in writing.
- d. Upon completion of the administration of the **EXAMINATIONS** by the **BOARD**, all used and unused controlled copies of the **EXAMINATION** booklets, answer sheets and related materials shall be returned to **ASBOG**[®] by a secure and traceable method within five (5) working days.

- e. The **EXAMINATIONS** shall be administered twice per calendar year in accordance with the schedule prepared by **ASBOG**[®]. Once determined, the examination dates shall not be altered except upon written notice from **ASBOG**[®] received by the **BOARD** at least ninety (90) days prior to the scheduled examination date.
- f. The member **BOARD** shall notify **ASBOG**[®] by oral and electronic communication of discovery or any suspicion or evidence of a breach of security of examination materials or if it acquires information that causes it to believe that unauthorized entities may have gained access to the **EXAMINATIONS** or related materials.

5. **SCORING OF THE EXAMINATIONS.**

- a. **ASBOG**[®] shall score the **EXAMINATIONS** and provide the **BOARD** with a roster of candidate scores. The **BOARD** shall be solely responsible for notifying the candidates of their scores and maintaining records of all scores. **ASBOG**[®] shall complete the grading and reporting process within sixty (60) days from receipt of the completed **EXAMINATIONS** provided that all payments as prescribed in this **AGREEMENT** have been satisfied. Score reports will include individual performance statistics and total **EXAMINATIONS** performance statistics.
- b. To assure national uniformity, **ASBOG**[®] shall set nationally recommended **EXAMINATION** cut scores that reflect minimum competency for each **EXAMINATION** administration.
- c. **ASBOG**[®] will release numerical scores to a component **MEMBER BOARD** upon receipt of a written request from the component **MEMBER BOARD**. Under no circumstances shall scores be released directly to candidates.
- d. The decision to license or register a candidate is solely that of the **BOARD**. If the **BOARD** licenses or registers a candidate on any basis other than the candidate attaining a score equal to or greater than the cut score set by **ASBOG**[®], the **BOARD** shall notify **ASBOG**[®] in writing of its decision.

6. **POST-EXAMINATION REVIEW.**

- a. **ASBOG**[®] does not recognize a right of a Review from any candidate regarding the examination score or individual examination questions. In those jurisdictions which allow a Review by law, any such request shall be made directly to the **BOARD** as prescribed by law. The **BOARD** shall notify **ASBOG**[®] in writing of the institution of any such request within thirty (30) days after the release of the **EXAMINATION** grades to the **BOARD**. Any request received after the time prescribed will not be honored. The written notice must include an outline of the jurisdiction's Review process, a copy of the applicable statutory language, the procedures and time-line for the jurisdiction's post-examination Review process and payment of the prescribed fee.

- b. Only one post-examination Review will be allowed for each administration of the **EXAMINATIONS**.
- c. Requests from the **BOARD** for a manual re-grade shall be submitted as part of the post-examination Review request.
- d. **ASBOG**[®] shall, within thirty (30) days after the receipt of the written request from the **BOARD**:
1. If such has been requested, complete a manual re-grade of answer sheets of any of the **EXAMINATIONS**. The cost for a manual re-grade shall be paid by the requesting candidate or the **BOARD** at the time of the written request for the re-grading.
 2. Deliver, along with a copy of the above-referenced manually-graded answer sheet(s), if one has been requested, via secured and traceable method, a copy of the **EXAMINATION**, a written summary of the results, and related reference materials.
 3. The **BOARD** shall instruct candidates that no notes shall be taken during the post-examination review process, nor are they to write in the **EXAMINATION** booklets.
 4. The **EXAMINATION**, the copy of the manually-graded answer sheet(s), if one has been requested, and all related reference materials shall be returned by the **BOARD** (using a secured and traceable method) to **ASBOG**[®] promptly upon conclusion of the post-examination Review.
- e. **ASBOG**[®] shall further respond to requests from the **BOARD** for assistance with respect to challenges to the **EXAMINATIONS** by providing the **BOARD** with written documentation that describes a statistical performance of the **EXAMINATION**. **ASBOG**[®] shall also, at the **BOARD**'s written request, provide Subject Matter Experts (SMEs) regarding the performance of the **EXAMINATION**. Compensation for the services of such experts shall be paid by the **BOARD** and agreed to, in writing, by all parties concerned.
- f. Release to the **BOARD** of the above materials shall not be construed as **ASBOG**[®]'s consent to release such materials to any party not affiliated with the **BOARD**. Any release of such materials by the **BOARD** without **ASBOG**[®]'s express written consent is strictly prohibited under this **AGREEMENT** and the **BOARD** shall not allow the materials to be released from its control without such written consent.
- g. In no event shall the Answer Key be released.

7. **RETENTION OF RECORDS.** ASBOG® shall retain scores, copies of the **EXAMINATIONS**, scoring keys and the candidate's original answer sheet for a period of three (3) years after the **EXAMINATIONS** are administered by the **BOARD**. In the event the **BOARD** wants the above-stated documents retained for a period in excess of three (3) years from the date the **EXAMINATIONS** are administered, the **BOARD** shall provide written notice of this request to ASBOG® at least ninety (90) days prior to the end of the retention period.
8. **DURATION OF AGREEMENT.** The period of this **AGREEMENT** shall be for two (2) years, commencing May 1, 2016 and terminating April 30, 2018.
9. **TERMINATION OF AGREEMENT.** This **AGREEMENT** may be terminated without cause by either party at any time by the giving of one hundred and eighty (180) days' advance written notice to the other party. The written notice shall be sent via certified mail, return receipt requested, to the address listed on page one of this **AGREEMENT**. This address may be changed by giving sixty (60) days written notice of the requested change. Such written notice shall specify the extent to which performance of the work under this **AGREEMENT** is terminated and the date on which such termination becomes effective. It is understood that termination of this **AGREEMENT** by the **BOARD** does not abrogate or abolish in any manner the **BOARD's** legal obligation to satisfy any outstanding indebtedness at the time of termination of this **AGREEMENT**. These special provisions on termination do not alter and are subservient to Clause 4, Condition Nature of the Agreement, and Clause 10, Termination, as set forth in Standard Form P-37 to which this document is an exhibit.
10. **NON-ASSIGNABILITY.** This **AGREEMENT** is personal to the **BOARD**, and it shall not assign or transfer to anyone, or permit any other entity other than the governmental body within which the **BOARD** is organized, to have the benefit or avail of any rights, privileges or benefits hereunder. If the **BOARD** contemplates the use of a testing service, then such use shall not modify, abrogate or abolish in any manner the **BOARD's** legal obligations under this **AGREEMENT**. This special provision on assignment does not alter and is subservient to Clause 12, Assignment, Delegation and Subcontracts, as set forth in Standard Form P-37 to which this document is an exhibit.
11. **HEADINGS.** The various headings in this **AGREEMENT** are inserted for convenience only and shall not affect the meaning or interpretation of this **AGREEMENT** or any section thereof.
12. **ADA COMPLIANCE.** ASBOG® agrees to make reasonable modifications to examination materials, expense of such modifications to be borne by the **BOARD**. Any requests for such modifications must be submitted in writing by the **BOARD** and received by ASBOG® no later than ninety (90) calendar days prior to the next scheduled examination. The **BOARD** is responsible for administration of the **EXAMINATIONS**.

13. **FORCE MAJEURE.** Neither of the **PARTIES** shall be responsible for any resulting loss if the fulfillment of any of the terms of this **AGREEMENT** is delayed or prevented by acts beyond the control of the party whose performance is interfered with, provided said party takes all reasonable steps to prevent a delay or failure to perform and to accommodate therefore. Such acts shall include, but are not limited to, acts of God, strikes, riots, acts of war, fire, communication line failures, power failures, earthquakes, or other disasters.
14. **TESTING SERVICE.** **ASBOG**[®] acknowledges that the **BOARD** may utilize the services of a professional testing organization for examination administration purposes. The **BOARD** may discharge any of its examination administration duties under this **AGREEMENT** by and through such testing organization. The **BOARD** shall give written notice to **ASBOG**[®] of the duties and examination functions that the **BOARD** chooses to perform by and through a testing organization. With respect to such duties and functions, **ASBOG**[®] shall cooperate fully with the testing organization. If the **BOARD** utilizes a testing organization, then such use will in no way modify, abrogate or abolish in any manner the **BOARD**'s legal obligations as outlined in this **AGREEMENT**, and it will be the sole duty and obligation of the **BOARD** to ensure any such testing organization faithfully performs the obligations contained in this **AGREEMENT**, including, but not limited to, **EXAMINATION** security and **EXAMINATION** compensation. If the **BOARD** uses a testing entity, the **BOARD** will receive a courtesy copy of invoices for information purposes.
15. **MODIFICATION.** The General Provisions, Paragraph 8, Event of Default; Remedies, of Standard Form P-37 is hereby modified as follows: Provision 8.2.2 is deleted in its entirety.
16. **MODIFICATION.** The General Provisions, Paragraph 14.1.1, Insurance and Bond, of Standard Form P-37 is hereby modified as follows: Comprehensive general liability insurance against all claims of bodily injury, death or property damage, in the amounts of \$1,000,000 per Occurrence.



CERTIFICATE OF AUTHORITY

I hereby certify and affirm that I am the Past President of the **NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY (ASBOG®)** and that by common agreement and consent, the Executive Committee of the **NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY (ASBOG®)** has authorized and does hereby affirm the authority of its Executive Director, Deana Sneyd, PG, to execute all documents necessary to complete the contractual arrangements for the **NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY (ASBOG®)** including all written contracts and addendums thereto. Further, I hereby certify that this authority has not been revoked and is still in full force and effect.

NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY (ASBOG®)

Dr. Randal L. Kath, PG
ASBOG® Past President

3/10/16

Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/18/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Columbia (FC) / AssuredPartners NL 3860 Faber Place Drive, Suite 400 North Charleston, SC 29405	CONTACT NAME: house
	PHONE (A/C, No, Ext): (843) 569-1888 FAX (A/C, No): (843) 569-7209 E-MAIL ADDRESS:
INSURED National Association of State Boards of Geology PO Box 11591 Columbia, SC 29211	INSURER(S) AFFORDING COVERAGE NAIC #
	INSURER A : Owners Insurance Company 32700
	INSURER B : Navigators Insurance Company 42307
	INSURER C : Darwin Select Insurance Company 24319
	INSURER D :
	INSURER E :

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS			
A	COMMERCIAL GENERAL LIABILITY			4845771802	05/03/2015	05/03/2016	EACH OCCURRENCE \$ 2,000,000			
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000			
							MED EXP (Any one person) \$ 5,000			
							PERSONAL & ADV INJURY \$			
	GEN'L AGGREGATE LIMIT APPLIES PER:									GENERAL AGGREGATE \$ 1,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC									PRODUCTS - COM/PO/AGG \$ 1,000,000
	<input type="checkbox"/> OTHER:									\$
	AUTOMOBILE LIABILITY									COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO									BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS								BODILY INJURY (Per accident) \$
<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$				
						\$				
	UMBRELLA LIAB		<input type="checkbox"/> OCCUR				EACH OCCURRENCE \$			
	EXCESS LIAB		<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$			
	DED		RETENTION \$				\$			
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE OTH-ER			
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y / N	<input type="checkbox"/> N / A				E.L. EACH ACCIDENT \$			
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$			
							E.L. DISEASE - POLICY LIMIT \$			
B	Directors & Officers			NY16DOLV02085NV	03/07/2016	03/07/2017	Coverage Limit 1,000,000			
C	Professional Liab			03065698	04/11/2015	04/11/2016	Coverage Limit 1,000,000			

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Directors and Officers Retention- \$5,000
Professional Liability Retention - \$1,000

CERTIFICATE HOLDER

NH Office of Professional Licensure and Certification
 State of New Hampshire
 Attn: Louise Lavertu, Exec Dir
 57 Regional Drive
 Concord, NH 03301-8518

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE