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# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES  
OFFICE OF THE COMMISSIONER  
25 Capitol Street – Room 120  
Concord, New Hampshire 03301

LINDA M. HODGDON  
Commissioner  
(603) 271-3201

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Assistant Commissioner  
(603) 271-3204

December 6, 2013

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

### REQUESTED ACTION

1. Authorize the Department of Administrative Services (DAS), Risk Management Unit (RMU), to amend its contract with Employee Benefit Management Inc. (EBM), (VC# 153389), 174 South Freeport Road, Freeport, ME 04032, originally approved by Governor and Council on October 12, 2011, (item 4B) and effective from that date through December 31, 2014, by increasing the price limitation in an amount not to exceed \$92,000 from \$772,502 to \$864,502 in order to pay for additional costs associated with collectively bargained changes to the Health Reimbursement Arrangement (HRA) benefit. **35% General Funds, 31% Enterprise Funds, 19% Federal Funds, 13% Highway Funds, and 2% Turnpike Funds.**

For the HRA administration, funds are available in the following accounts with the authority to adjust encumbrances in each of the State's Fiscal Years through the Budget Office, if needed and justified.

Department of Administrative Services, Employee Benefit Risk Management Fund

	<u>SFY 2014</u>	<u>SFY 2015</u>
01-14-14-140560-66000000		
102-501572 HRA Admin Fee – Actives	\$ 44,160	\$ 44,160
01-14-14-140560-66600000		
102-501572 HRA Admin Fee – Troopers	<u>\$ 1,840</u>	<u>\$ 1,840</u>
FY Totals	\$ 46,000	\$ 46,000

2. In addition to the aforementioned increase in administrative costs, DAS also requests authorization to pre-fund HRA claims payments, now done solely on a reimbursement basis, by providing the contractor with \$100,000 on January 1, 2014 and up to an additional \$200,000 during calendar year (CY) 2014 if justified and agreed to by DAS and the contractor. **35% General Funds, 31% Enterprise Funds, 19% Federal Funds, 13% Highway Funds, and 2% Turnpike Funds.**

Funds to pre-fund HRA claims payments are available in the following accounts with the authority to adjust encumbrances in each of the State's Fiscal Years through the Budget Office, if needed and justified:

Department of Administrative Services, Employee Benefit Risk Management Fund

	<u>SFY 2014</u>	<u>SFY 2015</u>
01-14-14-140560-66000000		
101-501570 HRA Admin Claims – Actives	\$ 144,000	\$144,000
01-14-14-140560-66600000		
101-501570 HRA Admin Claims – Troopers	<u>\$ 6,000</u>	<u>\$ 6,000</u>
FY Totals	\$ 150,000	\$150,000

**EXPLANATION**

This amendment is necessary for the implementation of collectively bargained benefits effective January 1, 2014 for CYs 2014 and 2015. For the first time, the collective bargaining agreements with the State Employees' Association (SEA), the NH State Troopers Association (Troopers), the New England Police Benevolent Association (NEPBA) and the Teamsters Local 633 (Teamsters) provide for a deductible. For CY 2014, the deductible is a maximum of \$500 per individual and \$750 per family, and for CY 2015, the deductible is a maximum of \$500 per individual and \$1000 per family.

Additionally, Requested Action #2 is necessary to avoid any potential cash flow challenges for the contractor and delays in claims payments to our employees or health care providers because of increases in HRA funding amounts and the new deductible applicable to the employee health benefit plan. All pre-funding to the contractor will be reconciled monthly, and upon termination of the contract, all appropriate funds will be returned to the State at the end of the contract term.

The collective bargaining agreements include two different types of wellness incentive payment methods that will assist employees and their families with paying for copays, deductibles and co-insurance in addition to newly-eligible HRA reimbursable vision exam and eyewear expenses. Just as is included in the current year health plan, employees represented by all of the unions may complete an online Health Assessment Tool (HAT) and earn \$200 in an HRA which amount must be used by the end of the calendar year or the remaining balance is forfeited. Under the new collective bargaining agreements, employees can also earn up to an additional \$300 per year in wellness incentives, called Health Rewards, by performing certain health promotion activities. While the employees represented by the Troopers, NEPBA and Teamsters will earn their Health Rewards incentives in the form of gift cards administered through Anthem, approximately 9000 employees who are represented by the SEA or are otherwise not represented by a union, will have the Health Rewards incentives they earn applied to their HRA. Unlike the HAT HRA funds that are forfeited at the end of CY 2014 if unused, the Health Rewards HRA funds earned in 2014 may be carried over until December 31, 2015 at which point any unexpended HRA funds will be forfeited. Because the Health Rewards funds rollover and the HAT funds do not, the contractor will be accounting for the two different HRA funds separately.

The contractor administers HRA funds on a reimbursement basis and invoices the state for reimbursement of payments that the contractor makes to an employee or a provider who submits a claim for payment from an HRA. Under this amendment, the contractor will maintain an accounting of employees' HAT HRA balances separately from the Health Rewards HRA balances. Employees who complete the HAT will be issued a debit card that they can use at the point of sale for copays and other eligible expenses. The contractor immediately processes the debit card transactions to pay the provider of the service and then bills the state for reimbursement of the payment to the provider and also debits the employee HRA account. Under circumstances where a debit card is not utilized, an

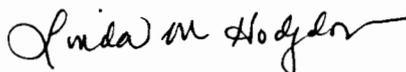
employee will pay a provider directly and submit a manual claim for reimbursement to the contractor. To date and even before the addition of the Health Rewards HRA, the contractor at certain times of the year experiences great pressure on its cash flow because of the reimbursement arrangement. CY 2014 will introduce several first time activities that the State and the contractor expect to put even greater pressure on the contractor's cash flow: the new deductible expense that will motivate greater employee participation in wellness incentive opportunities, the addition of the \$300 in Health Rewards that increases the potential totals that the contractor will reimburse, and the expansion of HRA reimbursable expenses to include eyewear and vision exams. For this reason, DAS seeks permission to pre-fund the contractor in order to limit disruption of reimbursement payments to employees and providers.

The State will meet with the vendor at least monthly to monitor the contractor's bank account activity and discuss funding challenges. If justified and mutually agreeable, the State may pre-fund additional claims expenses in amounts as required by the circumstances. Total amounts pre-funded shall not exceed \$300,000 in total for CY 2014 inclusive of the \$100,000 pre-funded on January 1, 2014. The State and the contractor will reconcile all funds after all CY 2014 claims have been processed and any funds owed by the contractor to the State for pre-funding, and not used to pay providers or to reimburse employees, will be returned to the State.

The increase in the total CY 2014 administrative expense is primarily due to an anticipated increase in employee participation given the health benefit deductible effective January 1, 2014. The CY 2014 HRA administrative fees will increase to manage the Health Rewards HRA and the HAT HRA separately. The monthly fee for an HRA account will increase from \$1.75 to \$1.80 and there will be an additional monthly fee of \$0.70 for each new Health Rewards HRA account. The annual banking fee will increase from \$1,200 to \$2,000 and there will be a \$100 annual fee for assistance with IRS tax filings. The State would see a maximum increase of \$92,000 in HRA administrative costs in CY2014 if all eligible employees participate in the HRA benefit.

Based on the foregoing, I am respectfully recommending approval of this contract amendment.

Respectfully submitted,



Linda M. Hodgdon  
Commissioner

**FIRST AMENDMENT TO  
Employee Benefit Management, Inc., FSA, HRA and Voluntary Group Insurance Plans  
Contract**

The Department of Administrative Services (hereinafter "State") and Employee Benefit Management, Inc. (hereinafter "EBM" or "Contractor") entered into an agreement (hereinafter "Agreement") on October 12, 2011 for EBM to administer Flexible Spending Accounts ("FSA"), Health Reimbursement Arrangements ("HRA") and Voluntary Group Insurance Plans for state employees in accordance with RSA 21-I:44-a, et seq. and relevant collective bargaining agreements.

**WHEREAS**, pursuant to Section 18 of the Agreement, the Agreement may be amended by an instrument in writing executed by both parties and approved by the Governor and Executive Council of the State of New Hampshire; and

**WHEREAS**, the State and the Contractor have agreed to amend the contract terms to allow EBM to administer additional Health Reimbursement Arrangement benefits as negotiated in the most recent collective bargaining agreements. In addition, the parties have agreed to amend their Business Associate Agreement to comply with updated provisions of 45 CFR Parts 160 and 164. Further, the parties have agreed to certain other changes that reflect current law or practice;

**NOW, THEREFORE**, for and in consideration of the mutual promises set forth in this Amendment and the underlying Agreement, the parties do mutually agree as follows:

Effective January 1, 2014:

1. Amend GENERAL PROVISIONS 1.8 Price Limitation to read: "\$864,502".
2. Amend Exhibit A, Section III, 1, by replacing the definition of Benefit Booklet with this language: "Benefit Booklet means the documents which describe the terms and conditions of coverage under the Flexible Spending Program and the Health Reimbursement Arrangement."
3. Amend Exhibit A, Section III, 7, by adding the following sentence: "In addition, the HRA can be used for qualifying eyewear and vision exam expenses."
4. Amend Exhibit A, Section III, 10 by changing \$200 to \$500 and adding the following sentence: "In addition, the HRA can be used for qualifying eyewear and vision exam expenses."
5. Amend Exhibit A, Section IV., PLAN ELIGIBILITY, FSA Plan Eligibility to strike: "Employees who have a same gender spouse may not use their FSA for their same gender spouse's or his or her dependents for FSA eligible claims."

6. Amend Exhibit A, Section IV., PLAN ELIGIBILITY, HRA Eligibility to read: "Upon the proper submission of proof of completion of a Health Assessment Tool (HAT) provided by the State's medical benefits administrator, subscribing employees enrolled in the HMO or POS plan are eligible for the Health Assessment HRA. The arrangement provides funds for the payment of eligible expenses including any copayment, deductible, coinsurance, or other out of pocket costs related to a covered expense under the State's medical and pharmacy benefit that is a qualified expense or service defined in the applicable Benefit Booklets and by I.R.C. section 213(d) up to the amount of \$200 per calendar year. In addition, upon the proper submission of proof of completion of certain health promotion activities and programs offered by the State, subscribing employees enrolled in the HMO or POS plan will be eligible to receive up to \$300 per calendar year, in \$100 increments, in a Health Rewards HRA. Further, upon the proper submission of proof of completion of the HAT and health promotion activities provided by the State's medical benefits administrator, a state employee enrolled as a dependant spouse on a subscribing state employee's plan will be eligible to receive up to \$300 per calendar year, in \$100 increments, in a Health Rewards HRA (but not \$200 for completion of the HAT). The health promotion awards for calendar year 2014 may be rolled over until December 31, 2015."
7. Amend Exhibit A, Section IV., HEALTH REIMBURSEMENT ARRANGEMENT ADMINISTRATION REQUIREMENTS, 1. a. by adding the following language: "The Contractor shall administer the \$200 Health Assessment HRA for each employee who has completed the HAT and is eligible for the \$200. Funds in the Health Assessment HRA do not roll over into subsequent years. The Contractor shall also separately administer the Health Rewards HRA for each eligible employee. Health Rewards HRA balances may be rolled over until December 31, 2015."
8. Amend Exhibit A, Section IV., HEALTH REIMBURSEMENT ARRANGEMENT ADMINISTRATION REQUIREMENTS, 2. g. to read: "A qualified HRA Expense or Service shall be defined as any copayment, deductible, coinsurance, or other out of pocket costs including vision exams and eyewear related to a covered expense under the State's medical and pharmacy benefit that is a qualified expense or service defined in the applicable Benefit Booklets and by I.R.C section 213 (d) and shall be the only expenses reimbursed under the State's HRA. Note, however, that the functions described in GENERAL ADMINISTRATION REQUIREMENTS 12 below do not require a claim to be paid prior to the use of the debit card. The State's benefit booklets can be found at: [http://admin.state.nh.us/hr/open\\_enrollment.html](http://admin.state.nh.us/hr/open_enrollment.html)."
9. Amend Exhibit A by striking Section IV., HEALTH REIMBURSEMENT ARRANGEMENT ADMINISTRATION REQUIREMENTS, 2. i. Same Gender Spouse Coverage.
10. Amend Exhibit A, Section IV., GENERAL ADMINISTRATION REQUIREMENTS, 12. b. to read: "The HRA in the debit card system shall be set to work with only those Contractor codes at which an enrollee would incur office visit co-payments, deductibles, eyewear and vision exam expenses or co-insurance. Contractor codes for merchants

which fall into dental, orthodontic, etc. will be coded only to the FSA account. When the card is swiped at a merchant with a Contractor code which is programmed to an HRA, the system will look first to the \$200 Health Assessment HRA, then to an FSA account. If there is not an FSA or the funds have been exhausted, the system shall then look for Health Rewards HRA incentive funds from which to process the transaction.”

11. Strike Exhibit A, Section IV., REPORTING REQUIREMENTS, 4. Same Gender Spouse Reports.
12. Amend Exhibit A, Section IV., FUNDING REQUIREMENTS 2. to strike the following language: “The State shall not pre-fund any of the accounts or plans administered under this contract.”
13. Amend Exhibit A, Section IV., FUNDING REQUIREMENTS, 2. c. HRA Funds by deleting the existing language and adding the following subsection: “c. 1. The State shall reimburse the Contractor for the reimbursement of HRA funds the Contractor pays out to the State’s employees who have qualified for the HRA. The Contractor shall receive payment from the State for HRA claims payments as the HRA is spent down for each eligible employee.”
14. Amend Exhibit A, Section IV., FUNDING REQUIREMENTS, 2. c. HRA Funds by adding the following subsection after c. 1.: “c. 2. On January 1, 2014 the State shall pre-fund \$100,000 to the contractor who shall deposit those sums in the bank account used to administer the program. On at least a monthly basis the State and Contractor shall review account balance and activity and define a mutually agreeable plan for maintaining positive funding and account liquidity going forward. If justified and mutually agreed to, the State shall make available additional funds, not to exceed \$200,000. After all calendar year 2014 claims have been processed by the Contractor, the parties will perform a final reconciliation and any pre-funding balance remaining shall be returned to the State.
15. Amend Exhibit B, 1. Contract Price to strike the price limitation of \$772,502 and replace it with \$864,502.
16. Amend Exhibit B, 1. Contract Price, FSA AND HRA FEES ON A PER EMPLOYEE PER MONTH BASIS charts to strike the Year 3 column. Further amend this section by adding the following new chart below the existing fee chart:

<b>Amended 2014 Fees</b>	
<b>FSA and HRA Fees on a Per Employee Per Month Basis</b>	
<b>EBM, Inc.</b>	
	<b>2014</b>
FSA Health Care	\$3.45
FSA Dependent Care	\$3.45
FSA Health Care and FSA Dependent Care	\$6.90
HRA Administration (HAT) Only with Employee no FSA Account	\$1.80

Contractor’s Initials: AKG  
 Date: 12/4/13

HRA Administration (HAT) with Employee FSA Account	\$0.70
Health Rewards HRA	\$0.70
Debit Cards (2 per participant)	\$0.65

17. Amend Exhibit B, 1. Contract Price by adding the following language immediately after the fee charts: "The State shall pay an annual fee of \$1,700 that will cover the cost of open enrollment support, enrollment kits and communication materials. The State shall also pay \$100 for assistance with 5500 Form filing and \$2,000, amortized and billed monthly, for additional billing/invoicing services and reconciliation fees. The State shall pay \$1,997 amortized annually for the administration of COBRA."
18. Amend Exhibit B, 1. Contract Price by amending the language appearing after the fee chart to read: "The State shall not pay any expense or additional fee presented by the Contractor over and above the fees noted above."
19. Amend Exhibit B, 1. Contract Price by striking the following language appearing after the fee chart: "Because the HRA and FSA are stacked upon each other and do not require an individual card for each account an employee established, the State shall only be charged for one card for each employee and their dependent(s) regardless of how many accounts an employee establishes during a plan year."
20. Amend APPENDIX A, STANDARD EXHIBIT I, BUSINESS ASSOCIATE AGREEMENT by replacing it in its entirety with the attached Business Associate Agreement.
21. Amend APPENDIX B – ACCOUNT NUMBERS 2. by striking all account numbers for Health Reimbursement Arrangements and replacing them as follows:
 

01-14-14-140560-66000000  
102-501572 HRA Admin Fee

01-14-14-140560-66600000  
102-501572 HRA Admin Fee - Troopers
22. All other provisions of the Agreement, approved by Governor and Executive Council on October 12, 2011, shall remain in full force and effect.

This Amendment shall be effective upon the date of Governor and Executive Council approval.

**State of New Hampshire**  
Department of Administrative Services

By: Linda M. Hodgdon  
Linda M. Hodgdon, Commissioner

Date: 12/9/13

Contractor's Initials: KFD  
Date: 12/4/13

**EBM, Inc.**

By: [Signature]  
Kenneth R. Olmsted, President

Date: 12/4/13

STATE OF NH COUNTY OF Merrimack

On this 4 day of December, 2013 before me, Joyce I. Pitman  
the undersigned officer personally appeared, Kenneth R. Olmsted, who acknowledged himself to  
be the President of EBM, Inc., and that he, as such and being duly authorized to do so, executed  
the foregoing instrument of the purposes therein contained by signing the name of the  
corporation by himself as President.

In witness whereof I hereunto set my hand and official seal.

[Signature]  
Notary Public

My Commission Expires: 6/19/2018

Approved as to form, execution and substance:

**OFFICE OF THE ATTORNEY GENERAL**

By: [Signature] Christen Lavers  
Assistant Attorney General

Date: 12/9/13

I hereby certify that the foregoing contract was approved by the Governor and Executive  
Council of the State of New Hampshire at the Meeting on the \_\_\_\_\_, day of \_\_\_\_\_, 2013.

**OFFICE OF THE SECRETARY OF STATE**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor's Initials: [Signature]  
Date: 12/4/13

## APPENDIX A

### STANDARD EXHIBIT I

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 and those parts of the Health Information Technology for Economic and Clinical Health Act, Public Law 111-5, applicable to business associates.

#### **BUSINESS ASSOCIATE AGREEMENT**

(1) **Definitions.**

- a. "**Breach**" shall have the same meaning as the term "Breach" in Public Law 111-5, Subtitle D § 13400, as amended from time to time.
- b. "**Business Associate**" is the Contractor to this Agreement, including any subcontractors and agents of the Contractor, and shall have the same meaning as the term "business associate" in 45 CFR § 160.103, as amended from time to time.
- c. "**Covered Entity**" is the State of New Hampshire Employee and Retiree Health Benefit Program, and shall have the same meaning as the term "covered entity" in 45 CFR § 160.103, as amended from time to time.
- d. "**Designated Record Set**" shall have the same meaning as "designated record set" in 45 CFR § 164.501, as amended from time to time.
- e. "**Data Aggregation**" shall have the same meaning as "data aggregation" in 45 CFR § 164.501, as amended from time to time.
- f. "**Electronic Protected Health Information**" or "ePHI" shall have the same meaning as reflected in 45 CFR § 160.103, as amended from time to time.
- g. "**Health Care Operations**" shall have the same meaning as "health care operations" in 45 CFR § 164.501, as amended from time to time.
- h. "**HITECH Act**" means the Health Information Technology for Economic and Clinical Health Act, Public law 111-5, Subtitle D, enacted as part of the American Recovery and Reinvestment Act of 2009.
- i. "**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR parts 160 and 164.
- j. "**Individual**" means the person who is subject to the HIPAA Privacy Regulations, and shall have the same meaning as "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g)(1), as amended from time to time.
- k. "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 164, subparts A and E, as amended from time to time.

- l. “Protected Health Information” shall have the same meaning as “protected health information” in 45 CFR § 160.103, as amended from time to time.
- m. “Required by Law” shall have the same meaning as “required by law” in 45 CFR § 164.512, as amended from time to time.
- n. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- o. “Security Rule” shall mean the Security Standards for the Protected of Electronic Protected Health Information at 45 CFR part 164 subparts A and C, as amended from time to time.
- p. “Unsecured Protected Health Information” shall have the same meaning as “unsecured protected health information” in 45 CFR § 164.402, as amended from time to time.
- q. Other Definitions – All terms not otherwise defined herein shall have the meaning as those set forth in the Privacy Rule, the Security Rule, and the HITECH Act.

**(2) Use and Disclosure of Protected Health Information.**

- a. Except as set forth herein, Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate shall ensure that its directors, officers, employees and agents do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
  - I. For the proper management and administration of the Business Associate;
  - II. As required by law, pursuant to the terms set forth herein; or
  - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. Business Associate is authorized to use PHI to de-identify the information in accordance with 45 § CFR 164.514(a)-(c). Business Associate shall de-identify the PHI in a manner agreed upon by Business Associate and Covered Entity. Uses and disclosures of the de-identified information shall be limited to those consistent with provisions of this Agreement.
- d. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance HIPAA of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- e. Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis it is required by law without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. In the event Covered Entity objects to the disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

- f. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

**(3) Obligations and Activities of Business Associate.**

- a. The Business Associate shall comply with all sections of the Privacy and Security Rule as set forth in Sec. 13401 and Sec. 13404 of the HITECH Act and the corresponding regulations under 45 CFR Part 164.
- b. To the extent the parties agree that the Business Associate will carry out directly one or more of Covered Entity's obligations under the Privacy Rule, the Business Associate will comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.
- c. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for the purpose of determining Covered Entity's compliance with the HIPAA and the Privacy and Security Rule.
- d. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided herein. The Covered Entity shall be considered a direct third party beneficiary of the Business Associate's corresponding business associate agreements with any of its contracted business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of the use and disclosure of protected health information.
- e. To the extent Business Associate creates, receives, maintains or transmits ePHI, Business Associate agrees to implement administrative physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI in accordance with the HIPAA Security Rule.
- f. Within five (5) business days of receiving a written request from Covered Entity, Business Associate shall make available to the Covered Entity during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI for the purpose of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR § 164.524.

- h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR § 164.526.
- i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR § 164.528.
- k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- l. Business Associate shall not use or disclose Genetic Information for underwriting purposes in violation of the HIPAA rules.
- m. Business Associate will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of PHI reasonably necessary to accomplish the intended purpose of the use, disclosure, or request, except that Business Associate will not be obligated to comply with this minimum-necessary limitation if neither Business Associate or Covered Entity is required to limit its use, disclosure, or request to the minimum necessary under the HIPAA Rules. Business Associate and Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the HITECH Act and the HIPAA Rules.
- n. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

**(4) Obligations of Covered Entity**

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR § 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR § 164.506 or 45 CFR § 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**(5) Compliance with Electronic Transactions Rule**

- a. If Business Associate conducts in whole or part electronic Transactions on behalf of Covered Entity for which HHS has established standards, Business Associate will comply, and will require any Subcontractor it involves with the conduct of such Transactions to comply, with each applicable requirement of the Electronic Transactions Rule and of any operating rules adopted by HHS with respect to Transactions.

**(6) Breach**

- a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement upon discovery of such incident, including any security incident involving PHI, ePHI, or Unsecured PHI as required by 45 CFR 164.410.
- b. Business Associate shall report a breach or a potential breach to Covered Entity upon discovery of any such incident. Business Associate will treat a potential Breach as being discovered in accordance with 45 CFR § 164.410. Business Associate will make the report to Covered Entity's Privacy Officer. If a delay is requested by a law-enforcement official in accordance with 45 CFR § 164.412, Business Associate may delay notifying Covered Entity for the applicable time period. Business Associate's report will include at least the following, provided that absence of any information will not be cause for Business Associate to delay the report:
  - I. Identify the nature of the Breach, which will include a brief description of what happened, including the date of any Breach and the date of the discovery of any Breach;
  - II. Identify the types of PHI that were involved in the Breach (such as whether full name, Social Security number, date of birth, home address, account number, diagnosis, or other information were involved);
  - III. Identify who made the non-permitted use or disclosure and who received the non-permitted disclosure;

- IV. Identify what corrective or investigational action Business Associate took or will take to prevent further non-permitted uses or disclosures, to mitigate harmful effects, and to protect against any further Breaches;
  - V. Identify what steps the individuals who were subject to a Breach should take to protect themselves;
  - VI. Provide such other information, including a written report and risk assessment under 45 CFR § 164.402, as Covered Entity may reasonably request.
- c. Security Incident. Business Associate will report to Covered Entity any Security Incident of which Business Associate becomes aware upon discovery of any such incident. If any such Security Incident resulted in a disclosure not permitted by this Agreement or Breach of Unsecured PHI, Business Associate will make the report in accordance with the provisions set forth above.
  - d. Mitigation. Business Associate shall mitigate, to the extent practicable, any harmful effect known to the Business Associate resulting from a use or disclosure in violation of this Agreement.
  - e. Breach Notification to Third Parties. Business Associate will handle breach notifications to individuals, the United States Department of Health and Human Services Office for Civil Rights, and, where applicable, the media. Should such notification be necessary, Business Associate will ensure that Covered Entity will receive notice of the breach prior to such incident being reported.

**(7) Termination for Cause**

In addition to general provision #10 of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

**(8) Miscellaneous**

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, and the HITECH Act as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the privacy and Security Rule means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for compliance with the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.

- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule and the HITECH Act.
- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3)k, the defense and indemnification provisions of section (3)d and provision #13 of the standard contract P-37, shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

\_\_\_\_\_  
The State of New Hampshire Employee  
and Retiree Health Benefit Program

Catherine A. Keane  
Signature of Authorized Representative

Catherine A. Keane  
Name of Authorized Representative

Administrator  
Title of Authorized Representative

12/9/13  
Date

EBM, INC  
Contractor

Kenneth R. Olmsted  
Signature of Authorized Representative

KENNETH R. OLMSTED  
Name of Authorized Representative

PRESIDENT  
Title of Authorized Representative

12/4/13  
Date

# State of New Hampshire Department of State

## CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that EBM Inc. doing business in New Hampshire as EMPLOYEE BENEFIT MANAGEMENT, a(n) Maine corporation, is authorized to transact business in New Hampshire and qualified on November 24, 2004. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 27<sup>th</sup> day of November, A.D. 2013

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

**CORPORATE ACTIONS BY CONSENT OF  
THE BOARD OF DIRECTORS  
OF  
EBM, INC.**

**As permitted by law, the undersigned Directors, being all of the Directors of the above Corporation, unanimously adopt the following corporate action without a meeting:**

**Authorization of Corporate Action: The President, Kenneth R. Olmsted, is authorized to take all actions and to sign all documents reasonably needed to enter into a contract with the State of New Hampshire to provide insurance and insurance-related products and services to the State and its employees.**



**Kenneth R. Olmsted**



**Dianna G. Olmsted**

**DATED: 12/4/13**



# State of Maine

DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION  
BUREAU OF INSURANCE

License # AGR81588

Be it known that: **EBM INC**  
**d/b/a: EMPLOYEE BENEFIT MANAGEMENT INC**  
has qualified as required by Title 024A MRSA Chapter 000016 and is licensed as a  
**PRODUCER BUSINESS ENTITY RESIDENT**

Continuous unless suspended, revoked or terminated by the Superintendent of Insurance

ISSUE DATE  
OCT 24, 2001

FIRST LICENSED  
OCT 24, 2001

Superintendent of Insurance

896858



# State of Maine

DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION  
BUREAU OF INSURANCE

License # PRR20838

*Be it known that:* **KENNETH R OLMSTED**  
*has qualified as required by Title 024A MRSA Chapter 000016 and is licensed as*  
*a*  
**PRODUCER RESIDENT**

*Authorities:* INDEPENDENT PRODUCER , LIFE AND HEALTH

Continuous unless suspended, revoked or terminated by the Superintendent of Insurance

ISSUE DATE  
OCT 01, 1996

FIRST LICENSED  
FEB 09, 1987

Authorizing signature

593630

**ADMIRAL INSURANCE COMPANY**

A STOCK COMPANY  
(herein called the Company)

**INSURANCE AGENTS AND BROKERS  
PROFESSIONAL LIABILITY POLICY  
DECLARATIONS  
(CLAIMS-MADE FORM)**



Policy No.: EO000023299-01

Renewal/Rewrite of: NEW

**Named Insured and Mailing Address**

EBM, INC.  
DBA EMPLOYEE BENEFIT MANAGEMENT  
174 SO. FREEPORT RD. - SUITE 1C  
FREEPORT, ME 04032

**POLICY PERIOD:** From 08/11/2013 to 08/11/2014 At 12:01 A.M. Standard Time at the address of the Named Insured as stated herein

In consideration of the payment of premium, in reliance upon the statements herein or attached hereto, and subject to all of the terms of this policy, the Company agrees with the Named Insured as follows:

Item I: **Named Insured's Business:**  
Solely in the performance as a licensed insurance agent/broker and third party administrator for others for a fee.

Item II: **Limits of Liability:**  
\$1,000,000 Each Claim  
\$3,000,000 Aggregate

Item III: **Deductible:** \$25,000 Per Claim (including claim expenses)

Item IV: **Retroactive Date:** 12/04/2009  
Surplus Lines Tax \$345.21

Item V: **Premium:** \$11,507.00 Flat Rate  
\$0.00 Terrorism Premium  
\$11,507.00 Total Premium  
Policy Fee \_\_\_\_\_  
Inspection Fee \_\_\_\_\_

Item VI: **Forms attached at inception:**  
See Schedule of Forms AI 00 18 03 98

This insurance contract is issued pursuant to the Maine Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Maine Bureau of Insurance.

**NOTICE**

Except to such extent as may otherwise be provided herein, the coverage of this policy is limited generally to liability for only those claims that are first made against the Insured while the policy is in force. Please review the policy carefully and discuss the coverage thereunder with your insurance agent or broker

A SIGNED COPY OF THE NAMED INSURED'S APPLICATION FOR THIS POLICY IS MADE A PART HEREOF, AT INCEPTION.

This policy is not binding unless countersigned by Admiral Insurance Company or its Authorized Representative.

Countersigned On: 08/07/2013  
At: Mt. Laurel, NJ

By: James S. Carey  
Authorized Representative





# State of New Hampshire

## DEPARTMENT OF ADMINISTRATIVE SERVICES

### OFFICE OF THE COMMISSIONER

25 Capitol Street - Room 120

Concord, New Hampshire 03301

LINDA M. HODGDON  
Commissioner  
(603) 271-3201

JOSEPH B. BOUCHARD  
Assistant Commissioner  
(603) 271-3204

October 4, 2011

His Excellency, Governor John H. Lynch  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

### REQUESTED ACTION

Authorize the Department of Administrative Services to enter into a contract with Employee Benefit Management, Inc., 174 South Freeport Road, Suite 1C, Freeport, ME 04032, (hereinafter "EBM") (VC# 153389), for a total not to exceed \$772,502, to administer the programs for Flexible Spending Accounts ("FSA") and Health Reimbursement Arrangements ("HRA") for state employees in accordance with RSA 21-1:44 -a, et seq. and Section 19.8.1.d of the State SEIU Collective Bargaining Agreement. The contract further provides the Department with Producer Services to administer the voluntary group insurance plans (disability, critical illness, and accident insurance) offered to, and paid by, state employees. The contract shall commence upon approval by the Governor and Executive Council and expire thereafter on December 31, 2014. **40% General funds, 16% Federal funds, 26% Enterprise funds, and 18% Restricted funds.**

For the Flexible Spending Accounts, funds are available in the following account with the authority to adjust encumbrances in each of the State Fiscal Years through the Budget Office, if needed and justified. Funding for SFY 2014 and SFY 2015 is contingent upon the availability and continued appropriation of funds:

01-14-14-141010-10460000 Department of Administrative Services, Flexible Spending Account

	<u>SFY 2012</u>	<u>SFY2013</u>	<u>SFY2014</u>	<u>SFY2015</u>
063-50539 Flexible Spending	\$ 48,600	\$ 97,200	\$98,400	\$ 49,800

**FSA Total \$ 294,000**

For the Health Reimbursement Arrangements, funds are available in the following accounts with the authority to adjust encumbrances in each of the State Fiscal Years through the Budget Office, if needed and justified. Funding for SFY 2014 and SFY 2015 is contingent upon the availability and continued appropriation of funds.

Department of Administrative Services, Employee Benefit Risk Management Fund

	<u>SFY 2012</u>	<u>SFY2013</u>	<u>SFY2014</u>	<u>SFY2015</u>
01-14-14-140560-66000000				
102-501572 HRA Admin Fee - HMO	\$ 64,849	\$129,698	\$131,049	\$ 66,200
102-501573 HRA Admin Fee - POS	8,015	16,030	16,197	8,182
01-14-14-140560- 66600000				
102-506563 HRA Admin Fee - Troopers HMO	2,115	4,229	4,274	2,159
102-506564 HRA Admin Fee - Troopers POS	261	523	528	267

His Excellency, Governor John H. Lynch  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

01-14-14-140560- 66700000

102-506552 HRA Admin Fee – NEPBA HMO	3,524	7,049	7,123	3,598
102-506553 HRA Admin Fee – NEPBA POS	436	871	880	445
FY Totals	\$ 79,200	\$ 158,400	\$ 160,051	\$ 80,851

**HRA Total \$ 478,502**

**Grand Total \$ 772,502**

#### EXPLANATION

This contract with EBM is for the administration of both the FSA (for dependent care and medical expense reimbursement) programs as well as the collectively bargained HRA. Further, the contract provides the Department with Producer Services to administer the voluntary group insurance plans (disability, critical illness, and accident insurance) offered to, and fully paid by, state employees.

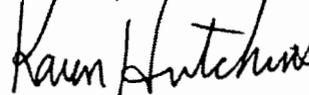
The current contract with EBM for the above noted services is set to expire on December 31, 2011. The Department issued a Request for Bid ("RFB") for FSA, HRA and Producer Services on August 17, 2011. Thirty-one (31) FSA and/or HRA companies, along with seventeen (17) producer firms, received direct notification of this solicitation, public notice was provided through the Manchester Union Leader, and the proposal was posted on the Bureau of Purchase and Property website. On September 2, 2011, bids were received from Conexis and EBM. The bid received from Conexis was non-compliant.

Historically, the State has combined the administration of these voluntary benefit programs for efficient coordination and further automation of benefits enrollment. The Department made a decision to continue with a single administrator for these related programs, allowing the Department to manage the same number of vendor contracts, which will support a smooth transition and migration of plan data (including FSA, HRA and voluntary insurance plans) to the Lawson ERP system. While it is possible that the relative lack of RFB Responses resulted from the decision to combine these benefit programs, as few bidders were willing to meet the bid specifications for the combined administration, it is expected that the unified administration of these programs will be of great benefit for the reasons cited above.

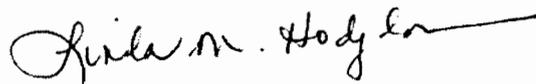
The State experienced approximately \$192,000 in tax savings for fiscal year ending 2011 as a result of the increased participation in the programs.

There are no commission fees incurred by the Department for the Producer Services. The bid results are attached along with a copy of the public notice.

Respectfully submitted,



Karen Hutchins  
Director, Division of Personnel



Linda M. Hodgdon  
Commissioner

**State of New Hampshire**

**Results for:**

Administration Services for Flexible Spending Accounts, Health Reimbursement Arrangements,  
and Producer Services for Voluntary Group Insurance Plans

**RFB # 1267-12**

**September 2, 2011 at 2:00 PM**

Risk Management Unit

**BIDDER INFORMATION:**

Two bids were received from the following bidders:

EBM, Inc.      See price offer below.

Conexis      Non-compliant bid.

**FSA AND HRA FEES ON A PER EMPLOYEE PER MONTH BASIS**

<b>EBM, Inc.</b>			
	Year 1 (1/1/12 – 12/31/12)	Year 2 (1/1/13 – 12/31/13)	Year 3 (1/1/14 – 12/31/14)
<b>FSA ADMINISTRATION</b>			
Medical FSA Only	\$4.05	\$4.05	\$4.15
Dependent Care FSA Only	\$4.05	\$4.05	\$4.15
Medical and Dependent Care FSA	\$7.40	\$7.40	\$7.65
<b>HRA ADMINISTRATION</b>			
HRA Only	\$2.40	\$2.40	\$2.45
HRA and Medical FSA	\$4.70	\$4.70	\$4.80
HRA, Medical and Dependent Care FSA	\$8.05	\$8.05	\$8.25

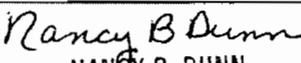
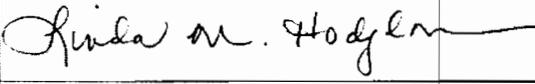
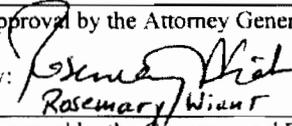
Subject: FSA, HRA & PRODUCER SERVICES FOR VOLUNTARY GROUP INSURANCE PLANS

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name <b>Department of Administrative Services</b>		1.2 State Agency Address State House Annex, 25 Capitol Street Concord NH 03301	
1.3 Contractor Name <b>EBM, Inc. DBA Employee Benefit Management, Inc.</b>		1.4 Contractor Address 174 So. Freeport Road, Suite 1C Freeport, Maine 04032	
1.5 Contractor Phone Number 1-800-639-4025	1.6 Account Number See Appendix B	1.7 Completion Date December 31, 2014	1.8 Price Limitation \$772,502
1.9 Contracting Officer for State Agency  Karen Hutchins, Director Division of Personnel;  Monica Ciolfi, Administrator Risk Management Unit		1.10 State Agency Telephone Number  (603) 271-3261  (603) 271-2059	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <b>KENNETH R. OLMSTED, PRESIDENT</b>	
1.13 Acknowledgement: State of <u>Maine</u> , County of <u>Cumberland</u>  On <u>September 29</u> , 2011, 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  [Seal]		 <b>NANCY B. DUNN</b> NOTARY PUBLIC, STATE OF MAINE MY COMMISSION EXPIRES DEC. 22, 2013	
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Linda M. Hodgdon, Commissioner Department of Administrative Services	
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:  Rosemary Wiart On: <u>10-5-11</u>			
1.18 Approval by the Governor and Executive Council  By:  <b>DEPUTY SECRETARY OF STATE</b> <b>OCT 12 2011</b>			

Contractor's Initials:   
Date: 9/29/11

**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.

Contractor's Initials KFO  
Date 9/2/11

**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.

Contractor's Initials *KFD*  
Date *9/29/11*

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. **PURPOSE:**

EBM, Inc. d/b/a Employee Benefit Management, Inc. (hereinafter referred to as "Contractor") hereby agrees to provide the State of New Hampshire, Department of Administrative Services through the Division of Personnel and the Risk Management Unit, Administration Services for Flexible Spending Accounts, Health Reimbursement Arrangements, and Producer Services for Voluntary Group Insurance Plans, in accordance with RFB 1267-12 and as described herein.

II. **TERM:**

The term of the contract shall commence upon approval of the Governor and Executive Council and expire thereafter on December 31, 2014.

The State of New Hampshire shall have the right to terminate the contract at any time by giving the Contractor a minimum of thirty (30) days advance written notice.

III. **DEFINITIONS:**

1. **Benefit Booklet** means the documents which describe the terms and conditions of coverage under the Flexible Spending program.
2. **Claim** is a request for reimbursement against a member's medical or dependent care flexible spending account or health reimbursement account.
3. **Claim Incurred Date** is the actual date the service was provided that required a copayment or the date something was purchased.
4. **Dependent Care FSA Files** are files sent from the State's enrollment and eligibility administrator that provide enrollment information to the contractor to enroll its employees and the respective dependents into the flexible spending program the State is required to offer.
5. **Dependent Care FSA Termination Files** are files sent from the State's enrollment and eligibility administrator that provide a request to the contractor to terminate and offer COBRA to an employee who has left State employment.
6. **Qualified Health Reimbursement Account (HRA) Expenses or Services** are those services authorized by the Internal Revenue Service to be reimbursable under Section 125.
7. **Health Assessment Tool (HAT)** is a health questionnaire administered by the State's medical benefits administrator that State employees may use to evaluate their individual health risks. Completion of the questionnaire each calendar year affords an employee up to \$200 in the form of a Health Reimbursement Arrangement (HRA) for use toward their medical and prescription drug copayments, deductibles and co-insurances.
8. **Health Insurance Portability and Accountability Act (HIPAA)** addresses the security and privacy of health data.
9. **Health Maintenance Organization (HMO)** is a type of managed care organization that provides a form of health care coverage that is fulfilled through hospitals, doctors and other providers with which the HMO has a contract.

Contractor's initials *EBM*

Date *9/29/14*

10. **Health Reimbursement Arrangement (HRA)** is an Internal Revenue Service (IRS)-sanctioned program that allows the State to set aside up to \$200 in funds to reimburse its employees for medical and prescription drug copayments, deductibles and co-insurances paid by employees as a result of completing an annual Health Assessment Tool (HAT).

11. **Point of Service (POS)** is a type of managed care health insurance system. The POS plan combines characteristics of an HMO plan with a choice of seeking care within or outside of the contracted managed care organization.

IV. **SPECIFICATIONS FOR ADMINISTRATION SERVICES FOR FSA AND HRA:**

In accordance with RFB 1267-12, the Contractor agrees to provide administration services for the State's Flexible Spending Accounts ("FSA") and the Health Reimbursement Arrangements ("HRA"), and as described herein.

The FSA program is composed of a dependent care assistance program established by NH RSA 21-I: 44-a and a medical and related expenses program established by NH RSA 21-I: 44-b. The HRA program was implemented as a result of 2007-2009 Collective Bargaining Agreement that, effective January 1, 2008, allows State employees enrolled in either the HMO or POS plans to participate annually in an HRA program that provides reimbursement of eligible medical expenses associated with medical benefit services currently covered by the plans (including pharmacy) up to the amount of \$200 per calendar year. Should the State negotiate the HRA benefits for additional employees or retirees, the State shall require the Contractor to implement such benefit changes.

**PLAN ELIGIBILITY**

The following are the basic eligibility rules for the FSA and HRA programs. Unless otherwise specified in the Benefit Booklet by the State or within this Agreement, the Contractor shall apply its standard administrative practices and procedures and enrollment policies, which may be revised or modified from time to time, in connection to its performance of its responsibilities as outlined in this Agreement or as a direct result of changes to Federal or State laws as they apply to the administration of FSAs and HRAs.

**FSA Plan Eligibility.** Full-Time State employees (37.5 hours per week or more) are eligible to participate in the FSA program. A new employee becomes eligible effective the first of the month following (30) thirty days of employment. Employees who have a same gender spouse may not use their FSA for their same gender spouse's or his or her dependents for FSA eligible claims.

**FSA Plan Changes.** In order for employees to make changes to their plans, they must have a qualified life event. For Medical FSAs, the State's plan allows employees to make a change to their election amount when one of the following life events occur:

1. Marriage,
2. Divorce, Legal Separation or Annulment,
3. Birth,
4. Placement for Adoption or Adoption,
5. Death of a Dependent

For Dependent Care FSAs, the State's plan allows employees to make changes when the above life events occur in addition to when a dependent becomes ineligible for coverage. Additional details about plan changes can be found in the Benefit Booklets.

**HRA Eligibility.** Upon the proper submission of proof of completion of a Health Assessment Tool (HAT) provided by the State's medical benefits administrator, employees enrolled in the HMO or POS plan are eligible for the HRA. The arrangement provides funds for the payment of eligible expenses associated with medical benefit services currently covered by the plans (including pharmacy) up to the amount of \$200 per calendar year. Employees may use their HRA for their same gender spouse. When employee who has a same gender spouse qualifies for the HRA, the State automatically imputes the \$200 through its payroll system. *Currently employees who are enrolled in the Trooper plans are not eligible for the HRA benefit. However, in the event of a future Collective Bargaining Agreement authorizing participation for this population, the State shall require the Contractor to implement such a change.*

**FSA and HRA Claims Eligibility.** As indicated above, the Contractor shall apply its standard administrative practices and procedures and enrollment policies during its Agreement.

**FLEXIBLE SPENDING ACCOUNT ADMINISTRATION REQUIREMENTS**

**A. Medical Care Flexible Spending Accounts**

**1. Plan Administration**

- a. **Medical FSA Files.** The Contractor shall accept and process eligibility for the State's Medical FSA's from the State's enrollment and eligibility administrator.
- b. **Medical FSA Termination Files.** The Contractor shall accept and process terminations of Medical FSA's from the State's enrollment and eligibility administrator.
- c. **Medical FSA Promotion and Support.** The Contractor shall provide the State with materials that promote and assist employees in enrolling in the Medical FSA offered by the State. The Contractor shall share this information with employees when attending open enrollment meetings and other events.

**2. Claim Administration Services**

- a. **Claim Processing.** The Contractor shall process claims with a Claim Incurred Date during the agreement period, including investigating and reviewing such claims to determine what amount, if any, is due and payable with respect thereto in accordance with the terms and conditions of the Benefit Booklets, and this Agreement. In processing claims, the Contractor shall conform to the following timeframes when processing claims:

i. Notification of whether claim is accepted or denied	5 business days
ii. Extension due to matters beyond the control of the Plan	15 days
iii. Notification of Extension	15 days
iv. Response by Participant	45 days
v. Review of claim denial	60 days

The enrollee shall have 180 days from the date of the denial to appeal the decision.

- b. **Claim Underpayment.** Should the State or the Contractor determine that it has paid a claim in an amount less than the amount due under the Benefit Booklet, upon notification the Contractor shall promptly adjust the underpayment during the next payment cycle or sooner.
- c. **Claim Overpayment.** Should the State or the Contractor determine that it has overpaid a claim or claims or provided a benefit to an ineligible person the Contractor shall make efforts to collect such

Contractor's Initials *RFQ*  
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amounts to make the recovery. If the Contractor is unsuccessful in recovering any improper payment or overpayment, the Contractor shall notify the State. At a minimum, at the end of each calendar/plan year, the Contractor shall provide the State a report of any improper payments or overpayments where recovery efforts have been unsuccessful.

- d. **Duplicate Claim Payment.** The Contractor's claim payment system shall ensure duplicate payments are not made for the same claim.
- e. **Recurring Claim Payment.** The Contractor's claim payment system shall allow recurring claims payment should an enrollee have recurring charges to a provider. An example would be monthly orthodontia payments. Once an employee has substantiated the first recurring payment, and upon employee request, the Contractor shall allow recurring payments to the provider providing the amounts remain to be consistent and allowable under the terms of the plan.
- f. **Verify Plan Maximums.** The Contractor's claim system shall have systems in place to enforce each respective plans maximum election and claims payment amounts.
- g. **Determine Qualified Expenses or Services.** Medical FSA Qualified Expenses or Services shall be defined as a service or expense that has been defined and approved under I.R.C Section 213 (d) for an enrollee's Medical FSA and shall be the only expenses reimbursed under the State's Medical FSA.
- h. **COBRA Administration.** The Contractor shall provide continuation of Medical FSA consistent with the Consolidated Omnibus Reconciliation Act (COBRA) of 1985, as updated and any other applicable law governing continuation of coverage. In addition, the Contractor shall perform the following services with respect to COBRA administration to include:
  - 1. Determining the FSA COBRA premium by first subtracting from the total of the enrollee's elected goal amount any amount already contributed by way of enrollee payroll deductions, then adding an administrative fee equal to 2% of that figure, and then dividing that sum by the number of months left in the benefit term.
  - 2. Upon receiving a notice of employee termination, the Contractor shall send via US mail a notification of COBRA eligibility to continue their Medical FSA. The notification shall include:
    - i. Language that indicates the right to continuation of coverage;
    - ii. The election period;
    - iii. The premium amount and;
    - iii. An application form for election or declination of continuation of coverage.
- i. **Periodic Statements.** The Contractor shall provide plan enrollees a periodic statement of account balances minimally once per plan year prior to open enrollment on a date mutually agreed upon with the State based on an annual open enrollment schedule. Additional period statement mailings shall be scheduled as mutually agreed upon or as needed based on the State's business needs. The letter shall include:
  - i. A statement of the employee's account balances for their Flexible Spending Accounts;
  - ii. A reminder about the "use or lose" clause;
  - iii. Remind the employee of the date by which claims can be incurred for that plan year and;

Contractor's Initials *AKP*  
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iv. Remind the employee of the date by which manual claims must be submitted in order to be eligible for that plan year to ensure the new plan year is not affected.

**J. Welcome Letters.** The Contractor shall provide a welcome letter, upon review and approval from the State prior to its release, to enrollees as they enroll as new employees as well as at the beginning of the plan year following the State's annual open enrollment. The welcome letter shall include:

- i. Information about how to access the Contractor's web site to view account balances and claim status;
- ii. A re-statement of the employees goal amount for the Medical FSA plan elected during open enrollment;
- iii. A claim form for manual claim reimbursement;
- iv. The address for where claims must be submitted;
- v. Where to locate a copy of the Benefits Booklet or how to request a paper copy and;
- vi. Information on who to call with questions regarding their benefits.

**k. Open Enrollment Announcement Letters.** The Contractor shall provide a letter, upon review and approval from the State prior to its release, to all existing enrollees to announce open enrollment and provide guidance on how to elect benefits for the upcoming benefit year.

**B. Dependent Care Flexible Spending Accounts**

**1. Plan Administration**

- a. **Dependent Care FSA Files.** The Contractor shall accept and process eligibility for the State's Dependent Care FSA's from the State's enrollment and eligibility administrator.
- b. **Dependent Care FSA Termination Files.** The Contractor shall accept and process terminations of Dependent Care FSA's from the State's enrollment and eligibility administrator.
- c. **Dependent Care FSA Promotion and Support.** The Contractor shall provide the State with materials that promote and assist employees in enrolling in the Dependent Care FSA offered by the State. The Contractor shall share this information with employees when attending open enrollment meetings and other events.

**2. Claim Administration Services**

a. **Claim Processing.** The Contractor shall process Claims with a Claim Incurred Date during the agreement period, including investigating and reviewing such claims to determine what amount, if any, is due and payable with respect thereto in accordance with the terms and conditions of the Benefit Booklets, and this Agreement. In processing claims, the Contractor shall conform to the following timeframes when processing claims:

- i. Notification of whether claim is accepted or denied 5 business days
- ii. Extension due to matters beyond the control of the Plan 15 days
- iii. Notification of Extension 15 days
- iv. Response by Participant 45 days
- v. Review of claim denial 60 days

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Date *9/29/11*

The enrollee shall have 180 days from the date of the denial to appeal the decision.

- b. Claim Underpayment.** Should the State or the Contractor determine that it has paid a claim in an amount less than the amount due under the Benefit Booklet, upon notification, the Contractor shall promptly adjust the underpayment during the next payment cycle or sooner.
- c. Claim Overpayment.** Should the State or the Contractor determine that it has overpaid a claim or claims or provided a benefit to an ineligible person the Contractor shall make efforts to collect such amounts to make the recovery. If the selected Contractor is unsuccessful in recovering any improper payment or overpayment, the Contractor shall notify the State. At a minimum, at the end of each calendar/plan year, the Contractor shall provide the State a report of any improper payments or overpayments where recovery efforts have been unsuccessful.
- d. Duplicate Claim Payment.** The Contractor's claim payment system shall ensure duplicate payments are not made for the same claim.
- e. Verify Plan Maximums.** The Contractor's claim system shall enforce each respective plans maximum election and claims payment amounts.
- f. COBRA Administration Services.** The Contractor is not required to provide COBRA administration services for the Dependent Care FSA.
- g. Periodic Statements.** The Contractor shall provide plan enrollees a periodic statement of account balances minimally once per plan year prior to open enrollment on a date mutually agreed upon based on an annual open enrollment schedule. Additional period statement mailings shall be scheduled as mutually agreed upon or as needed based on the State's business needs. The letter shall include:
  - i. A statement of the employee's account balances for their Dependent Care Accounts;
  - ii. A reminder about the "use or lose" clause;
  - iii. Remind the employee of the date by which claims can be incurred for that plan year and;
  - iv. Remind the employee of the date by which manual claims must be submitted in order to be eligible for that plan year to ensure the new plan year is not affected.
- i. Welcome Letters.** The Contractor shall provide a welcome letter, upon review and approval by the State prior to its release, to enrollees as they enroll as new employees as well as at the beginning of the plan year following the State's annual open enrollment. The welcome letter shall include:
  - i. Information about how to access the Contractor's web site to view account balances and claim statuses;
  - ii. A re-statement of the employees goal amount for the Dependent Care FSA plan elected during open enrollment;
  - iii. A claim form for manual claim reimbursement;
  - iv. The address for where claims must be submitted;
  - v. Where to locate a copy of the Benefits Booklet or how to request a paper copy and;
  - vi. Information on who to call with questions regarding their benefits.

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- j. **Open Enrollment Announcement Letters.** The Contractor shall provide a letter, upon review and approval by the State prior to its release, to all existing enrollees to announce open enrollment and provide guidance on how to elect benefits for the upcoming benefit year.

### HEALTH REIMBURSEMENT ARRANGEMENT ADMINISTRATION REQUIREMENTS

#### 1. Plan Administration

- a. **HRA Files.** The Contractor shall accept and process eligibility for the State's HRA accounts from the State's medical benefits administrator.
- b. **HRA Termination Files.** The Contractor shall accept and process terminations of HRA accounts from the State's enrollment and eligibility administrator.
- c. **HRA Promotion and Support.** The State shall provide the Contractor with materials that promote and assist employees in taking the Health Assessment Tool which makes employees eligible for the \$200 Health Reimbursement Arrangement through the State's medical administrator. The Contractor shall share this information with employees when attending open enrollment and other events.

#### 2. Claim Administration

- a. **Claim Processing.** Process Claims with a Claim Incurred Date during the agreement period, including investigating and reviewing such claims to determine what amount, if any, is due and payable with respect thereto in accordance with the terms and conditions of the Benefit Booklets, and the in force Agreement. In processing claims, the Contractor shall conform to the following timeframes when processing claims:
- |   |                 |
|---|-----------------|
| i. Notification of whether claim is accepted or denied      | 5 business days |
| ii. Extension due to matters beyond the control of the Plan | 15 days         |
| iii. Notification of Extension                              | 15 days         |
| iv. Response by Participant                                 | 45 days         |
| v. Review of claim denial                                   | 60 days         |

The enrollee shall have 180 days from the date of the denial to appeal the decision.

- b. **Claim Underpayment.** Should the State or the Contractor determine that it has paid a claim in an amount less than the amount due under the Benefit Booklet upon notification the Contractor shall promptly adjust the underpayment during the next payment cycle or sooner.
- c. **Claim Overpayment.** Should the State or the Contractor determine that it has overpaid a claim or claims or provided a benefit to an ineligible person the Contractor shall make efforts to collect such amounts to make the recovery. If the Contractor is unsuccessful in recovering any improper payment or overpayment, the Contractor shall notify the State. At a minimum, at the end of each calendar/plan year, the Contractor shall provide the State a report of any improper payments or overpayments where recovery efforts have been unsuccessful.
- d. **Duplicate Claim Payment.** The Contractor's claim payment system shall ensure duplicate payments are not made for the same claim.
- e. **Recurring Claim Payment.** The Contractor's claim payment system shall allow recurring claims payment should an enrollee have recurring charges to a provider.

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- i. **Verify Plan Maximums.** The Contractor's claim system shall enforce each respective plans maximum election and claims payment amounts.
- g. **Determine Qualified HRA Expenses or Services.** A qualified HRA Expense or Service shall be defined as any remaining enrollee or member responsibility left after the State's medical and pharmacy benefits administrator has paid a claim for a qualified expense or service defined in the state's medical pharmacy Benefits Booklets and by I.R.C section 213 (d) and shall be the only expenses reimbursed under the State's HRA. A copy of the State's medical and prescription drug benefits booklets can be found at: [http://admin.state.nh.us/hr/open\\_enrollment.html](http://admin.state.nh.us/hr/open_enrollment.html)
- h. **COBRA Administration.** The HRA program is tied to the HMO and POS plans. If an employee elects COBRA coverage, the employee would remain eligible for the HRA program provided they remain enrolled in a COBRA plan and complete the Health Assessment Tool each year they remain eligible for COBRA. Therefore, the Contractor shall continue to reimburse former employees who enroll in COBRA coverage for Qualified HRA Expenses or Services during that period of COBRA eligibility.
- i. **Same Gender Spouse Coverage.** The State covers same gender spouses and their dependents, and calculates and administers pre and post-tax deductions based on IRS rules through the Government Human Resources System ("GHR") payroll function. The HRA is tied to those employees participating in the employee HMO and POS plans. Therefore, when an employee covers their same gender spouse and the dependents of their same gender spouse and qualifies for the \$200 HRA, the State automatically taxes the \$200 in full through its payroll system on the pay period closest to the date of the HAT completion.

The State's enrollment and eligibility administrator shall provide a list of employees who have a same gender spouse to the Contractor to compare against a listing of all employees who have qualified for the \$200 HRA. As a result, the Contractor shall be required to provide a file of those employees who have qualified for the \$200 HRA to the State for the purpose of taxing this benefit.

#### GENERAL ADMINISTRATION REQUIREMENTS

The following general administration requirements shall apply to the State's FSA and HRA programs as they apply to the State's requirements and/or plan administration as required by law.

1. **Internal Revenue Service (IRS) Requirements.** The Contractor shall provide the State with the information in its custody for use in the preparation of all returns and reports that are required by the Internal Revenue Service, the Department of Labor, and any other federal or state agency.
2. **Alternate ID Numbers.** The State currently uses the social security number as the Employee Identifier, but is planning to discontinue that practice sometime in the future. The Contractor's system shall accommodate a transition to alternate identification numbers as part of this contract.
3. **Record Maintenance Requirements.** The Contractor shall perform the following record maintenance requirements for each enrollee record for each plan:
  - a. Maintain a list of participating employees, including full names, home addresses and social security numbers;
  - b. Maintain records of contributions by, payments of benefits to, and resulting account balances of participating employees and report the same to the State in a format and frequency acceptable to the State;
  - c. Maintain records of all transactions under the Contract during the term of the Contract and subsequent periods in compliance with applicable Local, State and Federal requirements;
  - d. Provide the State bi-weekly payroll details listing employee, plan(s) and amount(s) for any new hires or life events performed within the online benefits system outside of open enrollment or special events for FSA plans; and

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- e. Accept weekly files from the State's enrollment and eligibility administrator identifying terminated employees. The format of this file is not available; However the State will work with the enrollment and eligibility administrator to ensure files will be in a format necessary to accommodate the Contractor as a result of this Agreement.
4. **Claim Forms and Filing Instructions.** The Contractor shall provide the State with information necessary to enable enrollees to request reimbursement for covered claims.
5. **Benefit Booklets.** The Contractor shall maintain a master copy of Benefit Booklets for all programs they agree to administer as part of the Agreement and make changes and amendments to the master copy of the Benefit Booklets. The Contractor shall provide an electronic version of the Benefit Booklets for posting on the State's web site. In addition, the Contractor shall provide either in person or via US mail in hard copy upon request from the State or its employees a copy of the Benefit Booklets.
6. **Employee Correspondence and Related Benefit Materials Mailings.** The Contractor shall present employee correspondence and related benefit materials Mailings to the State for its review, editing and approval prior to its release to state employees.
7. **Program Documents.** The Contractor shall provide the documents that set forth the terms of the programs contained within this Agreement and all other documents required to administer the programs. This shall include providing claims procedures, claims forms and information to enrolled employees and their covered dependents.
8. **Program Administration Changes.** The Contractor shall provide the State of any anticipated program administration changes as soon as it becomes aware of a change being required, but no later than (30) thirty days prior to a change.
9. **Claim Overpayment Due to Errors and/or Omissions.** Should the State or the Contractor determine that it has overpaid a claim or claims, or provided a benefit to an ineligible person for any of the programs, due to any negligent or intentionally wrongful act, error or omission of the Contractor (or its employees or its agents) relative to its obligations under the Agreement, the Contractor shall be responsible for paying the amount of the improper payment or overpayment to the State.
10. **Manual Claims.** All manual claims received for reimbursement shall be checked for signature, proper documentation and eligibility. As claims are entered and processed the expense type must be allocated based on an expense type. If it is an item which is eligible for reimbursement from HRA funds, the HRA shall be set as the primary account and FSA shall be set as the secondary account. If it is an item which can only be reimbursed from FSA funds, the FSA shall be set as the primary account without a secondary account.
11. **Debit Cards.** The Contractor shall provide and manage all debit cards and their respective transactions for the FSA (medical and dependent care) and HRA programs. Within ten (10) business days of receipt of the State's enrollment data for both FSA and HRA benefits, the Contractor shall produce a debit card for the State's employees. Debit cards are to be mailed to State employees within ten (10) business days. In addition, State employees may request a debit card be provided to their dependent spouse and/or child(ren) providing they are at least eighteen (18) years of age or older.
12. **Debit Card Transactions.** The Contractor shall establish the following systematic relationships for debit card transactions:
  - a. **Pharmacy co-payments.** A relationship shall be built between the State's pharmacy benefits manager's pharmacy carrier and the debit card provider.
  - b. **Office visit co-payments, deductibles and co-insurance.** The HRA in the debit card system shall be set to work with only those Contractor codes at which an enrollee would incur office visit co-payments, deductibles or co-insurance. Contractor codes for merchants which fall into vision, dental,

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orthodontic, etc would be coded only to the FSA account. When the card is swiped at a merchant with a Contractor code which is programmed to the HRA, the system will look first to the HRA. If there isn't an HRA or the funds have been exhausted, the system shall then look for an FSA from which to process the transaction.

- 13. Inventory Information Approval System (IIAS).** The Contractor shall utilize this approval system that provides real-time auto-substantiation of eligible medical expenses as described in I.R.C Section 213 (d). Eligibility under IIAS shall supersede any Contractor code exceptions that may be attached to FSA's through the debit card system. In addition, the Contractor shall ensure its partners become compliant as required by the IRS or any other federal mandate during the agreement period.
- 14. Appeals.** The Contractor shall handle the intake, review, determination and notification of determination to enrollees for all appeal types for the FSA and HRA programs. The enrollee shall have 180 days from the date of the denial to appeal the decision made by the Contractor or its designee.
- 15. Online Access.** The Contractor's system shall provide employees, enrollees, agency designees and the State's administrators with access to an online web site to access individual and group account information based on their designated roles. Social Security numbers shall not be used as user identification numbers for accessing their account online through its web site. The online web site shall allow those accessing the system to reset his/her password should they lose access to the system.

The Contractor's system shall allow the State's administrators the capability to run, download and export reports for the FSA and HRA accounts from the Contractor's web site. These reports shall include:

**Employee Level Reporting:**

The Contractor shall provide employee level reporting to the State as follows:

- a. Current overall goal amounts by employee, agency and payroll code by account elected;
- b. Payroll deductions applied to each account elected by the employee that includes the employee agency and payroll code.

**Employer Level Reporting:**

The Contractor shall provide employer level reporting to the State as follows:

- a. The State's overall account balance versus expenditures by account type and by agency;
- b. A counts report by agency of how many employees have become eligible for the HRA and their balance of the \$200 HRA as of the date the report is run.

- 16. Certificates of Creditable Coverage.** The Contractor shall provide certificates of creditable coverage as required by HIPAA with respect to enrollee participation in the programs administered by the Contractor or its designees if applicable.
- 17. Legislative and Industry Updates.** The Contractor shall keep the State and its staff apprised of both federal and state updates. In addition, the Contractor shall work with the State to stay abreast of changes within the Contractor and its designee's industries respectively.
- 18. Compliance Oversight.** The Contractor shall have oversight responsibility for compliance by its Contractor contracts, including but not limited to HIPAA compliance, along with compliance with all applicable Federal, State and local laws. The Contractor shall have authority to enforce these contract stipulations with its designees as required.

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Date *9/29/11*

19. **Enforcement Audits or Reviews.** Should the Contractor retain outside contractors, auditors, and/or counsel to conduct audits or reviews of or to enforce its contracts or activities and recoveries or cost avoidance is a result of such audits, reviews or enforcement activities, the Contractor shall provide a credit to the State, after a reduction in such recovery or cost avoidance amount of its expenses. In addition, the Contractor shall provide a copy of the audit outcomes to the State to substantiate the credit.
20. **Reconciliation.** The Contractor shall work with the State and its enrollment and eligibility administrator and/or any other designee appointed by the State to ensure all files and databases are reconciled throughout the agreement period.
21. **Information Technology (IT) Resource.** The Contractor shall provide access to its IT resource to assist the State or its designee with transition, system and data issues that may arise during the term of this agreement as needed. At a minimum, the Contractor shall provide access to an IT resource during its initial implementation and the State's migration to Lawson.

#### IMPLEMENTATION REQUIREMENT

The Contractor's system shall be established with the existing FSA and HRA accounts and for receiving 2012 plan year elections during open enrollment by midnight on December 31, 2011. In addition, the Contractor shall be available as part of the implementation for the State's Open Enrollment – Fall 2011 as outlined in the General Administration Requirement, **OPEN ENROLLMENT – FALL 2011**, section.

During the implementation phase of the HRA and Open Enrollment for the FSA, the Parties shall work together, to determine when eligibility files shall be provided between the Contractor and/or its designees if applicable, the State's medical benefits administrator and the State and when and how the Contractor shall enter such files into its systems and make the files available to the State for its use.

The Contractor and its designees if applicable shall work with the State's enrollment and eligibility administrator and the State's medical benefits administrator to establish a HIPAA compliant, mutually acceptable interface to ensure timely files feeds, enrollment and access to HRA benefits for enrollees.

The Contractor shall provide a project plan to the State, within ten (10) business days from Governor and Council approval, for the implementation phase of this agreement in accordance with the Section titled General Contractual Obligations, 16. Project Plans, as outlined in this Agreement.

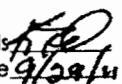
#### OPEN ENROLLMENT – FALL 2011

The Contractor shall participate in the State's Open Enrollment in the fall of 2011. The State works with its enrollment and eligibility administrator and other health benefit administrators to plan for open enrollment from approximately September through mid October to ensure all plan changes, if applicable, are in place for open enrollment plan elections and are in effect for January 1 of the next plan year.

As described in the section below in **OPEN AND/OR SPECIAL ENROLLMENT REQUIREMENTS**, the State requires these same activities for the fall of 2011 to be performed by the Contractor on an annual basis during the contract period.

#### OPEN AND/OR SPECIAL ENROLLMENT REQUIREMENTS

The following section outlines the Contractor's responsibilities during the State's annual Open Enrollment, or as requested as part of a Special Enrollment. Depending upon plan changes and other business needs, the State reserves the right to determine whether it requires a passive or an active open enrollment period each year at least once each calendar year. At times, the State may require an additional enrollment period depending upon its business needs due to Collective Bargaining or other events that have an impact on employee plan offerings.

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The State's annual Open Enrollment period typically runs for two weeks and is expected to commence sometime late in November or December 2011 for a January 1, 2012 effective date. *This timeframe is meant to provide an approximation of the dates the State generally holds Open Enrollment but does not limit the State to only hold Open Enrollment during this timeframe or to not hold Special Enrollment sessions should they become necessary.*

The Contractor shall provide the following enrollment support:

1. Work with the State and its individual agencies and departments and the State's other health benefit administrators in planning and scheduling on-site open enrollment activities (as requested by the State) to support the State's 160 worksite locations, including all District Offices and Department of Transportation sheds to include:
  - a. Key employee/staff informational meetings to educate and/or remind key staff of the enrollment process for all voluntary group insurance plans and options for election and;
  - b. Face to face employee informational meetings that provide information to current and prospective enrollees about all benefit options available to them that include but are not limited to; respective plan Benefit Booklets, pamphlets and enrollment forms if applicable.
2. Attend human resource meetings to review current plans and any applicable plan changes being shared with employees for that open enrollment or special enrollment period.
3. Work with the State's enrollment and eligibility administrator to ensure timely and accurate files during and immediately after the closing of Open Enrollment. At the conclusion of open enrollment, the enrollment and eligibility administrator shall send a full enrollment file to the Contractor for FSA administration who shall calculate the bi-weekly payroll deductions and forward on to the State a full enrollment file to establish the deductions for that calendar year.
4. Work with the State's medical benefits administrator to ensure timely and accurate files for the current plan year and the new plan year for HRA enrollment.
5. Each year, the Contractor's system shall default all elections to zero (\$). During open enrollment, employees must make an active election for flexible spending participation.
6. The Contractor shall provide a link to an online calculator for Section 125 Plans to the State's enrollment and eligibility administrator for employee use within the enrollment system when employees elect benefits. The calculator shall have, at a minimum, the following capabilities:
  - a. Allow employees to change their elections in the calculator without actually changing their elections so that they can perform "what-if?" calculations;
  - b. Calculate employee tax savings realized with pre-tax benefits; and
  - c. Show a side-by-side comparison of the employees' after-tax take-home pay with and without the Section 125 plan.

Should the Contractor have an online calculator that could be integrated further as part of employee benefit elections process with the State's enrollment and eligibility administrator, the State would require the Contractor to work with the State's enrollment and eligibility administrator to implement this as part of its initial implementation.

#### **NEW HIRE ORIENTATIONS AND/OR EDUCATIONAL SESSIONS**

Several of the State's larger agencies hold regular new hire orientations that include presentations by its health benefits administrators. All contents in the Contractor's orientation presentations, education sessions or any

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other materials being presented to State employees must be approved by the State prior to their release. The Contractor shall provide, at a minimum, the following activities with respect to new hire orientations and/or educational sessions as requested by its agencies;

- a. Promote employee participation in FSA programs via seminars, direct outreach and other educational campaigns as mutually agreed to by the State;
- b. Provide employee communications such as benefit booklets, newsletters or similar informational materials, web-access to interactive information and tax savings calculators (e.g., links to claims history information maintained online by the current health benefit administrators for verifying out of pocket expenses, and calculating payroll contributions to the programs being offered), announcement posters, payroll stuffers, new hire letters and informational packets, etc.;

### REPORTING REQUIREMENTS

The Contractor shall provide the following reports:

1. **Call Tracking Report.** The Contractor shall provide a call tracking report for the average speed to answer, abandonment rate and inquiries resolved during the first call on a schedule mutually agreed upon during the entire agreement period.
2. **Payroll Deduction Report.** The Contractor shall provide a weekly deduction change report as required for FSA, HRA and voluntary benefit administration as required by the State. (Note: data must be encrypted using the State's designated software and placed on the State's FTP site).
3. **Client Service Level Reports.** The Contractor shall provide the State with the following client service level reports:
  - a. Weekly check register reports (weekly);
  - b. Monthly debit card transaction reports (monthly) and;
  - c. An annual FSA and HRA forfeiture report (within 45 days of the end of each plan year).
4. **Same Gender Spouse Reports.** The Contractor shall provide the State a report on a weekly basis listing those employees who became newly eligible for the HRA who have a same gender spouse and/or dependents on their plan for tax purposes.
5. **HRA Reports.** The Contractor shall provide the State with reports on a monthly basis that include the following:
  - a. The number of HRA accounts established with and/or without FSA accounts;
  - b. The agency of the employee who has established the HRA and/or HRA/FSA accounts; and
  - c. HRA balances.

### FUNDING REQUIREMENTS

The following section outlines the State's account funding and banking requirements for the FSA and HRA claims administration.

1. **Banking.** The Contractor shall provide and maintain the bank account to be used for claims administration for the FSA and HRA accounts. The Contractor shall assume all responsibility with respect to administrative banking fees and any other related fees and shall not invoice the State for these fees.
2. **Funding of the Plans/Accounts.** The State shall not pre-fund any of the accounts or plans administered under this contract.

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- a. **Medical FSA Funds.** The Contractor shall accept a bi-weekly deposit via Electronic Funds Transfer (EFT) to an account held by the Contractor at a bank of its choice for use in claims payments for covered medical expenses. However, 100% of employee goal amounts shall be available for use at any time during the plan calendar year regardless of the payroll deductions made by the employee to that point.
- b. **Dependent Care FSA Funds.** The Contractor shall accept a bi-weekly deposit via EFT to an account held by the Contractor at a bank of its choice for use in claims payment for covered dependent care expenses. However, reimbursement shall only occur up to the amount of payroll deductions collected to that point.
- c. **HRA Funds.** The State shall reimburse the Contractor for the reimbursement of HRA funds the Contractor pays out to the State's employees who have qualified for the HRA up to \$200 per calendar year. The State shall not pre-fund the \$200 HRA. The Contractor shall receive payment from the State for HRA claims payments as the \$200 HRA is spent down for each eligible employee.

### CLAIMS REPORTING & RECONCILIATION

The following section outlines the State's claims reporting and reconciliation requirements.

1. **Claims Run In.** The Contractor shall accept a file or files from the incumbent administrator that identify account balances as of December 31, 2011, or a date mutually agreed to, for the administration of claims run out from calendar year 2011 for HRA claims. In addition, the Contractor shall accept a file or files from the incumbent administrator that identify account balances as of December 31, 2011, or a date mutually agreed to, for the administration of claims run out from calendar year 2011 for medical FSA claims incurred both during calendar year 2011 and 2012 that are being reimbursed against FSA and for dependent care FSA claims incurred in calendar year 2011 that have not been reimbursed to the employee(s) as of this date.
2. **Claims Run Out.** At a minimum, within five (5) business days or as mutually agreed upon from the termination of this agreement, the Contractor shall provide all necessary data required to transition all account administration within this Agreement to the State, or its designee, upon contract termination or on a date mutually agreed upon prior to the contract termination to ensure continuity of coverage for the services outlined in the Contract.
3. **Bank Account Closing and Reconciliation.** At a minimum, within five (5) business days or as mutually agreed upon from the termination of this agreement, the Contractor shall provide all remaining funds and supporting documentation to the State, or its designee, for all account balances for both the FSAs and HRAs held by State employees.

### CONFIDENTIALITY, USE OF INFORMATION

The following section outlines the State's requirements with respect to the confidentiality of its data and the Contractor's use of it.

1. **Confidential Data.** The State considers all data, and any other information, provided to the Contractor through file transfers and direct from employees, along with all other modes to be confidential information and owned by the State. Any disclosure of the State's confidential data shall require prior written approval from the State unless such disclosure is otherwise required by applicable law.
2. **Use of State's Confidential Information.** The Contractor shall not use the State's confidential data and other information, for purposes other than as necessary for the Contractor's performance under this Agreement.
3. **Data Ownership upon Contract Termination or Expiration.** At a minimum, within thirty (30) days prior to the termination or expiration of the Agreement, the State or its designee requires receipt of at least one file to

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be used as an initial load and testing file of the Contractor awarded the Agreement that includes any and all confidential data contained within the Contractor's system at that time. In addition within seven (7) days or as mutually agreed upon of the termination or expiration of the agreement the State or its designee shall be provided a final file of any and all confidential data contained within the vendor's system as of the date of termination or expiration in a format determined by the State or its designee. The return of all confidential information to the State or its designee shall be at no additional cost to the State. Should the Contractor retain any of the State's enrollment and eligibility information upon termination or expiration the confidentiality of that data shall survive the termination or expiration of the agreement.

- 4. Relief.** In the event of unauthorized use or disclosure of the State's confidential data, the State shall immediately be entitled to pursue any remedy at law or in equity, including, injunctive relief.

#### **MIGRATION TO LAWSON ENTERPRISE RESOURCE PLANNING HUMAN RESOURCE MODULE**

The State is in the midst of phase two (2) of it's implementation plan for transitioning to Lawson Enterprise Resource Planning (ERP) Version 9.0.1 to support administrative and financial functions including procurement, accounts payable, accounts receivable, general ledger, human resources and payroll. The human resources administration and payroll functions including many employee/manager self-service functions are the second phase of this project. **This phase of the ERP project will begin in September of 2011 and is estimated to be completed by January of 2013.**

The Lawson ERP Human Resources/Payroll implementation shall replace the current payroll system which has been in place for over 20 years and for which maintenance support is no longer practicable. It shall add automated processes to the State's human resource management functions, such as on-line time reporting, and on-line HR/benefits administration.

The Contractor shall work with the State and its enrollment and eligibility administrator to ensure transition and migration of plan data to the ERP system that includes all FSA, HRA and other voluntary group insurance plans the State determines it will administer through its new ERP Human Resource Module for health and benefits administration.

The Contractor shall provide a project plan assuming a go live effective date of January 1, 2013 for the transition and Migration of data to the ERP system in accordance with General Contractual Obligations, 16. Project Plans as outlined in this Agreement. Unless agreed to by the State, the Contractor shall provide a project plan within ten (10) business days upon the State's request.

#### **PERFORMANCE GUARANTEES**

The following section outlines the required performance guarantees.

- 1. Quarterly Performance Reports.** The Contractor shall provide all of the following reports on a quarterly basis within forty-five (45) days of the end of the quarter. Each report, at a minimum, must provide the State results of the Contractor's performance for that particular quarter in addition to cumulatively how the Contractor has performed to that point within the each plan year of the agreement period.

Each report must provide the appropriate information to support the Contractor's status with respect to meeting and/or exceeding the guarantees outlined within this section. The State shall work with the Contractor to develop the contents of each report during implementation to ensure the State is satisfied with the Contractor's ability and methodology of tracking these guarantees.

The following are the reports the State requires on a quarterly basis for its review:

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- a. All participant inquiries statistics report. This report shall track call types (claims, eligibility, coverage etc.) to allow the State and the Contractor to collaboratively make improvements to the Program for its employees.
- b. Average speed to answer report
- c. Claims Turn Around report
- d. Claims Payment Accuracy report
- e. Debit Card Delivery report
- f. Inbound File Processing report

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**PERFORMANCE GUARANTEES**

The Contractor agrees to the following performance guarantees. All guarantees shall be set and measured annually. Measurement of performance guarantees may be based on internal self-reporting, subject to independent audit.

<b>Customer Service Guarantees</b>		
<b>Guarantee</b>	<b>Standard</b>	<b>At Risk \$</b>
Participant inquires (including the State's Program management team). Includes all forms of inquiry including but not limited to; phone, fax, email handwritten, or any other electronic means of communication available and used by participants.	Average 85% of inquiries resolved within same business day	\$ 5,000.00
	Average 90 % of inquiries resolved within one business day	\$ 3,000.00
	Average 98 % of inquiries resolved within 5 business days	\$ 3,000.00
Average Speed to Answer - (seconds)	< 30 seconds	\$ 2,000.00
Call Abandonment Rate	< 5%	\$ 2,000.00
<b>Claims Processing Guarantees</b>		
<b>Guarantee</b>	<b>Standard</b>	<b>At Risk \$</b>
Claims Turnaround Time	98% within 5 business days	\$ 5,000
Claims Payment Accuracy	98%	\$ 5,000
<b>All Other Guarantees</b>		
<b>Guarantee</b>	<b>Standard</b>	<b>At Risk \$</b>
Debit Card Delivery	98% Mailed within 10 business days of receiving inbound file, or other Request (e.g.: replacement)	\$ 10,000
Inbound File Processing	98% within 2 business days	\$ 10,000
Annual Settlement Report(s) Must Include: All participant inquires statistics report Average speed to answer report Claims Turnaround Time report Claims Payment Accuracy Report Debit Card Delivery Report Inbound File Processing Report	99% of the Annual Settlement Reports listed must be provided to the State within 45 days of the close of each plan year for the duration of the Agreement	\$ 5,000
<b>Total Dollars at Risk</b>		<b>\$ 50,000</b>

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## GENERAL CONTRACTUAL OBLIGATIONS

The following section outlines additional contractual requirements.

1. **Administrator Customer Service.** The Contractor shall provide access to front line staff who shall provide assistance for day to day operational issues that may arise with the programs.

In addition, the Contractor shall provide dedicated contacts to provide assistance to the State's benefits management team to include, but not be limited to: working directly with the State during implementation, open enrollment, special enrollments or at other times mutually agreed upon by the State and the Contractor for other projects that are a result of changes in the State's business needs in enrollment and eligibility services.

2. **State Service Hours.** The Contractor shall provide support during the business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, Eastern Standard Time.
3. **Holiday Closings.** The Contractor shall provide the State a copy in writing of its anticipated holiday closing schedule within thirty (30) days of the beginning of each plan year, or sooner.
4. **Other Closings.** The Contractor shall provide the State with as much advanced written notice of company closing for any other type closing it might experience. For example, inclement weather.
5. **Account Information Access.** The Contractor shall ensure access to its or it's designee's system (24) twenty-four hours per day, (7) seven days per week via an internet based web site for both enrollees and designated representatives identified by the State. Employees shall have access to view account balances and claims status for Medical and Dependent Care FSA's along with account balance and claims status for the HRA (providing the employee has qualified for this benefit).
6. **Toll-Free Number.** The Contractor shall provide a toll-free number for enrollees or State agency staff, to contact the Contractor, to handle eligibility and/or claims issues.
7. **Special Needs Accommodations.** The Contractor shall provide a telecommunications device for the deaf or other voice capability for the hearing impaired.
8. **Non-English Speaking Accommodation.** The Contractor shall accommodate non-English speaking enrollees.
9. **Voicemail and E-mail.** Voicemail and email shall be used when contacts at the Contractor's office are not available. The Contractor shall use commercially reasonable efforts to return all e-mails and voicemails no later than four (4) business hours after receipt.
10. **Dedicated Staff Assignments.** The Contractor shall assign experienced personnel necessary to perform services described herein and who are dedicated to the State account. The dedicated personnel must consist of a project manager, contracts manager, and support staff responsible for day-to-day operations. The State reserves the right to approve changes in, or replacements of, dedicated personnel in advance of any such change. Such personnel shall assist the State upon contract approval or at other times as mutually agreed upon by the State and the Contractor the following activities and/or projects that include:
  - i. Initial implementation;
  - ii. Implementation of new or changed/enhanced functionality as the State's business needs change or if requested by the State;
  - iii. Day to day account management;
  - iv. Open or special enrollments.

Contractor's Initials HSO  
Date 9/29/11

11. **Meetings.** At a minimum, the Contractor shall meet with the State in person on a quarterly basis in Concord, NH. The State generally holds monthly Contractor meetings for the State's health program staff to meet with its medical, dental, prescription drug, FSA/HRA and voluntary group insurance plan administrators to discuss ongoing projects, any changes that affect one or all administrators, etc. In addition, ad-hoc meetings are held on-site at the State or via conference call dependent upon the State's business needs and the nature of the discussion. The Contractor shall be required to attend additional on site meeting(s) prior to and during annual open enrollments.
12. **Other Health Benefit Activities.** In addition to the other events and activities listed within this Agreement, the State and its respective agencies hold annual benefit fairs, wellness events and/or wellness coordinator training sessions or other employer sponsored activities throughout the year that the State invites its health benefit administrators. The State shall invite the Contractor to events as it deems appropriate and will specify those when attendance is required. Benefit activity requirements shall vary each year depending upon the State's business needs.
13. **E-mail Encryption Solution.** The Contractor shall host a secure web-based e-mail solution for the State's use to communicate with its voluntary group insurance plan administrator(s). In addition, the State requires the Contractor's system have the capability to enable TLS e-mail encryption between your organization and the State. These solutions shall be used for exchanging all e-mails containing ePHI including but not limited to eligibility files, reports and file attachments.
14. **System and Data File Back Up Requirements.** Backups of the State's data shall be completed at a minimum of seven days per week. The Contractor's system and data file back up shall include a separate off-site storage at a secure location and be made available to the State upon request.
15. **Disaster Recovery and Business Continuity/Contingency Plan Requirement.** The Contractor shall have a redundant data center to ensure continuity of operations should the State's enrollment and eligibility system fail or become unavailable.
16. **Project Plans.** For each project (especially the initial implementation and conversion to Lawson) the Contractor, unless otherwise specified by the State, shall provide a project plan for each project that is satisfactory to the State. The Contractor shall assign a project manager and team (if applicable) to the project for the duration of the project. Any change to project manager, unless specifically requested by the State, shall be given in writing and shall give the State reasonable notice of a change so not to jeopardize the success of the project.
  1. **Project Manager Requirements.** The assigned project manager shall at a minimum:
    - a. Have the full authority to act within the project plan;
    - b. Promptly respond to inquires from the State;
    - c. Demonstrate full commitment to the project;
    - d. Be qualified to perform the duties of a project manager and delegate assignments as appropriate to the project team.
  2. **Project Plan Requirements.** Each project plan shall include, but is not limited to, the following:
    - a. A detailed description of the schedule (to include due dates);
    - b. Milestones such as critical events, tasks and task dependencies;
    - c. Entity responsible for all milestones (Contractor or State);
    - d. A training plan for those affected by the project if applicable.
  3. **Project Status Reporting Requirements.** Project status reports shall be provided by the project manager to the State on a weekly basis or as mutually agreed upon given the nature of the project and shall include at a minimum;

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- a. Revisions of the project plan to be reviewed by the State;
- b. Minutes of meetings held since the last report;
- c. Status of the project and;
- d. Issues and/or concerns raised by either party that require resolution by the State, the Contractor or any other party that may be involved as part of the project plan.

**17. Business Relationships.** The Contractor shall in a timely manner and in good faith establish and maintain the necessary and appropriate business relationships with the State's benefits administrators as reasonably necessary to provide the services of this Agreement. The State reserves the right during the agreement period to select benefit administrators other than those, or in addition to those whose contracts with the State are in effect on the effective date of this Agreement.

**18. Proprietary Rights.** Both the Contractor and the State shall grant to the other a royalty-free, non-exclusive, non-transferable, revocable license (without rights to sublicense) to reproduce and display such trademarks, copyright and other proprietary rights notices solely in connection with the services, provided that such use shall strictly conform to the granting party's graphic standards. The Contractor shall agree that any reproduction or display of the State's trademarks, copyright and other proprietary notices shall be in accordance with the State's standards as provided to the Contractor.

**19. Audit Rights.** Upon reasonable prior notice to the Contractor, the State's auditor or its designee shall have unfettered access to its facilities, equipment, software, personnel, data and records, as permitted by law, for the purpose of performing audits of compliance with the terms of the agreement.

**V. SPECIFICATIONS FOR PRODUCER SERVICES FOR VOLUNTARY GROUP INSURANCE PLANS:**

Upon the effective date of the contract, the State shall provide the Contractor with a broker of record letter authorizing the Contractor to act as the Broker of Record on behalf of the State for negotiating voluntary group insurance plans. The Contractor shall provide to the State the Administrative Services Agreement between the producer and the carriers, authorizing the Contractor to manage the administration of the State's group policies on behalf of the carrier.

The Contractor shall, at its own expense, provide all personnel, materials and resources necessary to perform the services described herein. The Contractor shall warrant that all personnel engaged in the contract services are qualified to perform the services and are properly licensed and otherwise authorized to perform services under all applicable laws. The Contractor shall demonstrate a strong commitment to customer service in all aspects of its dealings with the State and/or its employees. The Contractor shall return telephone calls promptly, be professional and maintain confidentiality when communicating with State employees.

The Contractor services shall, at a minimum, include the following:

A. Develop, recommend and manage administrative services for the Voluntary Group Insurance Plans, at a minimum to include:

- Enrollment: explain enrollment process, answer questions regarding services covered, collect enrollment forms and coordinate delivery with various Providers;
- Education: conduct individual and group informational meetings, distribute plan information, premium information, program details;
- Issue certificates of insurance: distribute confirmation of coverage directly to members;
- Timely delivery of binders, policies and endorsements;
- Verify accuracy of policy language, coverage endorsements, exclusions and other terms and conditions consistent with placement noting variations/changes from the previous policies;
- Claims administration: oversee claims adjudication and appeals process;

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- Invoicing, and Invoice Reconciliation: ensure accurate payroll deductions consistent with enrollment information;
  - Attendance at the annual open and/ or special enrollment periods (see specifications described in Sections "Open Enrollment – Fall 2011", "Open And/Or Special Enrollment Requirements", and "New Hire Orientations And/Or Education Sessions" of this bid): answer questions, assist with enrollment, and distribute plan summary material.
- C. Report monthly to the State on employee participation in the various voluntary group plans.
- D. Provide employees with quality customer service and account service features.
- E. Provide employees with a monthly report itemizing the deductions for their elected plans, if enrolled in more than one voluntary group insurance plan.
- F. Provide weekly to the State, information which will permit the State to accurately deduct the cost of voluntary group insurance plans from the pay of an employee electing voluntary group insurance plan participation.
- G. Receive all monies deducted from employee pay for the Providers and pay it (less Contractor's commission as applicable) to the Providers for the voluntary group insurance plans.
- H. Promptly refund to an employee any money improperly withheld from employee pay as a result of an error by the Contractor or a Provider.
- I. Employee Complaints: If an employee has a complaint regarding any matter related to the voluntary group insurance plans or the Providers, the employee must complain directly to the Contractor or the Provider, as appropriate. State benefit customer service and union grievance processes are not available for employee complaints regarding the voluntary group insurance plans.

The State obligations with respect to the voluntary group insurance plans are as follows:

- A. Approve or disapprove any recommendation by the Contractor regarding voluntary group insurance plans or Providers. The determination of the State regarding any recommendation of the Contractor is final and not subject to further review.
- B. Review all agreements between the Contractor and any Provider regarding the obligations of the State with regard to the voluntary group benefit plans offered.
- C. Review and approve all administrative and operational procedures with regard to the obligations of the State with regard to the voluntary group benefit plans offered.
- D. If an employee elects one or more voluntary group insurance plan offered, the State will withhold from the employee's pay the cost of the elected insurance plan and transmit the money to the Contractor.
- E. Facilitate the Contractor's educational and marketing efforts with the State employees.
- F. Promptly refund to an employee any money improperly withheld from employee pay as a result of an error by the State.

**Effective January 1, 2012**, the Contractor shall have the capacity to enroll up to 12,000 lives in voluntary group insurance plans, as directed by the State, with no medical underwriting requirement, for the following plans:

- Short Term Disability
- Critical Illness

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Date *9/29/11*

- Accident

In addition, during the term of the contract, other voluntary insurance plans may be added as recommended by the Contractor and authorized by the State.

**VOLUNTARY GROUP INSURANCE PLANS PAYROLL DEDUCTION, EXCLUSIVE MARKETING RIGHTS  
AND CONTRACT TERMINATION PROVISIONS**

The following shall apply for any voluntary group insurance plan accepted by the State:

- 1. Payroll Deduction.** The State shall allow payment of premiums through payroll deductions.
- 2. Exclusive Marketing Rights.** The State shall grant the Contractor an exclusive right for direct marketing of voluntary group insurance plans, selected by the State, through payroll deductions, to State employees (at times or under circumstances agreed to by the State) on State property for the duration of this Agreement.
- 3. Termination of Payroll Deduction Upon Contract Termination.** Upon the termination or expiration of this Agreement, the State shall discontinue all payroll deductions on behalf of the incumbent Contractor and require the incumbent Contractor to cease and desist marketing any voluntary group insurance plans to State employees on State property, unless awarded a subsequent contract for these services.
- 4. Termination of Marketing Rights Upon Contract Termination.** Upon contract termination or award to another Contractor, the State will transition the exclusive marketing rights to the subsequent Contractor. All information and data held by the terminated Contractor related to State employees participating in the group voluntary insurance plans are the property of the State and shall be returned to the State. This information cannot be used for marketing to State employees following termination of the Exclusive Marketing Rights.
- 5. Claims Payment and Service Obligations upon Contract Termination.** Payment for all claims in process and all related service for enrollees in claims payment status shall continue to be provided for the duration of the obligation under the insurance contract.
- 6. Continuation of Employee Coverage Upon Contract Termination.** Upon termination or expiration of the contract, the State will notify employees of the successor Contractor and the process whereby coverage can be transitioned or elected. All correspondence between the terminated Contractor and the State employee or enrollee regarding continuation of coverage through the terminated Contractor shall be reviewed and approved by the State prior to its release.

VI. **ORDER OF PRECEDENCE / CONTRACT DOCUMENTS:**

This Contract consists of the following documents in order of precedence:

- a. State of New Hampshire Terms and Conditions, General Provisions, Form P-37
- b. Exhibit A
- c. Exhibit B
- d. Exhibit C
- e. Department of Administrative Services, Risk Management Unit, RFB 1267-12, Administration Services for Flexible Spending Accounts, Health Reimbursement Arrangements, and Producer Services for Voluntary Group Insurance Plans dated August 17, 2011, including Addendum 1 and 2, are incorporated here within.

**EXHIBIT B – CONTRACT PRICE AND PAYMENT TERMS**

1. **Contract Price.** The Contractor hereby agrees to provide the services in complete compliance with the terms and conditions specified in Exhibit A at the fees below for the term of the contract ("contract price"). The contract price limitation is ~~\$772,502~~; this figure shall not be considered a guaranteed or minimum figure, however it shall be considered a maximum figure from the date of approval through the expiration date set as December 31, 2014.

Payments shall be made as described herein beginning in Year 1, effective January, 2012, and continue through the expiration date set as December 31, 2014. Payments to the Contractor shall not commence prior to January, 2012.

**FSA AND HRA FEES ON A PER EMPLOYEE PER MONTH BASIS**

<b>EBM, Inc.</b>			
	Year 1 (1/1/12 – 12/31/12)	Year 2 (1/1/13 – 12/31/13)	Year 3 (1/1/14 – 12/31/14)
<b>FSA ADMINISTRATION</b>			
Medical FSA Only	\$4.05	\$4.05	\$4.15
Dependent Care FSA Only	\$4.05	\$4.05	\$4.15
Medical and Dependent Care FSA	\$7.40	\$7.40	\$7.65
<b>HRA ADMINISTRATION</b>			
HRA Only	\$2.40	\$2.40	\$2.45
HRA and Medical FSA	\$4.70	\$4.70	\$4.80
HRA, Medical and Dependent Care FSA	\$8.05	\$8.05	\$8.25

The State shall not pay any expense or additional fee presented by the Contractor over and above fees noted in the above table.

Because the HRA and FSA are stacked upon each other and do not require an individual card for each account an employee established, the State shall only be charged for one card for each employee and their dependent(s) regardless of how many accounts an employee establishes during a plan year.

2. **Administrative Fee Invoicing.** The Contractor shall submit monthly invoices for administrative fees to the State in two separate invoices. The invoices shall be sent as follows:

- a. The FSA administrative fee invoices shall be sent to the State (c/o the Division of Personnel) on the last day of each month setting forth the applicable monthly fee for the services provided. Each invoice shall reference the contract and provide detailed information and be in a format as approved by the State.

Contractor's Initials *KFD*  
Date *5/29/11*

b. The HRA administrative fee invoices shall be sent to the State (c/o Risk Management Unit) on the last day of each month setting forth the applicable Monthly Fee for the services provided. Each invoice shall reference the contract and provide detailed information and be in a format as approved by the State.

**3. Administrative Fee Payments.** Administrative payments from both the Division of Personnel for FSA Administration and the Risk Management Unit for HRA administration shall be paid within thirty (30) business days after receipt of properly documented invoices and acceptance by the State.

The invoices shall be sent to:

The State of New Hampshire  
Department of Administrative Services  
**Division of Personnel**  
25 Capitol Street  
Concord, NH 03301

The State of New Hampshire  
Department of Administrative Services  
**Risk Management Unit**  
25 Capitol Street  
Concord, NH 03301

- 4. HRA Claims Reimbursement Invoicing.** The Contractor shall submit a bi-weekly invoice for HRA claims payment reimbursement. During peak times of the plan year (generally the first quarter of a plan year) the Contractor may submit invoices on a weekly basis during that period for HRA claims reimbursement.
- 5. HRA Claims Payments.** Reimbursement to the Contractor for HRA claims from Risk Management Unit shall be paid within fourteen (14) business days after receipt of properly documented invoices and acceptance by the State.
- 6. FSA Claims Payments.** The Contractor shall accept a bi-weekly deposit from the State via Electronic Funds Transfer (EFT) to an account held by the Contractor at a bank of its choice for use in claims payments for covered medical and dependent care expenses.
- 7. Payments shall not commence prior to January, 2012.** The State shall make payment to the Contractor electronically or by check mailed to the address in Section 1.4 of the P-37. Payment terms are as noted above subject to approval of the submitted invoice.

### EXHIBIT C – SPECIAL PROVISIONS

Form P-37, Section 14 Insurance, is amended as follows:

1. Delete Paragraph 14.1.1 and substitute the following: 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 \$1,000,000 per incident and no less than \$1,000,000 in excess/umbrella liability each occurrence.
2. The Contractor shall, at its own expense, obtain and maintain in force, the following insurance: Errors and Omissions liability insurance/professional liability coverage with limits in the amount of \$1 (one) million per claim and \$3 (three) million in the aggregate.
3. There are no other special provisions.

**APPENDICES**

Appendix A Business Associate Agreement  
Appendix B P-37 Account Numbers

Contractor's Initials *RF*  
Date *9/29/11*

**APPENDIX A**  
**STANDARD EXHIBIT I**

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 and those parts of the Health Information Technology for Economic and Clinical Health Act, Public Law 111-5, applicable to business associates.

**BUSINESS ASSOCIATE AGREEMENT**

**(1) Definitions.**

- a. "Breach" shall have the same meaning as the term "Breach" in Public Law 111-5, Subtitle D § 13400, as amended from time to time.
- b. "Business Associate" is the Contractor to this Agreement, including any subcontractors and agents of the Contractor, and shall have the same meaning as the term "business associate" in 45 CFR § 160.103, as amended from time to time.
- c. "Covered Entity" is the State of New Hampshire Employee and Retiree Health Benefit Program, and shall have the same meaning as the term "covered entity" in 45 CFR § 160.103, as amended from time to time.
- d. "Designated Record Set" shall have the same meaning as "designated record set" in 45 CFR § 164.501, as amended from time to time.
- e. "Data Aggregation" shall have the same meaning as "data aggregation" in 45 CFR § 164.501, as amended from time to time.
- f. "Electronic Protected Health Information" or "ePHI" shall have the same meaning as reflected in 45 CFR § 160.103, as amended from time to time.
- g. "Health Care Operations" shall have the same meaning as "health care operations" in 45 CFR § 164.501, as amended from time to time.
- h. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Public Law 111-5, Subtitle D, enacted as part of the American Recovery and Reinvestment Act of 2009.
- i. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164.
- j. "Individual" means the person who is subject to the HIPAA Privacy Regulations, and shall have the same meaning as "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g)(1), as amended from time to time.
- k. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 164, subparts A and E, as amended from time to time.
- l. "Protected Health Information" shall have the same meaning as "protected health information" in 45 CFR § 160.103, as amended from time to time.
- m. "Required by Law" shall have the same meaning as "required by law" in 45 CFR § 164.512, as amended from time to time.

Contractor's Initials AKD  
Date 9/29/11

- n. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- o. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164 subparts A and C, as amended from time to time.
- p. "Unsecured Protected Health Information" shall have the same meaning as "unsecured protected health information" in 45 CFR § 164.402, as amended from time to time.
- q. Other Definitions - All terms not otherwise defined herein shall have the meaning as those set forth in the Privacy Rule, the Security Rule, and the HITECH Act.

**(2) Use and Disclosure of Protected Health Information.**

- a. Except as set forth herein, Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate shall ensure that its directors, officers, employees and agents do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
  - I. For the proper management and administration of the Business Associate;
  - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
  - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with Sec. 13402 of the HITECH Act of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.
- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

**(3) Obligations and Activities of Business Associate.**

- a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving PHI, ePHI, or Unsecured Protected Health Information, in accordance with the Privacy Rule, the Security Rule and Sec. 13402 of the HITECH Act.
- b. The Business Associate shall comply with all sections of the Privacy and Security Rule as set forth in Sec. 13401 and Sec. 13404 of the HITECH Act and the corresponding regulations under 45 CFR Part 164.

Contractor's Initials *KAD*  
Date *9/22/11*

- c. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for the purpose of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- d. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section (3)b and (3)k herein. The Covered Entity shall be considered a direct third party beneficiary of the Business Associate's corresponding business associate agreements with any of its contracted business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of the use and disclosure of protected health information.
- e. To the extent Business Associate creates, receives, maintains or transmits ePHI, Business Associate agrees to implement administrative physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI.
- f. Within five (5) business days of receiving a written request from Covered Entity, Business Associate shall make available to the Covered Entity during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI for the purpose of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR § 164.524.
- h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR § 164.526.
- i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR § 164.528.
- k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as

Contractor's Initials *KCP*  
Date *9/20/11*

Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

**(4) Obligations of Covered Entity**

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR § 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR § 164.506 or 45 CFR § 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**(5) Termination for Cause**

In addition to standard provision #10 of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

**(6) Miscellaneous**

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, and the HITECH Act as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule and the HITECH Act.
- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3)k, the defense and indemnification provisions of section (3)d and provision #13 of the standard contract P-37, shall survive the termination of the Agreement.

Contractor's Initials

Date 9/29/11

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

State of N.H.  
Dept Administrative Services

The State of New Hampshire Employee  
and Retiree Health Benefit Program

Linda M. Hodgson  
Signature of Authorized Representative

Linda M. Hodgson  
Name of Authorized Representative

Commissioner  
Title of Authorized Representative

9/30/11  
Date

EBM, INC.  
Contractor

K.F. Olansted  
Signature of Authorized Representative

KENNETH F. OLANSTED  
Name of Authorized Representative

PRESIDENT  
Title of Authorized Representative

9/29/11  
Date

Contractor's Initials KFO  
Date 9/29/11

## APPENDIX B – ACCOUNT NUMBERS

Form P-37, Section 1.6. Account Numbers, are as follows:

1. For the FSA, funds are available in the following account: 01-14-14-141010-10460000 Department of Administrative Services, Flexible Spending Account:

063-50539 Flexible Spending

2. For the HRA, funds are available in the following accounts, in the Department of Administrative Services, Employee Benefit Risk Management Fund:

01-14-14-140560-66000000  
102-501572 HRA Admin Fee - HMO  
102-501573 HRA Admin Fee - POS

01-14-14-140560- 66600000  
102-506563 HRA Admin Fee - Troopers HMO  
102-506564 HRA Admin Fee - Troopers POS

01-14-14-140560- 66700000  
102-506552 HRA Admin Fee - NEPBA HMO  
102-506553 HRA Admin Fee - NEPBA POS

# State of New Hampshire Department of State

## CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that EBM, INC. doing business in New Hampshire as EMPLOYEE BENEFIT MANAGEMENT, a(n) Maine corporation, is authorized to transact business in New Hampshire and qualified on November 24, 2004. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 21<sup>st</sup> day of September, A.D. 2011

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
8/18/2011

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 Cross Insurance-Portland 2331 Congress Street PO Box 567 Portland ME 04112	CONTACT NAME: Marina Salang-White
	PHONE (A/C No. Ext): (207) 780-1677 FAX (A/C No.): (207) 780-6377 E-MAIL ADDRESS: msalang@crossagency.com
INSURED EBM, Inc 174 S Freeport Rd, Suite 1-C Freeport ME 04032	INSURER(S) AFFORDING COVERAGE
	INSURER A Liberty Insurance Underwriters NAIC # 36439
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:

COVERAGES CERTIFICATE NUMBER: CL1181852191 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	ADDC. SUBR. INSR. WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (EA occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/PROP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N DESCR PT ON OF OPERATIONS below					WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> EL EACH ACCIDENT \$ EL DISEASE - EA EMPLOYEE \$ EL DISEASE - POLICY LIMIT \$
A	Errors & Omissions		ABP146180-0111	8/11/2011	8/11/2012	Limit \$5,000,000 Ded \$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Refer to policy for exclusionary endorsements and special provisions.

CERTIFICATE HOLDER  STATE OF NEW HAMPSHIRE Bureau of Purchase and Property 25 CAPITAL STREET CONCORD, NH 03301	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  M Salang-White/RNH <i>Marina D. Salang-White</i>



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
4/15/2011

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).

<b>PRODUCER</b> Cross Insurance-Portland 2331 Congress Street PO Box 567 Portland ME 04112	<b>CONTACT NAME:</b> Marina Salang-White <b>PHONE (AC, Ho, Ext):</b> (207) 780-1677 <b>FAX (AC, No):</b> (207) 780-6177 <b>E-MAIL ADDRESS:</b> msalang@crossagency.com <b>PRODUCER CUSTOMER ID#:</b> 00074496
<b>INSURED</b> EBM, Inc 174 S Freeport Rd, Suite 1-C Freeport ME 04032	<b>INSURER(S) AFFORDING COVERAGE</b> NAIC # INSURER A: Hanover Ins Group INSURER B: Maine Employers Mutual Ins Co 11149 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: CL1141545220 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 SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b>					
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/>	AWP890643300	1/1/2011	1/1/2012	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
	GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-ECT <input type="checkbox"/> LOC <input type="checkbox"/>					
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		AWP890643300	1/1/2011	1/1/2012	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE		AWP890643300	1/1/2011	1/1/2012	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N <input checked="" type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below		1810071888	1/1/2011	1/1/2012	WC STATUTORY LIMITS OTH-ER E L EACH ACCIDENT \$ 500,000 E L DISEASE - EA EMPLOYER \$ 500,000 E L DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required). Refer to policy for exclusionary endorsements and special provisions.

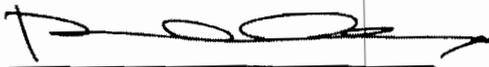
<b>CERTIFICATE HOLDER</b> State of NH 25 Capital Street Concord, NH 03301-6395	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE M Salang-White/MH3 <i>Marisa D. Salang-White</i>
---	--

**CORPORATE ACTION BY CONSENT OF  
THE BOARD OF DIRECTORS OF  
EBM, INC.**

As permitted by law, the undersigned Directors, being all of the directors of the above corporation, unanimously adopt the following corporate action without a meeting:

Authorization of Corporate Action: The President, Kenneth R. Olmsted, is authorized to take all actions and to sign all documents reasonably needed to enter into a contract with the State of New Hampshire to provide insurance and insurance-related products and services to the State and its employees.

  
\_\_\_\_\_  
Kenneth R. Olmsted

  
\_\_\_\_\_  
Dianna G. Olmsted

Date: 9/29/11

TO AND FOR DEED OF THE CONVEYANCE AS TO THE Mortgage and for the purpose of foreclosing the same will be sold at:

Public Auction

On

August 29, 2011 at 10:00 am

Said sale to be held on the mortgaged premises hereinafter described and having a present address of 31 Roxbury Road, Marlborough, Cheshire County, New Hampshire.

**NOTICE**

PURSUANT TO NEW HAMPSHIRE RSA 479:25, YOU ARE HEREBY NOTIFIED THAT YOU HAVE A RIGHT TO PETITION THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE MORTGAGED PREMISES ARE SITUATED, WITH SERVICE UPON THE MORTGAGEE, AND UPON SUCH BOND AS THE COURT MAY REQUIRE TO ENJOIN THE SCHEDULED FORECLOSURE SALE.

The Property will be sold subject to all unpaid real estate taxes and all other liens and encumbrances, which may be entitled to precedence over the Mortgage. Notwithstanding any title information contained in this notice, the Mortgagee expressly disclaims any representations as to the state of the title to the Property involved as of the date of the notice of the date of sale. The property to be sold at the sale is "AS IS WHERE IS".

**TERMS OF SALE**

A deposit of Five Thousand (\$5,000.00) Dollars in the form of a certified check, bank treasurer's check or other check satisfactory to Mortgagee's attorney will be required to be delivered at or before the time a bid is offered. The successful bidder(s) will be required to execute a purchase and sale agreement immediately after the close of the bidding. The balance of the purchase price shall be paid within thirty (30) days from the sale date in the form of a certified check, bank treasurer's check or other check satisfactory to Mortgagee's attorney. The Mortgagee reserves the right to bid at the sale, to reject any and all bids, to continue the sale and to amend the terms of the sale by written or oral announcement made before or during the foreclosure sale.

Dated at Farmington, Connecticut, on July 28, 2011

US Bank National Association  
By its Attorney,  
Jeffrey J. Hardiman, Esquire  
Bendett & McHugh, P.C.  
270 Farmington Avenue, Ste. 151  
Farmington, CT 06032  
(860) 677-2868

(UL - Aug. 8, 15, 22)

**Legal Notice**

**MORTGAGEE'S SALE OF REAL ESTATE**

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Douglas E. Ikester to National City Bank said mortgage dated May 18, 2007 and recorded with the Cheshire County Registry of Deeds at Book 2440, Page 369, of which mortgage the undersigned is the present holder, for breach of conditions of said mortgage and for the purpose of foreclosing the same will be sold at Public Auction at 11:00 A.M. on Monday, September 12, 2011, upon the mortgaged premises at 26 PLEASANT STREET, ALSTEAD, NEW HAMPSHIRE.

For mortgagor's title see deed recorded with Cheshire County Registry of Deeds, at Book 2334, Page 381.

Said premises will be sold subject to a mortgage given to Mortgage Electronic Registration Systems, Inc. for Megastar Financial Corp., dated March 28, 2008 in the original principal amount of \$102,800.00 and recorded with the Cheshire County Registry of Deeds at Book 2334, Page 383.

Said premises will be sold subject to any and all restrictions, easements, improvements, covenants, outstanding tax titles, municipal or other public taxes, as-

formerly known as THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE CWALT, INC. ALTERNATIVE LOAN TRUST 2006-33CB MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-33CB, by assignment(s) recorded, or to be recorded, in said Registry, said Assignee, in execution of said power, for mortgage conditions broken, will sell on the mortgaged premises (street address: 25 Ben Berry Road) in Moultonborough, Carroll County, New Hampshire, at

**PUBLIC AUCTION**

on October 6, 2011, at 12:30 p.m., local time, all of said holder's right, title and interest in and to the real estate described in said mortgage deed.

This foreclosure sale will be made for the purpose of foreclosure of all rights of redemption of the said mortgagor(s) therein possessed by them and any and all persons, firms, corporations or agencies claiming by, from, or under them.

Said premises will be sold subject to any unpaid taxes, liens, or enforceable encumbrances entitled to precedence over the said mortgage.

Said premises will be sold "as is" in all respects, including but not limited to, the physical condition of the premises and the rights, if any, of any occupants of the premises.

To the mortgagor(s) and any and all persons, firms, corporations, or others claiming by, from or under them: YOU ARE HEREBY NOTIFIED THAT YOU HAVE THE RIGHT TO PETITION THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE MORTGAGED PREMISES ARE SITUATED, WITH SERVICE UPON THE MORTGAGEE, AND UPON SUCH BOND AS THE COURT MAY REQUIRE, TO ENJOIN THE SCHEDULED FORECLOSURE SALE.

Terms of sale will be Five Thousand Dollars (\$5,000.00) cash or certified check satisfactory to the said holder, to be paid at the time of the sale, and the balance to be paid on delivery of foreclosure deed within thirty (30) days thereafter. The said holder reserves the right to waive any of the above terms at its discretion. The said holder reserves the right to cancel or postpone the sale to such subsequent date or dates as the holder may deem necessary or desirable.

THE BANK OF NEW YORK MELLON, formerly known as THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE CWALT, INC. ALTERNATIVE LOAN TRUST 2006-33CB MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-33CB

By its Attorneys,  
HAUGHEY, PHILPOT & LAURENT, P.A.

By Mark H. Lamper, Esquire  
Haughey, Philpot & Laurent, P.A.  
816 North Main Street  
Laconia, NH 03246  
(603) 524-4101  
August 18, 2011

(UL - Aug '2, 29; Sept. 5)

**Legal Notice**

The State of New Hampshire, Department of Administrative Services, is seeking bids from qualified vendors for the administration of its Flexible Spending Accounts, Health Reimbursement Arrangements, and Producer Services for Voluntary Group Insurance Plans. Bid specifications may be obtained at <http://www.admna.state.nh.us/purchasing>.

RFB 1287-12. To qualify, bids must be submitted to the Bureau of Purchase and Property no later than 2:00 P.M. on September 2, 2011.

Tammy Nelson  
Administrative Services

(UL - Aug. 22, 23, 24)

Public Auction on

August 29, 2011

at

10:00 AM

Said sale being located on the mortgaged premises and having a present address of 50 Riverside Park Drive, Allenstown, Merrimack County, NH. The premises are more particularly described in the Mortgage.

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The property will be sold subject to all unpaid real estate taxes and all other liens and encumbrances which may be entitled to precedence over the Mortgage. Notwithstanding any title information contained in this notice, the Mortgagee expressly disclaims any representations as to the state of the title to the Property involved as of the date of the notice of the date of sale. The property to be sold at the sale is "AS IS, WHERE IS".

The foreclosure sale will be made for the purpose of foreclosure of all rights of redemption of the said mortgagor(s) therein possessed by them and any and all persons, firms, corporations, or agencies claiming by, from or under them. The original mortgage instrument may be examined at US Bank Home Mortgage, 4801 Frederica Street, Owensboro, KY 42301.

**TERMS OF SALE:**

A deposit of FIVE THOUSAND DOLLARS AND 00 CENTS (\$5,000.00) in the form of a certified check or bank treasurer's check will be required to be delivered at or before the time the bid is offered. The description of the premises contained in said mortgage shall control in the event of an error in this publication.

US Bank, N.A.  
Present Holder of said Mortgage.  
By its Attorneys,  
Orions Moran PLLC  
P.O. Box 962169  
Boston, MA 02196  
Phone: (617) 502-4100

(UL - Aug. 8, 15, 22)

**Legal Notice**

**NOTICE OF FORECLOSURE SALE**

Pursuant to a power of sale contained in a certain mortgage deed given by DIANE HOHEN, KELLY ANNE HOHEN AND HOWARD J. HOHEN to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC., AS NOMINEE FOR COUNTYWIDE HOME LOANS, INC., its successors and assigns, as lender, dated February 19, 2007, recorded in the Hillsborough County Registry of Deeds at Book 7812, Page 537, assigned to THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWABS, INC. ASSET-BACKED CERTIFICATES, SERIES 2007-5, by assignment(s) recorded or to be recorded in said Registry, said assignee, in execution of said power, for mortgage conditions broken, will sell on the mortgaged premises (street address: 48 Boxwood Circle) in Milford, Hillsborough County, New Hampshire, at

**PUBLIC AUCTION**

on September 22, 2011 at 12:00 P.M., local time, all of said holder's right, title and interest in and to the real estate described in said mortgage deed.

This foreclosure sale will be made for the purpose of foreclosure of all rights of redemption of the said mortgagor(s) therein possessed by them and any and all persons, firms, corporations or agencies claiming by, from, or under them.

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