



State of New Hampshire

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

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Jm

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Commissioner
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August 26 , 2014

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

Sole Source

REQUESTED ACTION

Authorize the Department of Administrative Services (DAS), Risk Management Unit (RMU), to enter into a **sole source** contract with Employee Benefit Management, Inc., (EBM) (Vendor Code # 153389), of 174 South Freeport Road, Freeport, ME 04032, in the amount of **\$0** for the continued administration of the State's voluntary benefits contract for short-term disability, accident, and critical illness insurance. The Agreement is for a period of twelve (12) months upon Governor and Executive Council approval effective January 1, 2015 through December 31, 2015, without the option to extend. As stated above, due to the zero cost exposure to the State, a funding allocation is not applicable.

EXPLANATION

The State currently contracts with EBM for the administration of the flexible spending account (FSA) and health reimbursement arrangement (HRA) benefits, as well as broker services for the following voluntary benefits: a 26-week and a 52-week short-term disability benefit, accident insurance, and critical illness insurance. This contract provides full-time employees with the option to pay their voluntary benefit premiums through payroll deductions. The contract with EBM expires on December 31, 2014. This request is sole source because the State is looking to maintain current voluntary benefits coverage while further analysis is conducted as described in this letter. The combination of FSA and HRA administration services with voluntary benefits broker services in one contract is not common in the benefits marketplace without the necessity to subcontract at least one of the service lines. In order to encourage a more competitive bidding process, the FSA and HRA administration services were separated from the voluntary benefits. DAS is currently working on a separate procurement for FSA and HRA administration services for a January 1, 2015 effective date.

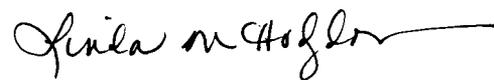
To prepare for the procurement of voluntary benefits, DAS did some preliminary research to determine State of New Hampshire employee utilization of the current offerings. Total enrollment in all three voluntary benefit options combined is less than 1% of the total eligible population of approximately 10,000 employees. This low enrollment likely reflects the collectively bargained sick leave benefits and the health benefits that have limited out-of-pocket exposure. Aside from payroll deductions, employees also have other options to purchase similar voluntary benefits on their own such as through a local or online broker or insurance agent, a spouse's employer, or through union affiliation.

Further analysis is still needed to determine the value employees place on State sponsored voluntary benefits and if other options may be more desirable. Over the next several months, DAS will be exploring options to communicate with employees about their interest in the future voluntary benefits offerings. The approval of this contract will ensure the existing participating population is able to maintain their current level of coverage in the event those benefits are needed.

One option DAS will be evaluating is whether to combine the procurement of voluntary benefits referenced herein with the procurement of basic and voluntary life insurance. The State's contract with Anthem Life for basic and voluntary life insurance expires on December 31, 2015. Authorization of this one-year contract with EBM will allow both voluntary benefit contract renewal periods to align, enabling DAS the option to consolidate those contracts through procurement. This presents the possibility that the State could attract increased competitive bidding for voluntary benefits.

Based on the foregoing, I am respectfully recommending approval of the contract with Employee Benefit Management, Inc.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Linda M. Hodgdon", with a long horizontal flourish extending to the right.

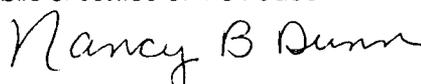
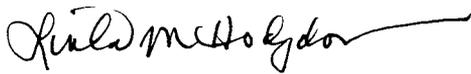
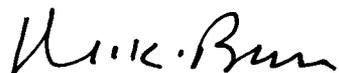
Linda M. Hodgdon
Commissioner

Subject: **BROKER SERVICES FOR VOLUNTARY BENEFITS – DEPARTMENT OF ADMINISTRATIVE SERVICES**

AGREEMENT

The State of New Hampshire and Employee Benefit Management, Inc. (Contractor) hereby mutually agree as follows:
GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name State of New Hampshire Administrative Services / Risk Management Unit		1.2 State Agency Address State House Annex, 25 Capitol Street Concord, NH 03301	
1.3 Vendor Name Employee Benefit Management, Inc.		1.4 Vendor Address 174 So. Freeport Road, Suite 1C Freeport, ME 04032	
1.5 Vendor Phone Number (800) 639-4025	1.6 Account Number	1.7 Completion Date December 31, 2015	1.8 Price Limitation \$0
1.9 Contract(s)ing Officer for State Agency Catherine A. Keane, Risk Management Unit		1.10 State Agency Telephone Number (603) 271-2059	
1.11 Vendor Signature 		1.12 Name and Title of Vendor Signatory Kenneth R. Olmsted, President	
1.13 Acknowledgement: State of Maine, County of Cumberland On August 20, 2014, 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]			
1.13.2 Name and Title of Notary or Justice of the Peace NANCY B. DUNN NOTARY PUBLIC, MAINE MY COMMISSION EXPIRES DECEMBER 22, 2020			
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:  On: Sept 2, 2014			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

2. EMPLOYMENT OF VENDOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages Vendor identified in block 1.3 ("Vendor") to perform, and the Vendor 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 Vendor commences the Services prior to the Effective Date, all Services performed by the Vendor prior to the Effective Date shall be performed at the sole risk of the Vendor, and in the event that this Agreement does not become effective, the State shall have no liability to the Vendor, including without limitation, any obligation to pay the Vendor for any costs incurred or Services performed. The Vendor shall 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 Vendor 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(S) PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract(s) 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(s) price shall be the only and the complete reimbursement to the Vendor for all expenses, of whatever nature incurred by the Vendor in the performance hereof, and shall be the only and the complete compensation to the Vendor for the Services. The State shall have no liability to the Vendor other than the contract(s) price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Vendor 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 VENDOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Vendor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Vendor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Vendor 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 Vendor 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 Vendor further agrees to permit the State or United States access to any of the Vendor'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 Vendor shall at its own expense provide all personnel necessary to perform the Services. The Vendor 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 Vendor shall not hire, and shall not permit any sub-Vendor 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 Contract(s)ing 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 Contract(s)ing Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Vendor 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 Vendor 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 Vendor notice of termination;
- 8.2.2 give the Vendor 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(s) price which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default shall never be paid to the Vendor;
- 8.2.3 set off against any other obligations the State may owe to the Vendor 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 Vendor shall deliver to the Contract(s)ing 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(s) 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. VENDOR'S RELATION TO THE STATE. In the performance of this Agreement the Vendor is in all respects an independent Vendor, and is neither an agent nor an employee of the State. Neither the Vendor 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/SUBCONTRACT(S). The Vendor 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 subcontract(s)ed by the Vendor without the prior written consent of the State.

13. INDEMNIFICATION. The Vendor 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 Vendor. 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 Vendor shall, at its sole expense, obtain and maintain in force, and shall require any sub-Vendor 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 *RTO*
Date *8/20/14*

14.3 The Vendor shall furnish to the Contract(s)ing Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. The Vendor shall also furnish to the Contract(s)ing 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 Contract(s)ing 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 Vendor agrees, certifies and warrants that the Vendor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").

15.2 To the extent the Vendor is subject to the requirements of N.H. RSA chapter 281-A, the Vendor shall maintain, and require any sub-Vendor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Vendor shall furnish the Contract(s)ing 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 the Vendor, or any sub-Vendor or employee of the Vendor, 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 Vendor.

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 (hereinafter referred to as "State"), Producer Services for Voluntary Insurance Plans, as described herein.

II. TERM:

The Agreement is for a period of twelve (12) months upon Governor and Executive Council approval effective January 1, 2015 through December 31, 2015, without the option to extend. The term of the contract is for a period of twelve (12) months upon Governor and Executive Council approval, effective January 1, 2015 and expires thereafter on or through December 31, 2015.

The State 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. OPEN ENROLLMENT – FALL 2014

The Contractor shall participate in the State's Open Enrollment in the fall of 2014. The State will work with Contractor 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 2014 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 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.

The State's annual Open Enrollment period typically runs for two weeks and is expected to commence sometime mid-November 2014 for a January 1, 2015 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 insurance plans and options for election;

- 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; and
3. At the conclusion of Open Enrollment, the Contractor 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.

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 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:

1. Promote employee participation in Voluntary Benefit programs via seminars, direct outreach and other educational campaigns as mutually agreed to by the State;
2. Provide employee communications such as benefit booklets, newsletters or similar informational materials, announcement posters, payroll stuffers, new hire letters and informational packets, etc.

IV. REPORTING REQUIREMENTS

Payroll Deduction Report. The Contractor shall provide a weekly deduction change report as required for 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).

V. 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.

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.

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.

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 be used as an initial load and testing file that includes any and all confidential data contained within the Contractor's system at that time. In addition, within seven (7) days of the termination or expiration of the agreement, or as mutually agreed upon by the parties, 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 this Agreement.

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.

VI. GENERAL CONTRACTUAL OBLIGATIONS

The following section outlines additional contractual requirements.

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.

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.

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.

Special Needs Accommodation. The Contractor shall provide a telecommunications device for the deaf or other voice capability for the hearing impaired.

Non-English Speaking Accommodation. The Contractor shall accommodate non-English speaking enrollees.

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 twenty four (24) business hours after receipt.

Dedicated Staff Assignments. The Contractor shall assign experienced personnel necessary to perform services described herein and who are dedicated to the State account. 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:

1. Initial implementation;
2. Implementation of new or changed/enhanced functionality as the State's business needs change or if requested by the State;
3. Day to day account management; and
4. Open or special enrollments.

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 to which 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.

E-mail Encryption Solution. The Contractor shall host a secure web-based e-mail solution. This solution shall be used for exchanging all e-mails containing ePHI including but not limited to eligibility files, reports and file attachments.

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.

Disaster Recovery and Business Continuity/Contingency Plan Requirement. The Contractor shall have a redundant data center to ensure continuity of operations.

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.

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.

Audit Rights. Upon reasonable prior notice to the Contractor, the State's auditor or its designee shall have unfettered access to Contractor's 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.

VII. SPECIFICATIONS FOR PRODUCER SERVICES FOR VOLUNTARY 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:

1. Develop, recommend and manage administrative services for the Voluntary Insurance Plans, at a minimum to include:
 - a. Enrollment: explain enrollment process, answer questions regarding services covered, collect enrollment forms and coordinate delivery with various Providers;
 - b. Education: conduct individual and group informational meetings, distribute plan information, premium information, program details;


8/22/14

- c. Issue certificates of insurance: distribute confirmation of coverage directly to members;
 - d. Timely delivery of binders, policies and endorsements;
 - e. Verify accuracy of policy language, coverage endorsements, exclusions and other terms and conditions consistent with placement noting variations/changes from the previous policies;
 - f. Claims administration: oversee claims adjudication and appeals process;
 - g. Invoicing, and Invoice Reconciliation: ensure accurate payroll deductions consistent with enrollment information; and
 - h. Attendance at the annual open and/ or special enrollment periods (see specifications described in Sections "Open Enrollment – Fall 2014", "Open and/or Special Enrollment Requirements", and "New Hire Orientations and/or Education Sessions" of this contract): answer questions, assist with enrollment, and distribute plan summary material.
2. Report quarterly to the State on employee participation in the various voluntary group plans.
 3. Provide employees with quality customer service and account service features.
 4. Provide bi-weekly to the State, information which will permit the State to accurately deduct the cost of voluntary insurance plans from the pay of an employee electing voluntary insurance plan participation.
 5. 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 insurance plans.
 6. Promptly refund to an employee any money improperly withheld from employee pay as a result of an error by the Contractor or a Provider.
 7. Employee Complaints: If an employee has a complaint regarding any matter related to the voluntary 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 insurance plans.

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

1. Approve or disapprove any recommendation by the Contractor regarding voluntary insurance plans or Providers. The determination of the State regarding any recommendation of the Contractor is final and not subject to further review.
2. Review all agreements between the Contractor and any Provider regarding the obligations of the State with regard to the voluntary benefit plans offered.
3. Review and approve all administrative and operational procedures with regard to the obligations of the State with regard to the voluntary benefit plans offered.
4. If an employee elects one or more voluntary 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.
5. Facilitate the Contractor's educational and marketing efforts with the State employees.
6. Promptly refund to an employee any money improperly withheld from employee pay as a result of

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8/26/14

an error by the State.

Effective January 1, 2015, the Contractor shall have the capacity to enroll up to 10,000 lives in voluntary insurance plans, as directed by the State, with no medical underwriting requirement, for the following benefits:

1. Short Term Disability:
 - a. Class 1. Full time employees in payroll groups who are eligible for the State's Short Term Income Replacement Plan (STD-IRP). Benefits to be offered are 0/07/26 and 14/14/52. Benefits will be offset by any benefit received under STD-IRP.
 - b. Class 2. All other full time employees. Benefits to be offered are 0/07/26 and 14/14/52. Benefits are not offset by STD-IRP or other paid-time-off benefits.
2. Critical Illness
3. 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.

VIII. VOLUNTARY INSURANCE PLANS PAYROLL DEDUCTION, EXCLUSIVE MARKETING RIGHTS AND CONTRACT TERMINATION PROVISIONS

The following shall apply for any voluntary 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 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 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 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.

[Handwritten Signature]
[Handwritten Date]

IX. ORDER OF PRECEDENCE / CONTRACT DOCUMENTS:

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

1. State of New Hampshire Terms and Conditions, General Provisions, Form P-37
2. Exhibits A, B and C
3. Appendix A – Business Associate Agreement

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 no cost to the State of New Hampshire.

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 \$500,000 per claim and \$1 (one) million in the aggregate.
3. There are no other special provisions.

APPENDICES

Appendix A Business Associate Agreement

Contractor's Initials 
Date 

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 HITECH Act applicable to business associates. As defined herein, "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean Employee Benefit Management, Inc. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this Agreement shall mean the State of New Hampshire Department of Administrative Services Employee and Retiree Health Benefit Program. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

BUSINESS ASSOCIATE AGREEMENT

1. Definitions

- a. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- b. All terms not otherwise defined herein shall have the same meaning as those set forth in the HIPAA Rules.

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

- a. Business Associate shall not use, disclose, maintain or transmit PHI except as reasonably necessary to provide the services set forth in this Agreement or as otherwise permitted or required by law.
- b. Business Associate agrees to make uses and disclosures and requests for PHI consistent with Covered Entity's minimum necessary policies and procedures.
- c. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific uses and disclosures set forth below.
- d. Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of Business Associate. To the extent Business Associate discloses PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (a) 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 (b) an agreement from such third party to notify Business Associate of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- e. Business Associate may provide data aggregation services relating to the health care operations of Covered Entity.
- f. 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. Once de-identified, the information ceases to be PHI. Uses and disclosures of the de-identified information shall be limited to those consistent with the provisions of this Agreement.
- g. Business Associate shall not, unless such disclosure is reasonably necessary to provide services outlined in 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, unless such notification is prohibited by law. In the event Covered Entity objects to the disclosure it shall seek the appropriate relief and the

Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

- h. Covered Entity may from time to time agree, pursuant to 45 CFR 164.522, to be bound by additional restrictions over and above those uses, disclosures and security safeguards of PHI outlined in the HIPAA Rules. Covered Entity shall notify Business Associate, in writing, of any such agreements. Business Associate agrees to be bound by any such additional restrictions.

3. Obligations and Activities of Business Associate

- a. Business Associate shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement.
- b. 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 PHI as required by 45 CFR 164.410.
- c. Business Associate shall report a breach or a potential breach to Covered Entity upon discovery of any such incident. 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 it be necessary to notify the media of any such breach, Business Associate will ensure that Covered Entity will receive notice of the breach prior to such incident being reported to the media.
- d. Business Associate shall, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure, as evidenced in writing, that any subcontractors that create, receive, maintain or transmit PHI on behalf of Business Associate agree to equivalent restrictions, conditions and requirements that apply to Business Associate with respect to such information, including the duty to return or destroy PHI. Covered Entity shall be considered a direct third party beneficiary of 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.
- e. To the extent Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
- f. Business Associate shall make available all of its internal practices, policies and procedures, books and records to the Secretary for the purpose of determining Covered Entity's compliance with the HIPAA Rules.
- g. 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.

Individual Rights and PHI

- h. Access
 - i. Business Associate shall respond to an individual's request for access to his or her PHI as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the individual or the individual's personal representative. Business Associate shall respond to the request with regard to PHI that Business Associate and/or its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
 - ii. In addition, Business Associate shall assist Covered Entity in responding to requests made to Covered Entity by individuals to invoke a right of access under the HIPAA Privacy Regulation by performing the following functions:
 - 1. Upon receipt of written notice (including fax and email) from Covered Entity, Business Associate shall make available to Covered Entity, or at Covered Entity's direction to the individual (or the individual's personal representative), any PHI

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about the individual created or received for or from Covered Entity in Business Associate's custody or control (and/or the custody or control of its subcontractors), for inspection and obtaining copies so that Covered Entity may meet its access obligations under 45 CFR 164.524, and, where applicable, the HITECH Act. Business Associate shall make such information available in an electronic format where required by the HITECH Act.

i. Amendment

- i. Business Associate shall respond to an individual's request to amend his or her PHI as part of Business Associate's normal customer service functions, if the request is communicated to Business Associate directly by the individual or the individual's personal representative. Business Associate shall respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
- ii. In addition, Business Associate shall assist Covered Entity in responding to requests made to Covered Entity to invoke a right to amend under the HIPAA Privacy Regulation by performing the following functions:
 1. Upon receipt of written notice (including fax and email) from Covered Entity, Business Associate shall amend any portion of the PHI created or received for or from Covered Entity in Business Associate's custody or control (and/or the custody or control of its subcontractors), so that Covered Entity may meet its amendment obligations under 45 CFR 164.526.

j. Disclosure Accounting

- i. Business Associate shall respond to an individual's request for an accounting of disclosures of his or her PHI as part of Business Associate's normal customer service function, if the request is communicated to the Business Associate directly by the individual or the individual's personal representative. Business Associate shall respond to a request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
- ii. In addition, Business Associate shall assist Covered Entity in responding to requests made to Covered Entity by individuals or their personal representatives to invoke a right to an accounting of disclosures under the HIPAA Privacy Regulation by performing the following functions so that Covered Entity may meet its disclosure accounting obligation under 45 CFR 164.528:

iii. Disclosure Tracking

1. Business Associate shall record each disclosure that Business Associate makes of individuals' PHI, which is not excepted from disclosure accounting under Section II.C.2.b.
2. The information about each disclosure that Business Associate must record ("Disclosure Information") is (a) the disclosure date, (b) the name and (if known) address of the person or entity to whom Business Associate made the disclosure, (c) a brief description of the PHI disclosed, and (d) a brief statement of the purpose of the disclosure or a copy of any written request for disclosure under 45 Code of Federal Regulations § 164.502(a)(2)(ii) or § 164.512. Disclosure Information also includes any information required to be provided by the HITECH Act.
3. For repetitive disclosures of individuals' PHI that Business Associate makes for a single purpose to the same person or entity (including to Covered Entity or Employer), Business Associate may record (a) the Disclosure Information for the first of these repetitive disclosures, (b) the frequency, periodicity or number of these repetitive disclosures, and (c) the date of the last of these repetitive disclosures.

iv. Exceptions from Disclosure Tracking

1. Business Associate shall not be required to record Disclosure Information or otherwise account for disclosures of individuals' PHI (a) for Treatment, Payment or Health Care Operations, (except where required by the HITECH Act, as of the effective dates of such requirements) (b) to the individual who is the subject of the PHI, to that individual's personal representative, or to another person or entity authorized by the individual (c) to persons involved in that individual's health care

or payment for health care as provided by 45 Code of Federal Regulations § 164.510, (d) for notification for disaster relief purposes as provided by 45 Code of Federal Regulations § 164.510, (e) for national security or intelligence purposes, (f) to law enforcement officials or correctional institutions regarding inmates, (g) that are incident to a use or disclosure that is permitted by this Agreement or the ASO Agreement, (h) as part of a limited data set in accordance with 45 CFR § 164.514(e), or (i) that occurred prior to Covered Entity's compliance date.

- v. Disclosure Tracking Time Periods
 - 1. Unless otherwise provided by the HITECH Act and/or any accompanying regulations, Business Associate shall have available for Covered Entity the Disclosure Information required by Section 3.j.iii.2 above for the six (6) years immediately preceding the date of Covered Entity's request for the Disclosure Information.
- vi. Provision of Disclosure Accounting
 - 1. Upon receipt of written notice (including fax and email) from Covered Entity, Business Associate will make available to Covered Entity, or at Covered Entity's direction to the individual (or the individual's personal representative), the Disclosure Information regarding the Individual, so Covered Entity may meet its disclosure accounting obligations under 45 CFR § 164.528 and the HITECH Act. In the event that the requirements with regard to Disclosure Accounting found at 45 CFR 164.528 are modified, it shall not be considered a violation of this Appendix A for Business Associate to comply with such modified regulation regardless of whether this Section 3.j. is amended.
- k. Confidential Communications
 - i. Business Associate shall respond to an individual's request for a confidential communication as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the individual or the individual's personal representative. Business Associate shall respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation. If an individual's request, made to Business Associate, extends beyond information held by Business Associate or Business Associate's subcontractors, Business Associate shall refer individual to Covered Entity. Business Associate assumes no obligation to coordinate any request for a confidential communication of PHI maintained by other business associates of Covered Entity.
 - ii. In addition, Business Associate shall assist Covered Entity in responding to requests to it by individuals (or their personal representatives) to invoke a right of confidential communication under the HIPAA Privacy Regulation by performing the following functions:
 - 1. Upon receipt of written notice (including fax and email) from Covered Entity, Business Associate will begin to send all communications of PHI directed to the individual to the identified alternate address so that Covered Entity may meet its access obligations under 45 CFR 164.524.
- l. Restrictions
 - i. Business Associate shall respond to an individual's request for a restriction as part of Business Associate's normal customer service function, if the request is communicated to Business Associate directly by the individual (or the individual's personal representative). Business Associate shall respond to the request with respect to the PHI Business Associate and its subcontractors maintain in a manner and time frame consistent with requirements specified in the HIPAA Privacy Regulation.
 - ii. In addition, Business Associate shall promptly, upon receipt of notice from Covered Entity, restrict the use or disclosure of individuals' PHI, provided the Business Associate has agreed to such a restriction. Covered Entity agrees that it will not commit Business Associate to any restriction on the use or disclosure of individuals' PHI for treatment, payment or health care operations without Business Associate's prior written approval.

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 to use or disclose his or her PHI to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- 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.
- d. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except to the extent that such use or disclosure is for the purposes set forth above in Sections 2.d. and 2.e.

5. Term and Termination

- a. The term of this Agreement shall be effective upon approval by Governor and Executive Council, and shall terminate on December 31, 2015 or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- b. In addition to standard provision #10 of this Agreement the Covered Entity may immediately terminate the Agreement upon its knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Appendix A. 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.
- c. Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity, shall:
 - i. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities. Covered Entity understands that Business Associate's proper management and administration requires the retention of portions of the protected health information in records of actuarial determinations and for other archival purposes related to memorializing advice provided in compliance with its document retention and disaster recovery programs.
 - ii. Return to Covered Entity [or, if agreed to by Covered Entity, destroy] the remaining PHI that Business Associate still maintains in any form;
 - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
 - iv. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out in this Agreement which applied prior to termination; and
 - v. Return to Covered Entity [or, if agreed to by Covered Entity, destroy] the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- d. The obligations of Business Associate under this Section shall survive the termination of this Agreement.

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 HIPAA Rules as in effect or as amended.


8/20/14

- 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 the HIPAA Rules and any other applicable law. Any amendment shall be in a writing duly executed by both parties.
- 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 interpreted to permit compliance with the HIPAA Rules.
- e. Segregation. If any term or condition of this Appendix A 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 Appendix A are declared severable.
- f. Survival. Provisions in this Appendix A regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section 3d, and the defense and indemnification 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 Appendix A.

The State of New Hampshire Employee
and Retiree Health Benefit Program

Linda M. Hodgdon
Signature of Authorized Representative

Linda M. Hodgdon
Name of Authorized Representative

Commissioner
Title of Authorized Representative

8/27/14
Date

Employee Benefit Management, Inc.

[Handwritten Signature]
Signature of Authorized Representative

KENNETH R. OLMS TED
Name of Authorized Representative

PRESIDENT
Title of Authorized Representative

8/20/14
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 EMB, 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 20th day of August, A.D. 2014

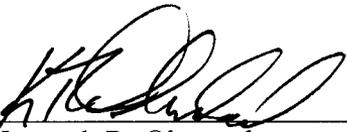
A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

**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: 8/20/14



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/20/2014

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 Portland ME 04102	CONTACT NAME: Diane Christy, CISR, ACSR
	PHONE (A/C No. Ext): (207) 780-1677 FAX (A/C No.): (207) 780-6377 E-MAIL ADDRESS: dchristy@crossagency.com
INSURER(S) AFFORDING COVERAGE	
INSURER A Massachusetts Bay Ins Co	NAIC # 22306
INSURER B Allmerica Financial Benefit	41840
INSURER C Maine Employers Mutual Ins Co	11149
INSURER D Admiral Ins	
INSURER E:	
INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL1482017241 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			ODP8929060-03	1/1/2014	1/1/2015	EACH OCCURRENCE \$ 1,000,000	
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY	X					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000	
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000	
							PERSONAL & ADV INJURY \$ 1,000,000	
							GENERAL AGGREGATE \$ 2,000,000	
							PRODUCTS - COMP/OP AGG \$ 2,000,000	
GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							\$	
B	AUTOMOBILE LIABILITY			AWP8906433-03	1/1/2014	1/1/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS						<input type="checkbox"/> SCHEDULED AUTOS	BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						<input type="checkbox"/> NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident) \$
								Underinsured motorist \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB			ODP8929060-03	1/1/2014	1/1/2015	EACH OCCURRENCE \$ 1,000,000	
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> OCCUR	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$ 1,000,000	
	<input type="checkbox"/> DED	<input type="checkbox"/> RETENTION \$					\$	
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			1810071888	1/1/2014	1/1/2015	<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A				E.L. EACH ACCIDENT \$ 500,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 500,000	
							E.L. DISEASE - POLICY LIMIT \$ 500,000	
D	Errors & Omissions			EO00002329901	8/11/2014	8/11/2015	Limit 1,000,000	
							Deductible 25,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
State of NH is listed as an additional insured with respect to General Liability.

Refer to policy for exclusionary endorsements and special provisions.

CERTIFICATE HOLDER State of NH Department of Administrative Services 25 Capital Street Concord, NH 03301-6395	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 D Christy, CISR, ACSR <i>Diane M. Christy</i>