



State of New Hampshire  
Department of Health and Human Services

**NEW HAMPSHIRE HOSPITAL**

36 CLINTON STREET, CONCORD, NH 03301  
603-271-5300 1-800-852-3345 Ext. 5300  
Fax: 603-271-5845 TDD Access: 1-800-735-2964

Nicholas A. Toumpas  
Commissioner

Robert J. MacLeod  
Chief Executive Officer

June 4, 2015

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

*Sole Source*

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, New Hampshire Hospital, to enter into a **sole source** amendment to an existing agreement with ECOLAB, Inc., 370 Wabasha Street North, St. Paul, MN, vendor number 225664, to continue providing preventive maintenance and repair of food service equipment used in the Acute Psychiatric Services building and Brown building, by increasing the price limitation by \$8,750 from \$35,000 to an amount not to exceed \$43,750, and extending the completion date from June 30, 2015 to December 31, 2015, effective July 1, 2015 or upon Governor and Executive Council approval, whichever is later. The Agreement was approved by Governor and Executive Council on August 14, 2013 (Item #29). 27% Federal, 4% Agency and 69% General Funds.

Funds are anticipated to be available in the following account for State Fiscal Year 2016 with the authority to adjust amounts between State Fiscal Years, without Governor and Executive Council approval, if needed and justified:

**05-95-94-940010-8410 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVCS, HHS: NEW HAMPSHIRE HOSPITAL, NEW HAMPSHIRE HOSPITAL, NHH-FACILITY/PATIENT SUPPORT**

Fiscal Year	Class/ Object	Class Title	Job Number	Current Budget Amount	Increase/ Decrease Amount	Revised Budget Amount
SFY 2014	024-500225	Maintenance Other Than Buildings and Grounds	94026400	\$17,500.00	\$0	\$17,500.00
SFY 2015	024-500225	Maintenance Other Than Buildings and Grounds	94026400	\$17,500.00	\$0	\$17,500.00
SFY 2016	024-500225	Maintenance Other Than Buildings and Grounds	94026400	\$0	\$8,750	\$8,750
		<b>Total</b>		<b>\$35,000.00</b>	<b>\$8,750</b>	<b>\$43,750</b>

### EXPLANATION

This **sole source** agreement is being requested to continue the scheduled maintenance and repairs of kitchen equipment for the New Hampshire Hospital Food and Nutrition Department, which serves the patient population at the Acute Psychiatric Service building, as well as the on-site cafeterias. This six month agreement will allow time for the Department to develop a Request for Proposals.

New Hampshire Hospital's Food and Nutrition Department operates a full service kitchen that supports the dietary and nutritional needs of patients. Many of the patients have unique or special dietary requirements. Well-maintained and fully operational refrigeration equipment is vital for the Hospital to meet these essential patient care needs. In addition to patient meals, the Food and Nutrition Department operates a full-service cafeteria that provides meals to staff and visitors as well as patients. In addition, the Food and Nutrition Department operates a full service kitchen in the Brown building for employees.

The original Contract was competitively bid.

Should Governor and Executive Council not approve this request, there would be a negative impact on patient care dietary needs if this equipment did not perform correctly. New Hampshire Hospital anticipates a high rate of service calls due to our kitchen equipment approaching approximately 20 years of usage. The staff of the New Hampshire Hospital lacks the specialized training and expertise to perform these services to keep the kitchen equipment running smoothly and efficiently.

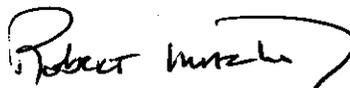
The performance measurement for this agreement will be the timely response to service calls as specified in the Request for Proposals.

Area served: New Hampshire Hospital and the Department's Brown Building located in Concord, NH.

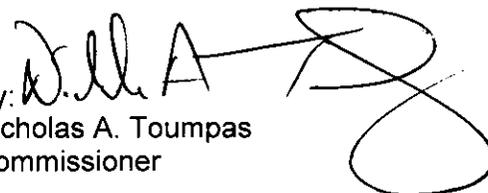
Source of funds: 27% federal funds, 4% agency income, and 69% General Funds.

In the event that federal funds become no longer available, general funds will not be requested to support this contract.

Respectfully submitted,



Robert J. MacLeod, DHA, FACHE  
Chief Executive Officer

Approved by:   
Nicholas A. Toumpas  
Commissioner



**State of New Hampshire  
Department of Health and Human Services  
Amendment #1 to the Kitchen Equipment Maintenance and Repair Contract**

This first Amendment to the Kitchen Equipment Maintenance and Repair contract (hereinafter referred to as "Amendment #1") dated May 13, 2015, is between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Ecolab, Inc. (hereinafter referred to as "the Contractor"), a corporation with a place of business at 370 Wabasha Street North, St. Paul, MN, 55102-1390.

WHEREAS, pursuant to an agreement approved by the Governor and Executive Council on August 14, 2013 (Item #29) (hereinafter referred to as the "Contract"), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, the State and the Contractor have agreed to make changes to the scope of work, payment schedules and terms and conditions of the contract; and

WHEREAS, pursuant to the Agreement (section 18 of the General Provisions of the Form P-37), the Agreement may be modified or amended only by written instrument executed by the parties thereto and approved by the Governor and Executive Council; and

WHEREAS, the parties agree to increase the price limitation and to extend the completion date of the Contract by six (6) months; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties agree as follows:

1. Except as specifically amended and modified by the terms and conditions in this Amendment #1, the obligations of the parties shall remain in full force and effect in accordance with the terms and conditions set forth in the Contract as referenced above.
2. Amend General Provisions (Form P-37), Block 1.7, Completion Date, by extending the date to December 31, 2015.
3. Amend General Provisions (Form P-37), Block 1.8, Price Limitation, to read: \$43,750.
4. Amend General Provisions (Form P-37), Block 1.9, Contracting Officer for State Agency to read: Eric Borrin, Director of Contracts and Procurement.
5. Amend General Provisions (Form P-37), Block 1.10, to read: (603) 271-9558.
6. Delete in its entirety Paragraph 18. "Entire Agreement." of Exhibit A, Scope of Services.
7. Delete in its entirety Standard Exhibit C, Special Provisions, and replace with Exhibit C, Special Provisions.
8. Amend Standard Exhibit D, Certification Regarding Drug-Free Workplace Requirements, Period Covered by this Certification, by extending the end date to December 31, 2015.
9. Amend Standard Exhibit E, Certification Regarding Lobbying, Contract Period, by extending the end date to December 31, 2015.
10. Delete in its entirety Standard Exhibit G, Certification Regarding the Americans with Disabilities Act Compliance, and replace with Exhibit G, Certification of Compliance with Requirements Pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower Protections.



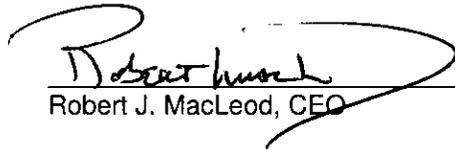
**New Hampshire Department of Health and Human Services  
Kitchen Equipment Maintenance and Repair**

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

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire  
Department of Health and Human Services

6/5/15  
Date

  
Robert J. MacLeod, CEO

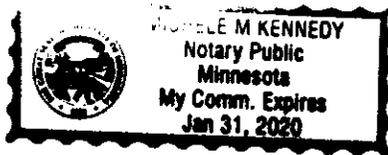
Ecolab, Inc.

05/20/2015  
Date

  
NAME Bruce Kottom  
TITLE Sr. Government Sales Manager

Acknowledgement:  
State of Minnesota, County of Ramsey on 05/20/2015, before the undersigned officer,  
personally appeared the person identified above, or satisfactorily proven to be the person whose name is signed  
above, and acknowledged that s/he executed this document in the capacity indicated above.  
Signature of Notary Public or Justice of the Peace

  
Name and Title of Notary or Justice of the Peace





**New Hampshire Department of Health and Human Services  
Kitchen Equipment Maintenance and Repair**

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

4/9/15  
Date

Name: Megan A. Kelly  
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: \_\_\_\_\_ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

\_\_\_\_\_  
Date

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



### SPECIAL PROVISIONS

Contractors Obligations: The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

1. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.
2. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.
3. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.
4. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.
5. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.
6. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.
7. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:
  - 7.1. Renegotiate the rates for payment hereunder, in which event new rates shall be established;
  - 7.2. Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;



- 7.3. Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:

8. **Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:
- 8.1. **Fiscal Records:** books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.
- 8.2. **Statistical Records:** Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.
- 8.3. **Medical Records:** Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.
9. **Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.
- 9.1. **Audit and Review:** During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.
- 9.2. **Audit Liabilities:** In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.
10. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.



Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

11. **Reports: Fiscal and Statistical:** The Contractor agrees to submit the following reports at the following times if requested by the Department.
  - 11.1. **Interim Financial Reports:** Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.
  - 11.2. **Final Report:** A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.
  
12. **Completion of Services: Disallowance of Costs:** Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.
  
13. **Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:
  - 13.1. The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.
  
14. **Prior Approval and Copyright Ownership:** All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.
  
15. **Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.
  
16. **Equal Employment Opportunity Plan (EEO):** The Contractor will provide an Equal Employment Opportunity Plan (EEO) to the Office for Civil Rights, Office of Justice Programs (OCR), if it has received a single award of \$500,000 or more. If the recipient receives \$25,000 or more and has 50 or



more employees, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. For recipients receiving less than \$25,000, or public grantees with fewer than 50 employees, regardless of the amount of the award, the recipient will provide an EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. EEOP Certification Forms are available at: <http://www.ojp.usdoj/about/ocr/pdfs/cert.pdf>.

17. **Limited English Proficiency (LEP):** As clarified by Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, Contractors must take reasonable steps to ensure that LEP persons have meaningful access to its programs.
  
18. **Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:** The following shall apply to all contracts that exceed the Simplified Acquisition Threshold as defined in 48 CFR 2.101 (currently, \$150,000)

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF  
WHISTLEBLOWER RIGHTS (SEP 2013)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

19. **Subcontractors:** DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions.

When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:

- 19.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
- 19.2. Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate
- 19.3. Monitor the subcontractor's performance on an ongoing basis



- 19.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
- 19.5. DHHS shall, at its discretion, review and approve all subcontracts.

If the Contractor identifies deficiencies or areas for improvement are identified, the Contractor shall take corrective action.

#### DEFINITIONS

As used in the Contract, the following terms shall have the following meanings:

**COSTS:** Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

**DEPARTMENT:** NH Department of Health and Human Services.

**FINANCIAL MANAGEMENT GUIDELINES:** Shall mean that section of the Contractor Manual which is entitled "Financial Management Guidelines" and which contains the regulations governing the financial activities of contractor agencies which have contracted with the State of NH to receive funds.

**PROPOSAL:** If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the Services to be provided to eligible individuals by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

**UNIT:** For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

**FEDERAL/STATE LAW:** Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from the time to time.

**CONTRACTOR MANUAL:** Shall mean that document prepared by the NH Department of Administrative Services containing a compilation of all regulations promulgated pursuant to the New Hampshire Administrative Procedures Act. NH RSA Ch 541-A, for the purpose of implementing State of NH and federal regulations promulgated thereunder.

**SUPPLANTING OTHER FEDERAL FUNDS:** The Contractor guarantees that funds provided under this Contract will not supplant any existing federal funds available for these services.



**CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO  
FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND  
WHISTLEBLOWER PROTECTIONS**

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Contractor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;
- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;
- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);
- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;
- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;
- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;
- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-C7), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;
- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;
- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

Exhibit G

Contractor Initials BK

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

New Hampshire Department of Health and Human Services  
Exhibit G



In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Contractor agrees to comply with the provisions indicated above.

Contractor Name:

05/20/2015  
Date

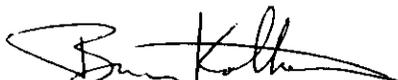
  
Name: Bruce Kottom  
Title: Sr. Government Sales Manager

Exhibit G

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations and Whistleblower protections

Contractor Initials BK

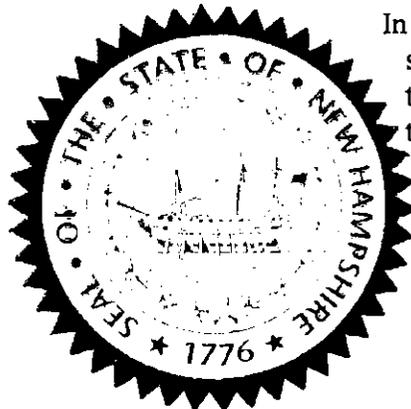
Date 5/20/15

# 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 ECOLAB INC. a(n) Delaware corporation, is authorized to transact business in New Hampshire and qualified on May 9, 1975. 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 2<sup>nd</sup> day of June, A.D. 2015

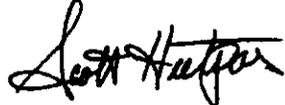
A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

ECOLAB INC.

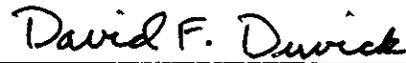
CERTIFICATE OF DESIGNATION

I, David F. Duvick, duly elected and acting Assistant Secretary of Ecolab Inc., a Delaware corporation, hereby certify that the following persons have been duly designated and are duly authorized to sign and deliver, in the name and on behalf of the Corporation, government and non-profit customer agreements, proposals and bids relating to the sale of various products, equipment and services undertaken by the Corporation (which includes, without limitation, EcoSure, Ecotemp, Food & Beverage, Healthcare, Institutional, Pest Elimination and Textile Care) in the normal course of business:

Anthony Mullen	who signs	
Bruce Kottom	who signs	
Shaun Freeze	who signs	
Paul Geffre	who signs	
Michele Kennedy	who signs	
Scott Hietpas	who signs	

I further certify that the foregoing designations and authorizations have been granted pursuant to a resolution regarding Sale and Other Disposition Transactions adopted at a meeting of the Board of Directors of Ecolab Inc. duly held on the 18<sup>th</sup> day of December, 1992, and that said resolution is still in full force and effect.

IN WITNESS WHEREOF, I have affixed my signature and the seal of the said Ecolab Inc. this 20<sup>th</sup> day of May, 2015.

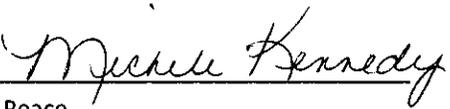
  
\_\_\_\_\_  
David F. Duvick  
Assistant Secretary

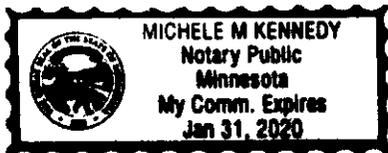
Incorporated herein by reference to the attached Certificate of Designation

Acknowledgement:

State of Minnesota, County of Ramsey, on 4-2-15, before the undersigned officer, personally appeared the person identified above, or satisfactorily proven to be the person whose name is signed above, and acknowledged that s/he executed this document in the capacity indicated above.

Signature of Notary Public or Justice of the Peace

Michele Kennedy, Notary:   
Name and Title of Notary or Justice of the Peace





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/16/2014

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).

<b>PRODUCER</b> Marsh USA Inc. 333 South 7th Street, Suite 1400 Minneapolis, MN 55402-2400  012192-std-GAWU-14-15                      ECOLA	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext):                      FAX (A/C, No): E-MAIL ADDRESS:	
	<b>INSURER(S) AFFORDING COVERAGE</b> NAIC #	
<b>INSURED</b> Ecolab Inc. Nalco Company Nalco Champion 370 Wabasha Street North St. Paul, MN 55102	<b>INSURER A:</b> National Union Fire Ins Co Pittsburgh PA                      19445	
	<b>INSURER B:</b> ACE Property and Casualty Insurance Company                      20699	
	<b>INSURER C:</b> New Hampshire Insurance Company                      23841	
	<b>INSURER D:</b> The Insurance Company of the State of PA                      19429	
	<b>INSURER E:</b> <b>INSURER F:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:** CHI-004826932-04                      **REVISION NUMBER:** 0

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			GL4267827	12/31/2014	12/31/2015	EACH OCCURRENCE \$ 2,000,000
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			GL4267828 (Products)	12/31/2014	12/31/2015	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 0
							PERSONAL & ADV INJURY \$ 2,000,000
							GENERAL AGGREGATE \$ 5,000,000
							PRODUCTS - COMP/OP AGG \$ 15,000,000
							EACH OCC-PRODUCTS \$ 5,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT	<input type="checkbox"/> LOC				
A	AUTOMOBILE LIABILITY			CA3814998 (AOS)	12/31/2014	12/31/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000
A	<input checked="" type="checkbox"/> ANY AUTO			CA4875657 (MA)	12/31/2014	12/31/2015	BODILY INJURY (Per person) \$
D	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS	CA3814999 (VA)	12/31/2014	12/31/2015	BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR		XOOG27423930	12/31/2014	12/31/2015	EACH OCCURRENCE \$ 10,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 10,000,000
	<input type="checkbox"/> DED	<input checked="" type="checkbox"/> RETENTION \$ 25,000					\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC011953144 (AOS)	12/31/2014	12/31/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER
C	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A	WC011953150 (CA)	12/31/2014	12/31/2015	E.L. EACH ACCIDENT \$ 2,000,000
C	If yes, describe under DESCRIPTION OF OPERATIONS below			WC011953148 (FL)	12/31/2014	12/31/2015	E.L. DISEASE - EA EMPLOYEE \$ 2,000,000
D				WC011953147 (MA)	12/31/2014	12/31/2015	E.L. DISEASE - POLICY LIMIT \$ 2,000,000
C	Workers Compensation Cont.			WC011953146 (ME)	12/31/2014	12/31/2015	SEE ABOVE
C				WC011953149 (OR)	12/31/2014	12/31/2015	

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)**  
 The Certificate Holder and any other person or organization are included as additional insured on the auto liability, general and umbrella liability policies, where required by written contract executed prior to loss. Refer to the attached page "Certificate Description of Operations Language" for the applicable additional insured, waiver of subrogation, notice of cancellation and other endorsements that may apply, where required by written contract. All endorsements are issued on a blanket basis without having to specifically name individual customers or others on an endorsement.

<b>CERTIFICATE HOLDER</b>  State of New Hampshire Department of Health & Human Services 36 Clinton Street Concord, NH 3301	<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 of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>
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ST



Nicholas A. Toumpas  
Commissioner

Robert J. MacLeod  
Chief Executive Officer

State of New Hampshire  
Department of Health and Human Services

NEW HAMPSHIRE HOSPITAL

36 CLINTON STREET, CONCORD, NH 03301  
603-271-5300 1-800-852-3345 Ext. 5300  
Fax: 603-271-5845 TDD Access: 1-800-735-2964

29 JAC

G+C  
8-14-13

July 31, 2013

66% General  
29% Federal  
5% Agency Inv.

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

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, New Hampshire Hospital, to enter into an agreement with ECOLAB, Inc., 370 Wabasha Street North, St. Paul, MN, vendor number 225664, in the amount not to exceed \$35,000 for the preventive maintenance and repair of food service equipment used in the Acute Psychiatric Services building and Brown building. The term of the contract shall be the date of Governor and Council approval through June 30, 2015. Funds are anticipated to be available in the following account for State Fiscal Year 2014 and State Fiscal Year 2015 with the authority to adjust amounts between State Fiscal Years if needed and justified:

**05-95-94-940010-8410 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVCS, HHS: NEW HAMPSHIRE HOSPITAL, NEW HAMPSHIRE HOSPITAL, NHH-FACILITY/PATIENT SUPPORT**

Class/ Object	Class Title	Fiscal Year	Job Number	Amount
024-500225	Maintenance Other Than Buildings and Grounds	SFY 2014	94026400	\$17,500.00
024-500225	Maintenance Other Than Buildings and Grounds	SFY 2015	94026400	\$17,500.00
	<b>Total</b>			<b>\$35,000.00</b>

**EXPLANATION**

New Hampshire Hospital's Food and Nutrition Department operates a full service kitchen that supports the dietary and nutritional needs of patients. Many of the patients have unique or special dietary requirements. Well-maintained and fully operational refrigeration equipment is vital for the Hospital to meet these essential patient care needs. In addition to patient meals, the Food and Nutrition Department operates a full-service cafeteria that provides meals to staff and visitors as well as patients. In addition, the Food and Nutrition Department operates a full service kitchen in the Brown building for employees. Attachment I lists the kitchen equipment to be maintained and serviced.

A Request for Proposals for the maintenance and repair of kitchen equipment was posted on the New Hampshire Department of Health and Human Services website from April 8, 2013 through April 22, 2013. In addition, an advertisement was placed in the New Hampshire Union Leader for three (3) days, April 11, April 12, and April 14, 2013.

A single proposal was received as a result of this Request for Proposals from Ecolab, Inc., our current vendor. A team of three (3) reviewers from New Hampshire Hospital, who were chosen for participation on this team based on their background and many years of experience evaluated the proposals and scored each according to the criteria as defined in the Request for Proposals. Points were awarded based on the proposal's: a) competitive cost structure; and; b) experience (see Attachment II).

New Hampshire Hospital anticipates a high rate of service calls due to our kitchen equipment approaching approximately 20 years of usage. The staff of the New Hampshire Hospital lacks the specialized training and expertise to perform these services to keep the kitchen equipment running smoothly and efficiently. There would be a negative impact on patient care dietary needs if this equipment did not perform correctly.

The pricing of \$17,500 per year consist of two components: \$3,200 per year for performing quarterly preventative maintenance on each piece of equipment and \$14,300 to allow for service calls at the hourly rate of \$95 per hour and \$90 per trip (no return trip).

The performance measurement for this agreement will be the timely response to service calls as specified in the Request for Proposals.

Area served: statewide.

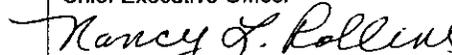
Source of funds: 66% general funds, 29% federal funds and 5% agency income.

In the event that federal funds become no longer available, general funds will not be requested to support this contract.

Respectfully submitted,



Robert J. MacLeod, DHA, FACHE  
Chief Executive Officer



Nancy L. Rollins  
Associate Commissioner

Approved by:



Nicholas A. Toumpas  
Commissioner

NH Department of Health and Human Services  
New Hampshire Hospital

KITCHEN EQUIPMENT MAINTENANCE AND REPAIR

ATTACHMENT I  
LIST OF KITCHEN EQUIPMENT

Main Kitchen

Qty	Equipment	Model	Serial #
1	Hobart Electric Potwasher	UW50	85-1016225
1	Hobart Electric Slicer	2712	561-141-016
1	Hobart Electric cutter	R4145	561-146-660
1	Univex Electric Mixer	M60	6480832-R
1	Southbend Gas Range (hot top)		
4	Blodget Gas Ovens		
1	Groen Electric Kettle	DEE/4T-40	40111
1	Southbend Gas Tilt Skillet	B6MTSE-40	52290-30-1659
1	Pitco Gas Fryer	SG14	G12CE012217
1	Southbend Gas Range/Oven (gas powered)		
1	Tec Gas Range (griddle top)	T1361C	99C59409
	Glenco Electric Food Warmer (34.4 cu.ft.)	RSW-1-SE-RT	HH-354334-B
2	Salvajor Electric Food Waste Disposers	500/300	11532/13631
1	Hobart Electric Dishwasher	FT900	
1	Metro Food Warmer	C175	HM 2000
1	Savory Rotary Toaster (Tray Line)	C20VS	CT1079082MW
1	Delfield Steamers (4 wells, L-shaped)	SLT-4	141 79M
1	Dake Steam table (4 wells)	EP304M	01110272
2	Groen Steamers	SSB-56	SSB37820MSC/ SSB37521MSC
1	Vulcan Steamer	VSX56	AP-1044775-2AA-0924

Cafeteria Serving Line

Qty	Equipment	Model	Serial #
1	Hatco Glo Ray Electric Heated Display	FST-2X	15300DW8906
1	Star Max Fryer		
1	Hobart Electric Griddle	CG-55	CG5520850
1	Wells Electric Serving Counter	SS-300	MW12201
1	Delfield/Alco Electric Salad counter		
1	Toast-Qwik Rotary Toaster	TQ-700	8484219806
1	Glenco Rollin	RSR-1-SE-RT	HH-354333-B
1	Randell Freezer (2 Drawer)		

**Dietary Kitchen**

<u>Qty</u>	<u>Equipment</u>	<u>Model</u>	<u>Serial #</u>
1	Hobart Electric Cutter	610	83003105RH

**Brown Building Kitchen**

<u>Qty</u>	<u>Equipment</u>	<u>Model</u>	<u>Serial #</u>
1	Univex Mixer		10369
1	Univex Slicer		10378
1	Vulcan Broiler		10390
1	Hobart Refrigerator		10392
1	Coates Hot Water Booster		10393
1	Salvajor Dispenser		10394
1	Vulcan Convection Oven		10397
1	Vulcan Steamer		10398
1	Vulcan Range		10399
1	Silver King Freezer		10402
1	Vulcan Griddle		10404
1	Cecilware Gas Fryolator		12261

ATTACHMENT II

NEW HAMPSHIRE HOSPITAL  
 KITCHEN EQUIPMENT REPAIR AND MAINTENANCE  
 PROPOSAL REVIEW for JULY 1, 2013 to JUNE 30, 2015

ECOLAB EQUIPMENT CARE	MARTY	DON	KIM	AVG
<u>RFP Criteria</u>				
Competitive Cost Structure	40			
Familiarity with systems and equipment to be serviced identified in Appendix I; demonstration of capability and experience to provide the services as described	30			
References	20			
Compliance with RFP	10			
<b>Total Points</b>	<b>100</b>			

*E. M. [Signature]*

ATTACHMENT II

NEW HAMPSHIRE HOSPITAL  
 KITCHEN EQUIPMENT REPAIR AND MAINTENANCE  
 PROPOSAL REVIEW for JULY 1, 2013 to JUNE 30, 2015

KS

ECOLAB EQUIPMENT CARE	MARTY	DON	KIM	AVG
<b>RFP Criteria</b>				
<b>Maximum Points</b>				
Competitive Cost Structure			40	
Familiarity with systems and equipment to be serviced identified in Appendix I; demonstration of capability and experience to provide the services as described			30	
References			20	
Compliance with RFP			10	
<b>Total Points</b>			<b>100</b>	

**ATTACHMENT II**

**NEW HAMPSHIRE HOSPITAL  
KITCHEN EQUIPMENT REPAIR AND MAINTENANCE  
PROPOSAL REVIEW for JULY 1, 2013 to JUNE 30, 2015**

*[Handwritten Signature]*

ECOLAB EQUIPMENT CARE	MARTY	DON	KIM	AVG
<u>RFP Criteria</u>				
<u>Maximum Points</u>				
Competitive Cost Structure		40		
Familiarity with systems and equipment to be serviced identified in Appendix I; demonstration of capability and experience to provide the services as described		30		
References		20		
Compliance with RFP		10		
<b>Total Points</b>		<u>100</u>		

Subject: Kitchen Equipment Maintenance and Repair

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name Department of Health and Human Services		1.2 State Agency Address New Hampshire Hospital 36 Clinton Street Concord, NH 03301	
1.3 Contractor Name Ecolab, Inc.		1.4 Contractor Address 370 Wabasha Street North St. Paul, MN 55102-1390	
1.5 Contractor Phone Number 651-293-2640	1.6 Account Number 05-95-94-940010-8410-024-500225	1.7 Completion Date June 30, 2015	1.8 Price Limitation \$35,000
1.9 Contracting Officer for State Agency Nancy L. Rollins		1.10 State Agency Telephone Number 603-271-9470	
1.11 Contractor Signature <i>John K Murphy</i>		1.12 Name and Title of Contractor Signatory John Murphy - Government Sales Manager	
1.13 Acknowledgement: State of <u>MN</u> , County of <u>Ramsey</u>  On <u>7/30/13</u> , 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] <i>Michele Kennedy</i>			
1.13.2 Name and Title of Notary or Justice of the Peace Michele Kennedy - Notary			
1.14 State Agency Signature <i>Nancy L. Rollins</i>		1.15 Name and Title of State Agency Signatory Nancy L. Rollins, Associate Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>James P. Herrick, Attorney</i> On: <u>1 Aug. 2013</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

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

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

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

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

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

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

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

Contractor Initials: J M  
Date: 7/30/13

**8. EVENT OF DEFAULT/REMEDIES.**

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

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

**9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.**

- 9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.
- 9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.
- 9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

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

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

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

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

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

**14. INSURANCE.**

- 14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:
  - 14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and
  - 14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.
- 14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.
- 14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each

Contractor Initials: JM  
Date: 7/30/13

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

The Contractor shall address and perform the following task elements under the contract:

1. The Contractor shall furnish all labor, materials, tools, and equipment necessary to properly service and repair the food service equipment used in the main kitchen, cafeteria, and diet kitchen of the Acute Psychiatric Services (APS) building and the kitchen located at the Brown Building. A list of specific equipment covered under this service agreement is in Exhibit A-1 List of Kitchen Equipment. Contractor shall check in with kitchen manager prior to commencing any work onsite.
2. The Contractor shall perform appropriate Preventive Maintenance (PM) on each piece of equipment listed on Attachment I at the Acute Psychiatric Services (APS) Building three (3) times per State Fiscal Year (SFY) and at the Brown Building one (1) time per SFY. The goal of PM is to minimize unscheduled maintenance and to provide written feedback to the Hospital's Food and Nutrition Department Director on the condition of its equipment.
3. PM shall include manufacturers' recommended maintenance such as lubrication, cleaning, de-scaling, adjustments, inspections, tightening of components, etc.
4. Contractor shall schedule PM work with the Hospital's Food and Nutrition Department Director.
5. Equipment requiring PM shall only be out of service for less than four (4) hours. The Contractor shall notify the Hospital's Food and Nutrition Department Director if any equipment will be out of service overnight due to PM.
6. The Contractor shall immediately notify the Hospital's Food and Nutrition Department Director of any equipment they find in need of repairs beyond those called for in PM procedures.
7. The Contractor shall perform appropriate corrective maintenance on each piece of listed equipment when advised by the Hospital that the equipment requires servicing.
8. The Contractor shall complete repairs in emergency situations within twenty-four (24) hours. If the Contractor cannot complete the emergency repairs within twenty-four (24) hours, the Contractor shall contact the Hospital's Food and Nutrition Department Director to indicate why the repair cannot be completed and when the equipment shall be available for use.
9. The Contractor shall complete all PM and repairs on the APS and Brown Building premises, unless the repairs must be completed on the Contractor's premises due to unusual circumstances. The Contractor must notify the Hospital's Food and Nutrition Department Director and leave a receipt for any equipment it removes from the APS or Brown Building.



Exhibit A

10. The Contractor shall only employ trained mechanics that are skilled and competent to service and repair all equipment covered under this contract.
11. The Contractor shall assure that technicians who work with refrigerant in any refrigerated kitchen equipment have the appropriate Environmental Protection Agency certification to work with those refrigerants.
12. The Contractor shall have access to a reasonable inventory of parts to provide for routine preventive maintenance and repairs. It is desired that most repairs be accomplished during the first service call, or the next day if parts must be obtained from the Contractor's stores.
13. The Contractor shall only use new parts and materials, unless specifically exempted in writing by the Hospital's Food and Nutrition Department Director.
14. The Contractor shall provide replacement components that are of the same type and quality as those being replaced. The Hospital may reject any replacement item, except that any rejection shall not be unreasonable. Changes in brand names will be accepted upon request provided that the quality of the substitute item matches that which was originally used.
15. The Contractor shall respond by sending a service technician to the APS or Brown Building within twenty-four (24) hours of being called with a repair request. The Contractor shall notify the Hospital's Food and Nutrition Department Director upon arrival at the APS or Brown Building for PM or repairs and then again when they depart. Before departure, the Contractor must provide a slip to the Hospital's Food and Nutrition Department Director indicating the work performed.
16. If the Contractor anticipates that the cost of a repair of any one item will exceed \$1,000.00 for labor and materials combined, the Contractor shall provide a pre-repair estimate within forty-eight (48) hours. This estimate may be telephoned to the Hospital's Food and Nutrition Department Director with verbal approval being granted to continue with the repairs but a written copy of the estimate shall be sent to the Hospital's Food and Nutrition Department Director immediately after this verbal communication. The Contractor shall guarantee that the repair cost shall not exceed the estimate by more than ten percent (10%).
17. On June 30<sup>th</sup> of each state fiscal year (SFY), the Contractor shall provide to the Director of the Food and Nutrition Department a list of the equipment repaired during the SFY and the total cost of repairs per each piece of equipment.



Exhibit A

18. Entire Agreement:

The Agreement between the parties shall consist of the following: General Provisions (P-37), Exhibit A Scope of Services, Exhibit A-1 List of Kitchen Equipment, Exhibit B Method and Conditions Precedent to Payment, Exhibit C Special Provisions, Exhibit C-1 Additional Special Provisions, Exhibit D Certification Regarding Drug-Free Workplace, Exhibit E Certification Regarding Lobbying, Exhibit F Certification Regarding Debarment, Suspension and Other Responsibility Matters, Exhibit G Certification Regarding the American's With Disabilities Act Compliance, Exhibit H Certification Regarding Environmental Tobacco Smoke, Exhibit I Health Insurance Portability and Accountability Act Business Associate Agreement not applicable to this Agreement, and Exhibit J Certification Regarding the Federal Funding Accountability and Transparency Act (FFATA) Compliance. In the event of any conflict or contradiction between or among the Agreement documents, the documents shall control in the above order of precedence.



LIST OF KITCHEN EQUIPMENT

Main Kitchen

Qty	Equipment	Model	Serial #
1	Hobart Electric Potwasher	UW50	85-1016225
1	Hobart Electric Slicer	2712	561-141-016
1	Hobart Electric cutter	R4145	561-146-660
1	Univex Electric Mixer	M60	6480832-R
1	Southbend Gas Range (hot top)		
4	Blodget Gas Ovens		
1	Groen Electric Kettle	DEE/4T-40	40111
1	Southbend Gas Tilt Skillet	B6MTSE-40	52290-30-1659
1	Pitco Gas Fryer	SG14	G12CE012217
1	Southbend Gas Range/Oven (gas powered)		
1	Tec Gas Range (griddle top)	T1361C	99C59409
	Glenco Electric Food Warmer (34.4 cu.ft.)	R5W-1-SE-RT	HH-354334-B
2	Salvajor Electric Food Waste Disposers	500/300	11532/13631
1	Hobart Electric Dishwasher	FT900	
1	Metro Food Warmer	C175	HM 2000
1	Savory Rotary Toaster (Tray Line)	C20VS	CT1079082MW
1	Delfield Steamers (4 wells, L-shaped)	SLT-4	141 79M
1	Dake Steam table (4 wells)	EP304M	01110272
2	Groen Steamers	SSB-56	SSB37820MSC/ SSB37521MSC
1	Vulcan Steamer	V5X56	AP-1044775-2AA- 0924

Cafeteria Serving Line

Qty	Equipment	Model	Serial #
1	Hatco Glo Ray Electric Heated Display	F5T-2X	15300DW8906
1	Star Max Fryer		
1	Hobart Electric Griddle	CG-55	CG5520850
1	Wells Electric Serving Counter	SS-300	MW12201
1	Delfield/Alco Electric Salad counter		
1	Toast-Qwik Rotary Toaster	TQ-700	8484219806
1	Glenco Rollin	RSR-1-SE-RT	HH-354333-B
1	Randell Freezer (2 Drawer)		

Dietary Kitchen

Qty	Equipment	Model	Serial #
1	Hobart Electric Cutter	610	83003105RH



**Brown Building Kitchen**

Qty	Equipment	Model	Serial #
1	Univex Mixer		10369
1	Univex Slicer		10378
1	Vulcan Broiler		10390
1	Hobart Refrigerator		10392
1	Coates Hot Water Booster		10393
1	Salvajor Dispenser		10394
1	Vulcan Convection Oven		10397
1	Vulcan Steamer		10398
1	Vulcan Range		10399
1	Silver King Freezer		10402
1	Vulcan Griddle		10404
1	Cecilware Gas Fryolator		12261



**Exhibit B**

**Method and Conditions Precedent to Payment**

1. The State shall pay the Contractor an amount not to exceed the Price Limitation, block 1.8, of the General Provisions (Form P-37) for the services provided by the Contractor pursuant to Exhibit A, Scope of Services.
2. The Contractor shall bill \$800 per quarter for preventative maintenance work performed at APS building and at the Brown building. The quarterly invoice shall include documentation confirming that the contractor performed preventative maintenance on each individual piece of equipment during that quarter. This documentation must include results of preventative maintenance inspections along with an evaluation of the condition of each piece of equipment.
3. Contractor shall be paid \$95.00 per hour for repair work and \$90 per trip (No Return Trip).
4. Contractor shall submit monthly invoices detailing any services rendered. The Hospital shall remit payment within thirty (30) days of approval of the appropriate New Hampshire Hospital approving officer. The invoice shall include a detailed itemization of the charge for each piece of equipment, including hourly charges and the cost of replacement parts.
5. The invoice must be submitted to:

Department of Health and Human Services  
NH Hospital  
Financial Manager  
36 Clinton Street  
Concord, NH 03301

NH Department of Health and Human Services

STANDARD EXHIBIT C

SPECIAL PROVISIONS

**1. Contractors Obligations:** The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

**2. Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.

**3. Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.

**4. Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.

**5. Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.

**6. Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.

**7. Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.

**8. Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractor's costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:

**8.1** Renegotiate the rates for payment hereunder, in which event new rates shall be established;

**8.2** Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;

8.3 Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

**RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:**

**9. Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:

**9.1 Fiscal Records:** books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.

**9.2 Statistical Records:** Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.

**9.3 Medical Records:** Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.

**10. Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the Contractor fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.

**10.1 Audit and Review:** During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.

**10.2 Audit Liabilities:** In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.

**11. Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.

Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

**12. Reports: Fiscal and Statistical:** The Contractor agrees to submit the following reports at the following times if requested by the Department.

**12.1 Interim Financial Reports:** Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.

**12.2 Final Report:** A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.

**13. Completion of Services: Disallowance of Costs:** Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

**14. Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:

14.1 The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.

**15. Prior Approval and Copyright Ownership:**

All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.

**16. Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.

**17. Subcontractors:** DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions.

When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:

- Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
- Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate
- Monitor the subcontractor's performance on an ongoing basis
- Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
- DHHS shall review and approve all subcontracts.

If the Contractor identifies deficiencies or areas for improvement are identified, the Contractor shall take corrective action.

Contractor Initials: JM

Date: 7/29/13

**SPECIAL PROVISIONS – DEFINITIONS**

As used in the Contract, the following terms shall have the following meanings:

**COSTS:** Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

**DEPARTMENT:** NH Department of Health and Human Services.

**PROPOSAL:** If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the Services to be provided to eligible individuals by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

**UNIT:** For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

**FEDERAL/STATE LAW:** Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from the time to time.

**SUPPLANTING OTHER FEDERAL FUNDS:** The Contractor guarantees that funds provided under this Contract will not supplant any existing federal funds available for these services.

NH Department of Health and Human Services

STANDARD EXHIBIT C-1

ADDITIONAL SPECIAL PROVISIONS

1. **Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:**

**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, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability of funds affected by any state or federal legislative or executive action that reduces, eliminates, or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account, in the event funds are reduced or unavailable.

2. **Subparagraph 10 of the General Provisions of this contract, Termination, is amended by adding the following language;**

10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.

10.2 In the event of early termination, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.

10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.

10.4 In the event that services under the Agreement, including but not limited to clients receiving services under the Agreement are transitioned to having services delivered by another entity including contracted providers of the State, the Contractor shall provide a process for uninterrupted delivery of services in the Transition Plan.

10.5 The Contractor shall establish a method of notifying clients and other affected individuals about the transition. The Contractor shall include the proposed communications in its Transition Plan submitted to the State as described above.

NH Department of Health and Human Services

STANDARD EXHIBIT D

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

**ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS**

**US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS  
US DEPARTMENT OF EDUCATION - CONTRACTORS  
US DEPARTMENT OF AGRICULTURE - CONTRACTORS**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner  
NH Department of Health and Human Services  
129 Pleasant Street,  
Concord, NH 03301-6505

- (A) The grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) Establishing an ongoing drug-free awareness program to inform employees about
    - (1) The dangers of drug abuse in the workplace;
    - (2) The grantee's policy of maintaining a drug-free workplace;
    - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted
  - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check  if there are workplaces on file that are not identified here.

Ecolab Inc	From: Upon Approval	To: June 30, 2015
(Contractor Name)	(Period Covered by this Certification)	

John Murphy - Government Sales Manager
(Name & Title of Authorized Contractor Representative)

	7/30/13
(Contractor Representative Signature)	(Date)

Contractor Initials: JM  
 Date: 7/30/13

NH Department of Health and Human Services

STANDARD EXHIBIT E

CERTIFICATION REGARDING LOBBYING

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

**US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS**  
**US DEPARTMENT OF EDUCATION - CONTRACTORS**  
**US DEPARTMENT OF AGRICULTURE - CONTRACTORS**

Programs (indicate applicable program covered):

- \*Temporary Assistance to Needy Families under Title IV-A
- \*Child Support Enforcement Program under Title IV-D
- \*Social Services Block Grant Program under Title XX
- \*Medicaid Program under Title XIX
- \*Community Services Block Grant under Title VI
- \*Child Care Development Block Grant under Title IV

Contract Period: Upon Approval through June 30, 2015

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-1.)
- (3) The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

  
(Contractor Representative Signature)

John Murphy - Government Sales Manager  
(Authorized Contractor Representative Name & Title)

Ecotab Inc  
(Contractor Name)

7/30/13  
(Date)

NH DHHS, Office of Business Operations  
Standard Exhibit E - Certification Regarding Lobbying  
January 2009

Contractor Initials: JM  
Date: 7/30/13

NH Department of Health and Human Services

STANDARD EXHIBIT F

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION  
AND OTHER RESPONSIBILITY MATTERS**

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

**INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.

Contractor Initials: Jm

Date: 7/30/13

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7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
  8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).
  9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

**PRIMARY COVERED TRANSACTIONS**

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

Contractor Initials: J 72

Date: 7/30/13

**LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).

The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

John K. Murphy John Murphy - Government Sales Manager  
(Contractor Representative Signature) (Authorized Contractor Representative Name & Title)

Ecolab Inc. 7/30/13  
(Contractor Name) (Date)

Contractor Initials JM  
Date: 7/30/13

NH Department of Health and Human Services

STANDARD EXHIBIT G

CERTIFICATION REGARDING  
THE AMERICANS WITH DISABILITIES ACT COMPLIANCE

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Contractor agrees to make reasonable efforts to comply with all applicable provisions of the Americans with Disabilities Act of 1990.

John K Murphy John Murphy - Government Sales Manager  
(Contractor Representative Signature) (Authorized Contractor Representative Name & Title)

Ecolab Inc 7/30/13  
(Contractor Name) (Date)