

Commissioners
 Paul A. Lipnick
 William E. Barry
 Daniel S. Jones
 David C. Dunn
 Calley M. Milne

81 *ev*
 Beth A. Edes
 Executive Director



New Hampshire
REAL ESTATE COMMISSION

May 15, 2015

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

Sole Source

REQUESTED ACTION

1. Authorize the Real Estate Commission, pursuant to RSA 332-G:2, to accept and expend real estate broker and salesperson fees for examinations to be administered for the balance of FY2015 in the amount of \$10,000.00 from the date of Governor and Council approval through June 30, 2015 and budget such amount as follows: (100% Other Funds)

01-28-28-280010-20540000- Real Estate Comm Admin

Expenditure	FY 2015	Requested	Adjusted
	Adj. Auth.	Action	Budget
010 Personal Svcs Perm Clas	\$226,422.00	\$ 0.00	\$226,422.00
011 Personal Svcs Unclassif	\$ 75,468.00	\$ 0.00	\$ 75,468.00
018 Overtime	\$ 159.00	\$ 0.00	\$ 159.00
020 Current Expenses	\$ 30,710.00	\$ 0.00	\$ 30,710.00
022 Rents-Leases Other than State	\$ 1,979.00	\$ 0.00	\$ 1,979.00
024 Maint other than Build-Grnds	\$ 500.00	\$ 0.00	\$ 500.00
026 Organizational Dues	\$ 1,300.00	\$ 0.00	\$ 1,300.00
027 Transfers to DOIT	\$ 17,119.00	\$ 0.00	\$ 17,119.00
028 Transfers to General Svcs	\$ 22,000.00	\$ 0.00	\$ 22,000.00
030 Equipment New/Replacement	\$ 384.00	\$ 0.00	\$ 384.00
049 Transfer to Other State Agys	\$ 250.00	\$ 0.00	\$ 250.00
050 Personal Service-Temp/Appointe	\$ 3,500.00	\$ 0.00	\$ 3,500.00
060 Benefits	\$150,910.00	\$ 0.00	\$150,910.00
070 In-State Travel Reimbursement	\$ 4,160.00	\$ 0.00	\$ 4,160.00
080 Out-Of State Travel Reimb	\$ 160.00	\$ 0.00	\$ 160.00
104 Certification Expense	\$131,699.00	\$ 10,000.00	\$141,699.00
Total Expenditures	\$666,720.00	\$ 10,000.00	\$676,720.00

Revenue	FY 2015	Requested	Adjusted
	Adj. Auth.	Action	Budget
Agency Income 009 – 402470	(\$273,640.00)	(\$ 10,000.00)	(\$283,640.00)
General Funds	(\$396,580.00)	0.00	(\$396,580.00)
Total Revenue	(\$670,220.00)	(\$ 10,000.00)	(\$680,220.00)

REQUESTED ACTION

- Contingent upon approval of Requested Action #1, authorize the Real Estate Commission to amend the contract (PO #1031385) on a sole source basis with Applied Measurement Professionals, Inc. (Vendor Code 170061) for testing services, as approved by the Governor and Council on June 5, 2013, Item 34, by increasing the price limitation by \$40,000.00 from \$223,000 to \$263,000 from the date of Governor and Council approval through June 30, 2015.

Funds are available in account titled Real Estate Comm Admin, as follows:

	<u>FY 2015</u>
01-28-28280010-20540000-104-500742 Certification Expense	\$40,000

EXPLANATION

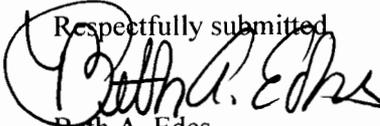
Pursuant to RSA 331-A:11, the Real Estate Commission is required to administer examinations to candidates for real broker and salesperson licenses in the State of New Hampshire. The Real Estate Commission generates revenue through examination fees paid by salesperson and broker examination candidates. The money collected from the examination registration fees are deposited into the Commission's Agency Income Account and is 100% Other Funds.

This contract amendment is sole source as the additional amount is more than 10 percent of the original contract. The Commission incurs expenses for the examinations administered to the salesperson and broker candidates. Applied Measurement Professionals, Inc. (AMP) administers the real estate broker and salesperson license examinations through a two year contract with the Real Estate Commission from July 1, 2013 through June 30, 2015, as approved by the Governor and Council on June 5, 2013, Item 34. In Fiscal Year 2015 the Commission budgeted for \$114,000 in certification expense for the administration of the real estate examinations by AMP. The Real Estate Commission has received a significantly higher number of examination registrations and therefore has an increase in examination expense for exams administered by AMP. This expense is supported by the examination revenue received.

The Commission, by virtue of RSA 332-G:2, wishes at this time to recognize the additional revenue from the examination fees and in return expend additional Class 104 funds for the necessary examinations. Without this request being granted, the Commission's Class 104 Certification Expense will be negative.

Thank you for your consideration of this matter.

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
May 15, 2015
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Respectfully submitted

Beth A. Edes
Executive Director

TITLE XXX

OCCUPATIONS AND PROFESSIONS

CHAPTER 332-G

GENERAL ADMINISTRATION OF REGULATORY BOARDS AND COMMISSIONS

Section 332-G:2

332-G:2 Examination Fees. – Boards or commissions which administer or require examinations as part of examination for licensure and which establish charges to examination applicants equivalent to 125 percent of the direct expense of the examination may expend funds for such examinations, related services, or supplies as needed, but not to exceed the direct expense of the examination.

Source. 1985, 382:1. 2009, 39:1, eff. July 1, 2009.

ADDENDUM TO ORIGINAL AGREEMENT

This is an ADDENDUM to the original AGREEMENT entered into by and between Applied Measurement Professionals, Inc. and the New Hampshire Real Estate Commission, which was approved by the Governor and Council of New Hampshire on June 5, 2013, Item #34, for effect on July 1, 2013 through June 30, 2015.

The original AGREEMENT has a price limitation of \$223,000, and this ADDENDUM to the original AGREEMENT will increase the price limitation by \$40,000 from \$223,000 to \$263,000.

All other terms, provisions, and fees set forth in the original AGREEMENT shall remain as specified until June 30, 2015.

In WITNESS WHEREOF, the parties hereunder have executed this ADDENDUM to the original AGREEMENT with the intent that it be effective upon the date of the Governor and Council approval through June 30, 2015.

APPLIED MEASUREMENT PROFESSIONALS, INC.

By Gary A. Smith
Gary A. Smith
Title PRESIDENT & CEO
Date 5/13/2015

STATE OF NEW HAMPSHIRE

By Beth A. Edes
Beth A. Edes
Title Executive Director
Date 5/15/2015

Approved as to Form, Substance, and Execution by Attorney General

By Arde C. Yule
Title Assistant Attorney General
Date 5/15/15

Approved by Governor and Council at their meeting on _____

By _____
Title _____
Date _____

State of New Hampshire
Department of State

APR 27 2015

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that APPLIED MEASUREMENT PROFESSIONALS, INC. a(n) Kansas corporation, is authorized to transact business in New Hampshire and qualified on November 29, 1999. 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 21st day of April, A.D. 2015

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

William M. Gardner
Secretary of State

Certificate to Vote

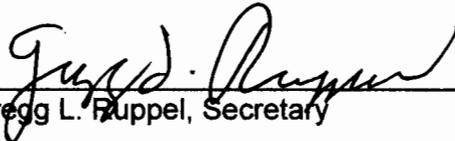
I, Gregg L. Ruppel, Secretary of Applied Measurement Professionals, Inc. (Corporation) do hereby attest the following:

1. Gary A. Smith is President of the corporation.
2. Gary A. Smith maintains and has custody of and is familiar with the seal and minute book of the corporation.
3. Gary A. Smith is authorized to issue certificates with respect to the contents of such books and to affix such seal to such certificates.
4. Gary A. Smith is authorized to execute contracts on behalf of the Corporation and lawfully bind the corporation.
5. The following persons lawfully occupy the office indicated below:

James H. Hayes, MHA	Chairman
Gary A. Smith	President
Gregg L. Ruppel, MEd, RRT	Secretary
Harry Jordan, CPA	Treasurer

6. This Certificate to Vote will be in effect at least until December 31, 2015.

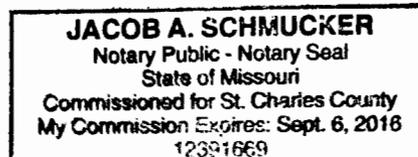
In witness whereof, I have hereunto set my hand as Secretary of the Corporation this ___ day of May, 2013.


Gregg L. Ruppel, Secretary

State of Missouri
County of St. Louis

The foregoing instrument was acknowledged before me this 12th day of May, 2015 by Gregg L. Ruppel, Secretary of Applied Measurement Professionals, Inc.


Notary Public
My Commission Expires: 9-6-2016





NATIBOA-01

MANCE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/13/2015

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

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

PRODUCER Brier Payne Meade Insurance, Inc. 8717 W. 110th St. Suite 420 Overland Park, KS 66210	CONTACT NAME:		
	PHONE (A/C, No, Ext):	(913) 681-0099	FAX (A/C, No): (913) 681-1305
	E-MAIL ADDRESS:	contactus@ggins.net	
	INSURER(S) AFFORDING COVERAGE	NAIC #	
INSURED National Board for Respiratory Care Inc & Applied Measurement Professionals, Inc. Care 18000 West 105th Street Olathe, KS 66061-7543	INSURER A :	The Hartford	
	INSURER B :	The Travelers Companies, Inc.	
	INSURER C :		
	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:		37UUNTZ9579	08/20/2014	08/20/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		37UUNTZ9579	08/20/2014	08/20/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N / A	37WEIP5187	08/20/2014	08/20/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	<input type="checkbox"/> Crime Coverage		105780243	05/10/2012	05/10/2015	Emp Theft 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

NEW HAMPSHIRE REAL ESTATE COMMISSION 64 SOUTH STREET CONCORD, NH 03301	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 <i>Mick Name</i>

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Commissioners
Paul A. Lipnick
William E. Barry
Daniel S. Jones
David C. Dunn
James R. Therrien

Beth A. Edes
Executive Director



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

REQUESTED ACTION

Authorize the New Hampshire Real Estate Commission to enter into a contract with Applied Measurement Professionals, Inc. (a Kansas Corporation) of Olathe, Kansas (Vendor Code 170061) for testing services from July 1, 2013 to June 30, 2015, in an amount not to exceed \$223,000. Funds are available in account number 01-28-28-20540000-500742, pending approval of next biennium budget. Source of funds: Certification Expense.

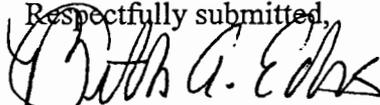
EXPLANATION

Pursuant to RSA 331-A:11, the Real Estate Commission is required to administer examinations to candidates for real estate broker and salesperson licenses in the State of New Hampshire.

Applied Measurement Professionals, Inc. has administered the real estate broker and salesperson license examinations for the New Hampshire Real Estate Commission since July 1, 2003. The expiration date of the current contract is June 30, 2013.

The Real Estate Commission requires the vendor that administers the real estate examination services for New Hampshire to be accredited by the Association of Real Estate License Law Officials (ARELLO). The Commission solicited requests for bids from the three (3) real estate examination service companies that are accredited by ARELLO and received one (1) response from Applied Measurement Professionals, Inc.

Thank you for your consideration of this matter.

Respectfully submitted,

Beth A. Edes
Executive Director

Subject:

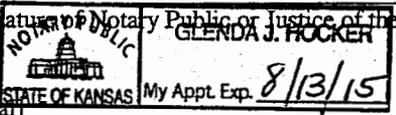
REAL ESTATE EXAM TESTING SERVICES

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH REAL ESTATE COMMISSION		1.2 State Agency Address 64 SOUTH STREET, CONCORD, NH 03301	
1.3 Contractor Name APPLIED MEASUREMENT PROFESSIONALS, INC.		1.4 Contractor Address 18000 W. 105TH STREET, OLATHE, KS 66061-7543	
1.5 Contractor Phone Number (913) 895-4600	1.6 Account Number 01-28-28-20540000-500742	1.7 Completion Date JUNE 30, 2015	1.8 Price Limitation \$223,000
1.9 Contracting Officer for State Agency BETH A. EDES, EXECUTIVE DIRECTOR		1.10 State Agency Telephone Number (603) 271-2749	
1.11 Contractor Signature <i>Gary A. Smith</i>		1.12 Name and Title of Contractor Signatory GARY A. SMITH, PRESIDENT	
1.13 Acknowledgement: State of <u>Kansas</u> , County of <u>Johnson</u> On <u>May 7, 2013</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  <i>Glenda J. Hocker</i>		1.13.2 Name and Title of Notary or Justice of the Peace Glenda J. Hocker, Executive Assistant, Notary Public	
1.14 State Agency Signature <i>Beth A. Edes</i>		1.15 Name and Title of State Agency Signatory BETH A. EDES, EXECUTIVE DIRECTOR	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <i>[Signature]</i> On: <u>5/8/13</u>			
1.18 Approval by the Governor and Executive Council By: <i>[Signature]</i> On: <u>6-5-13</u>			

[Signature]
Dep. Sec. of State

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

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

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

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

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

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

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

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

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

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

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

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

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

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

14. INSURANCE.

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

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

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

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

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

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

15. WORKERS' COMPENSATION.

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

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

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

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

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

19. CONSTRUCTION OF AGREEMENT AND TERMS.

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

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

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

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

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

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

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

EXHIBIT A – SCOPE OF SERVICES

This contract agreement, effective the 1st day of July, 2013, and to continue through the 30th day of June 2015, by and between Applied Measurement Professionals, Inc., of Olathe, Kansas (herein referred to as “AMP”), a corporation of the State of Kansas, and the Real Estate Commission of the State of New Hampshire (herein referred to as “Commission”).

AMP Will:

- A. Test all candidates using computer-based method;
- B. Obtain the Commission’s approval for all examination questions and simulation problems, original or revised, prior to first use;
- C. Develop and maintain unique, valid, reliable, secure and legally defensible examinations for entry-level real estate salespersons and brokers for the State of New Hampshire in accordance with specifications developed by AMP and an Examination Review Committee (ERC) consisting of specialists from the State of New Hampshire, the Commission and AMP staff members. A two-part multiple-choice test is required for salespersons and a national portion simulation test and a state portion multiple-choice test is required for brokers. The first part of the examination for both salespersons and brokers will be a national portion that will measure knowledge and skills relevant to general practices and principles of real estate that are common to all licensing jurisdictions. The second part of the examination will be a State of New Hampshire portion that will measure knowledge and skills relevant to real estate laws, rules and regulations specific to the State of New Hampshire and other topics to be determined by the Commission. The national and state multiple-choice examinations shall be interchanged and scrambled so that each test presentation is unique. A permanent file shall be maintained of all candidates who have tested, their test scores and response records of each candidate;
- D. Organize test administrations and administer examinations on a Monday through Friday schedule, throughout the term of the contract. The examinations are to be administered in four (4) separate test centers acceptable to the Commission, in Concord, Manchester, Nashua, and Portsmouth, NH. Organize test administrations and administer examinations on Saturdays at all New Hampshire sites on a rotating basis and offer New Hampshire examinations at other AMP testing locations throughout the United States. Examinations may be administered at other times and places as may be agreed upon by the Commission and AMP;
- E. Establish and operate four (4) test centers within New Hampshire, provided with physical facilities and equipment adequate for testing and meet the accessibility requirement of the Americans with Disabilities Act, provide all test center personnel, and accommodation of special

testing needs of candidates with disabilities;

- F. Provide computer-based examinations;
- G. Print and distribute sufficient copies of the New Hampshire Examination Candidate Handbooks to the Commission, individual candidates and other designated parties upon request;
- H. Provide at least one (1) toll-free AMP telephone number to all candidates for inquiries or to resolve any concerns in a timely, efficient, and responsible manner regarding test scheduling, test examination administration and test results;
- I. Process candidate registration information received from the Commission;
- J. Provide the candidates the option to schedule examinations through AMP's on-line scheduling system or by a toll-free telephone number;
- K. Score examinations and provide the examination results to the candidates at the testing site upon completion of the examination. Passing candidates shall be provided with a passing score report and a New Hampshire Real Estate Application Form for Brokers and for Salespersons. Failing candidates shall receive a diagnostic profile of their strengths and weaknesses of the examination and instructions to re-apply for future examinations;
- L. Provide to the Commission on a monthly basis, the following reports:
 - 1. An alphabetical roster of all broker candidates who passed;
 - 2. An alphabetical roster of all salesperson candidates who passed;
 - 3. An alphabetical roster of all broker candidates who failed;
 - 4. An alphabetical roster of all salesperson candidates who failed;
 - 5. An alphabetical roster of all candidates who were absent from testing;
 - 6. Separate summary statistics for broker and salesperson examinations;
 - 7. Summary of pass/fail statistics for real estate pre-licensing schools/instructors;
- M. Provide summary reports of pass/fail statistics to NH accredited real estate pre-licensing schools/instructors.

COMMISSION WILL:

- A. At AMP's request, appoint individuals to the national and state exam review committee who are knowledgeable about the respective fields of real estate and about requirements for entry-level salespersons and brokers;

- B. Forward candidate registration information electronically on a periodic basis to AMP;
- C. Protect the security of the examination by safekeeping under lock and key, if examination questions are temporarily furnished to the Commission by AMP in paper format and keep secure examination questions furnished electronically;
- D. Not use, copy, reproduce, disclose or otherwise transmit in any manner any examination questions temporarily furnished to the Commission by AMP;
- E. Assist in the investigation of any security breach in connection with the development or administration of examinations;
- F. Provide AMP with documentation of all real estate laws, rules and regulations currently in force in the State of New Hampshire, and promptly inform and provide documentation to AMP of any and all changes in the State of New Hampshire laws, rules and regulations.
- G. Establish a passing score for the examination;
- H. Meet with AMP representatives as necessary for the purpose of developing content specifications and reviewing examination questions and simulation problems for the national and state sections of the examination;
- I. Provide AMP a list of accredited real estate schools at the beginning of each contract period, and notify AMP of any additions or deletions in the interim.

EXHIBIT B – METHOD OF PAYMENT

In consideration for the services to be performed by AMP hereunder, the Commission agrees to pay AMP a fee of \$63.00 for each salesperson candidate registered and scheduled to be tested and \$79.00 for each broker candidate registered and scheduled to be tested from the period of July 1, 2013 through June 30, 2015. Invoicing to the Commission will be on an administration basis, and payment shall be made by the Commission within thirty (30) days of receiving an accurate detailed invoice from AMP, provided that a longer period is not required for Governor and Council approval.

EXHIBIT C – OTHER PROVISIONS

STATUTORY AUTHORITY OF COMMISSION:

The Commission shall have sole responsibility for establishing minimum qualifications and passing requirements for candidates, and AMP shall have no liability for general, special or consequential

damages resulting from, or claiming to have resulted from establishing such qualifications and requirements, or from any other action by the Commission.

LEGAL SUPPORT:

In the event that legal action is taken against the Commission in which the validity of any examination is challenged, AMP services under this agreement, will provide support to the nature and extent of which will be appropriate to the circumstances of the litigation, including without limitations, assisting in pretrial discovery and preparation of AMP witnesses and consultation on matters relevant to the litigation. AMP will provide this support without charge to the Commission for the time of AMP staff (and as appropriate, AMP external legal counsel).

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 shall survive the termination of this agreement.

ASSIGNMENTS:

AMP shall not assign this agreement or enter into subcontracts for any of the work described herein without obtaining prior written approval of the Commission except for transportation, shipping, delivery and communication services, printing of the examination materials, test center services, and soliciting other qualified persons for the purpose of drafting and offering advice on proposed examination questions.

FORCE MAJEURE:

The parties shall not be responsible for delays or failures in performance resulting from acts, events or conditions beyond their control, including but not limited to acts of God, strikes, riots, acts of war, epidemics, fire, communication line failures, power failures, private or public carrier failures, earthquakes or other disasters.

GOVERNING LAWS:

This agreement shall be governed by and construed under the laws of the State of New Hampshire.

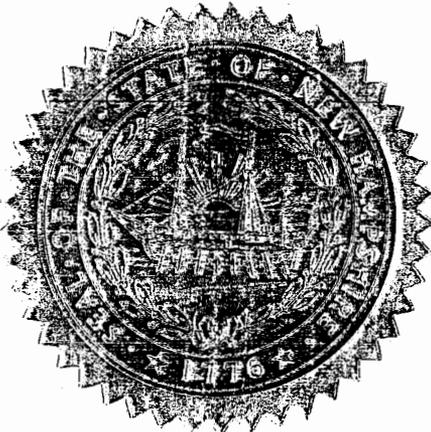
RIGHT TO MATERIALS:

The State of New Hampshire retains all ownership rights to documents, materials, reports, and item pools related to the New Hampshire state specific laws, rules, and regulations portion of the examination.

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 APPLIED MEASUREMENT PROFESSIONALS, INC. a(n) Kansas corporation, is authorized to transact business in New Hampshire and qualified on November 29, 1999. 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 8th day of May, A.D. 2013

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

William M. Gardner
Secretary of State

Certificate to Vote

I, Gregg L. Ruppel, Secretary of Applied Measurement Professionals, Inc. (Corporation) do hereby attest the following:

- 1. Gary A. Smith is President of the corporation.
- 2. Gary A. Smith maintains and has custody of and is familiar with the seal and minute book of the corporation.
- 3. Gary A. Smith is authorized to issue certificates with respect to the contents of such books and to affix such seal to such certificates.
- 4. Gary A. Smith is authorized to execute contracts on behalf of the Corporation and lawfully bind the corporation.
- 5. The following persons lawfully occupy the office indicated below:

James H. Hayes, MHA	Chairman
Gary A. Smith	President
Gregg L. Ruppel, MEd, RRT	Secretary
Harry Jordan, CPA	Treasurer

- 6. This Certificate to Vote will be in effect at least until December 31, 2013.

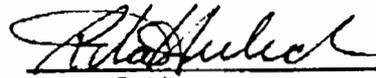
In witness whereof, I have hereunto set my hand as Secretary of the Corporation this ___ day of May, 2013.



 Gregg L. Ruppel, Secretary

State of MISSOURI
 County of City of St. Louis

The foregoing instrument was acknowledged before me this 6th day of May, 2013 by Gregg L. Ruppel, Secretary of Applied Measurement Professionals, Inc.



 Notary Public
 My Commission Expires: _____



