

4/23

**THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

21 SOUTH FRUIT STREET SUITE 14
CONCORD, NEW HAMPSHIRE 03301

Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

February 25, 2015

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

REQUESTED ACTION

Authorize the New Hampshire Insurance Department (NHID) to enter into a contract in the amount of \$24,570 with Risk and Regulatory Consulting, LLC (RRC), Farmington, CT (Vendor #226608), for the provision of consulting services in connection with 2014 annual financial analysis and training on the implementation of risk branding into the Insurer Profile Summary that is required starting with 2014 annual financial analysis. This agreement is to be effective upon Governor & Council approval through May 15, 2015. 100% Department Funds.

The funding is available in account titled Administration as follows:

	<u>FY2015</u>
02-24-24-240010-25200000-046-500464 Consultants	\$24,570

EXPLANATION

The New Hampshire Insurance Department is requesting approval to enter into a contract with RRC to furnish certain professional services, including but not limited to annual financial analysis and, in addition, training of the NHID financial analysis team in the branding of risk that is introduced into the Insurer Profile Summary (IPS) with 2014 annual financial analysis, for all NH domestic insurance companies in accordance with the Financial Analysis Handbook and the Financial Condition Examiners Handbook

After reviewing the bid responses, the Commissioner selected the Risk and Regulatory Consulting, LLC proposal as the most responsive to the Request for Proposals (RFP). The Request for Proposals was posted on the Department's website February 20, 2015 and sent to past bidders for Department contract work and companies doing work in this field. Three bids were received. Bids were evaluated by Department staff familiar with the project goals using a scoring system included in the RFP.

The department respectfully requests that the Governor and Council authorize funding for this consulting work. Your consideration of the request is appreciated.

Respectfully submitted,

A handwritten signature in black ink that reads "Alexander K. Feldweber, for". The signature is written in a cursive style.

Roger A. Sevigny
Commissioner

2015-FR-01 PROPOSALS EVALUATION

Evaluation Committee Members: Deb Stone, Pat Gosselin, Colin Wilkins

Evaluation Process: Every member reviewed and independently evaluated the bids.
 On February 24, 2015, the members met and as a group assigned point to each bid per the "specific bid scoring process" described in the RFP.
 Members agreed with the points assigned to each category for each bid shown in the table below.

RFP/Vendor	SPECIFIC SKILL SET (50% or points)	CONTRACTOR EXPERIENCE & QUALIFICATIONS (25% or points)	Bid Price - BUDGET AMOUNT	COST (25% or points)	TOTAL SCORE
2015-FR-01 Financial Analysis Consultant Services					
Risk & Regulatory Consulting	46.67%	25.00%	\$24,570	25.00%	96.67%
Actuarial Group, Inc	40.67%	25.00%	\$27,736	20.83%	86.50%
INS Regulatory Services, Inc	40.67%	25.00%	\$39,720	8.50%	74.17%

Subject:

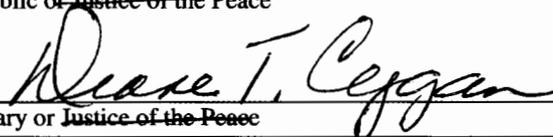
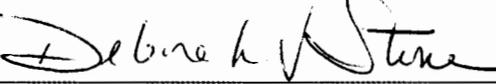
2015-FR-01

FORM NUMBER P-37 (version 1/09)

AGREEMENT

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

GENERAL PROVISIONS**1. IDENTIFICATION.**

1.1 State Agency Name Department of Insurance		1.2 State Agency Address 21 South Fruit, Suite 14, Concord, NH 03301	
1.3 Contractor Name Risk & Regulatory Consulting, LLC		1.4 Contractor Address 20 Batterson Park Rd. Suite 380, Farmington CT 06032	
1.5 Contractor Phone Number 603-557-6960	1.6 Account Number 226608	1.7 Completion Date May 15, 2015	1.8 Price Limitation \$24,570
1.9 Contracting Officer for State Agency Deborah Stone		1.10 State Agency Telephone Number 603-271-7973	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Douglas Bartlett, Senior Director	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>2/25/2015</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] 			
1.13.2 Name and Title of Notary or Justice of the Peace Diane T. Cygan, Notary			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Deborah Stone, Director of Examinations	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>2/26/2015</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 WLS
Date 2/25/15

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 ~~\$1,000,000~~ ^{1,000,000} 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

Contractor Initials *ML*
Date 2/27/16

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 & Terms of Professional Services Agreement Financial Analysis Consulting Services Risk & Regulatory Consulting, LLC

This agreement ('Agreement') shall consist of the Form Number P-37 and all associated Exhibits.

Risk & Regulatory Consulting, LLC (RRC) is hereby engaged to furnish certain professional services, including but not limited to annual financial analysis and, in addition, training of the NHID financial analysis team in the branding of risk that is introduced into the Insurer Profile Summary (IPS) with 2014 annual financial analysis, for all NH domestic insurance companies in accordance with the Financial Analysis Handbook and the Financial Condition Examiners Handbook, and pursuant to the terms and conditions delineated in the Agreement between the Department and **RRC** beginning upon approval by Governor & Executive Council. Specifically, Doug Bartlett will be the **RRC** employee providing these services.

RRC will respond promptly to the Department's requests and it is contemplated that subject of financial statement review, training and any related administrative proceeding will be completed timely.

I. IMMUNITY FROM LIABILITY

The parties agree that **RRC** and its employees are considered examiners/financial analysts retained by the commissioner pursuant to Title XXXVII, **RSA 400-A:36 of the New Hampshire Revised Statutes** and therefore will be accorded the protections, including without limitation the immunity from liability, for analysis work contained therein.

II. GENERAL PROVISIONS

- A. *Independent Contractor.* **RRC** shall perform the Services as an independent contractor and not as an agent or employee of the Department, the State of New Hampshire, or the insurance companies under review and as such shall be responsible for all applicable federal, state and local tax withholding payments and filings on its employees and representatives. **RRC** is responsible for the management or supervision of only its owners, employees and representatives.
- B. *Ownership and Use of Documents.* All work product, reports, work papers, records, files, documents, schedules, computations, and correspondence created by or in the possession or control of **RRC** and related to the scope of Services to be provided, including those in electronic format, shall be the exclusive property of the Department and shall be subject to the review and approval of the Department.
- C. *Security and Confidentiality:* **RRC** shall comply fully with all security procedures of the Department (or that bind the Department). Without express written consent of the Department, **RRC** shall not divulge to third parties any confidential information obtained by **RRC** in the course of performing work under this Agreement, including but not limited to security procedures, business operations information, or commercial proprietary information in the possession of the Department or any of the

Exhibit A

insurance companies under review. The provisions of this paragraph shall survive this Agreement.

- D. *Public Records*: Work papers and other information obtained during the course of an examination, analysis or investigation are confidential under New Hampshire Statutes, and are exempt from the public records law in New Hampshire Statutes. Therefore, the work papers and other information developed by **RRC** are not public records and must be kept confidential. If **RRC** receives a request for public records pursuant to New Hampshire Statutes (RSA 400-A:36, RSA 91-A), or a subpoena, **RRC** shall furnish copies of the request and of any records in its possession that are responsive to the request to the Department. The Department will either defend the request or produce any public records or subpoenaed records to the requesting party, if any of the records are determined to be subject to disclosure. In the event that a judge in a court of competent jurisdiction orders **RRC** to produce records in its possession directly to a court or other party, **RRC** shall comply with the order and shall furnish a copy of any records produced to the Department.
- E. *Conflict of Interest*. The **RRC** engagement partner signing this Agreement affirms that to the best of his/her knowledge, as to the insurance companies under review, there exists no known conflict between **RRC**, the Department with respect to the proposed Services to be provided under this Agreement, and that in the event of a change in either the private interest or Services under this Agreement, any questions regarding a possible conflict of interest that may arise as a result of this change shall be disclosed in writing to the Department. The **RRC** Engagement Partner further affirms that he/she has followed the **RRC** standards and its Client Independence Acceptance process with respect to the above determination of no known conflict and will follow this process with respect to possible conflicts of interest that may arise throughout the course of this Engagement.
- F. *Communication Between Parties*. **RRC** shall report directly to representatives of the Department regarding performance of the scope of Services. Communication between any of the insurance companies and **RRC** shall be limited to the solicitation of information by **RRC** from the companies regarding the scope of Services. **RRC** shall not issue any draft or final report to any of the insurance companies under review.
- G. *Equipment*. **RRC** shall provide all computers and other equipment needed to perform the Services regarding this Agreement.
- H. *Insurance Requirements*. During the Agreement term, **RRC** at its sole expense shall provide commercial insurance (e.g.: worker's compensation, employer's liability, commercial general liability) of such a type and with such terms and limits as are reflected in Exhibit C and as may be reasonably associated with the providing of Services under this Agreement, covering all employees engaged in any work under this Agreement. Providing and maintaining adequate insurance coverage is a material obligation of **RRC**. The limits of any coverage under each policy maintained by **RRC** shall not be interpreted as limiting **RRC** liability and obligations under the Agreement.

Exhibit A

- I. *Notice of other engagements.* **RRC** will exert reasonable commercial efforts, through the Engagement Partner continually evaluating current client relationship and investigating prospective ones pursuant to the **RRC** policies and processes regarding independence and conflicts of interest, to notify the Department prior to accepting any other engagement in any form whatsoever relating to any insurance company for which services are being provided as part of the engagement under the Agreement, or for twelve (12) months after the date **RRC** last performed any engagement services concerning any insurance company under the Agreement.

III. COMPENSATION

See Exhibit B – Payment Terms

IV. LIMITATION OF LIABILITY

The Department shall not be liable for any actions of **RRC** that fall outside the scope of **RRC**'s duties in the performance of this Agreement. The Department does not indemnify **RRC** for any liability and does not waive sovereign immunity.

Except to the extent finally determined to have resulted from **RRC**'s gross negligence or intentional misconduct, **RRC** liability to pay damages for any losses incurred by the Department for any loss, cost, damage, or expense sustained by the Department as a result of breach of contract, negligence or other tort committed by **RRC**, regardless of the theory of liability asserted, will not exceed the payment received for Services performed pursuant to this Agreement.

RRC will not be liable for any indirect, incidental, consequential, special or exemplary damages, even if **RRC** has been advised of the possibility of such damages.

V. STATUTORY REQUIREMENTS

- A. During the engagement services under any Agreement, **RRC** shall promptly communicate in writing to the Department any instances of material findings along with any documents or other proof of such findings.
- B. **RRC** shall not be responsible for the fraud or other illegal acts committed by any insurance company under review, but shall promptly bring to the Department's attention any evidence discovered by **RRC** that fraud or other illegal acts may have occurred.
- C. **RRC** shall perform the Services in a manner consistent with the provisions of RSA 400-A:10

VI. AUTHORITY OF AGREEMENT

- A. This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or

Exhibit A

oral. Only a written instrument signed by the Department and **RRC** may amend this Agreement.

- B. If a court deems any provision of the Agreement void or unenforceable, that provision shall be enforced only to the extent that it is not a violation of law or is not otherwise enforceable, and all other provisions shall remain in full force and effect.
- C. The Department, without formal hearing or Order, shall resolve any unresolved disputes arising between **RRC** and any insurance company under review in connection with work performed for compensation under the Agreement. **RRC** consents to the Department's exclusive right to determine disputes arising under this agreement.

VII. WARRANTY

RRC warrants that the Services will be performed with reasonable care in a diligent and competent manner in accordance with National Association of Insurance Commissioners Financial Examination handbook and the Financial Analysis Handbook. **RRC's** sole obligation will be to correct any non-conformance with this warranty, provided that the Department gives **RRC** written notice within ten days after the Services are performed or, if applicable, deliverables are delivered. The notice will specify and detail the non-conformance and **RRC** will have a reasonable amount of time, based on its severity and complexity, to correct the non-conformance.

THIS WARRANTY IS **RRC's** ONLY WARRANTY CONCERNING THE SERVICES AND ANY DELIVERABLES, AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE, ALL OF WHICH ARE HEREBY DISCLAIMED.

VIII. OTHER MATTERS

The Department may terminate this Agreement upon written notice to the other party. **RRC** may terminate this Agreement as required by law, regulation, or its professional standards upon written notice to the Department.

Neither party shall be liable to the other for any delay to perform any of the Services or obligations set forth in this Agreement due to causes beyond its reasonable control. If any provision of this Agreement is determined to be invalid under any applicable law, it is to that extent to be deemed omitted, and the balance of the Agreement shall remain enforceable.

RRC will not undertake work that is beyond the Services set forth in the Agreement. Either party may request changes to the Services. To be effective, a change in Services must be in writing and signed by both parties.

No delay or omission by either party in exercising any right or power shall impair such right or power or be construed to be a waiver. No waiver or discharge shall be valid

Exhibit A

unless in writing and signed by an authorized representative of the party against whom such waiver or discharge is sought to be enforced.

The Department agrees that it will not, directly or indirectly, agree to assign or transfer any claim against **RRC** arising out of this engagement to anyone.

In the event **RRC** is requested or authorized by the Department or required by government regulation, subpoena, or other legal process to produce its working papers or its personnel to serve as witnesses with respect to this engagement for the Department, the Department will, so long as **RRC** is not a party to the proceeding in which the information is sought, compensate **RRC** for its professional time and expenses, as well as the fees and expenses of its counsel, incurred in responding to such a request.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Risk & Regulatory Consulting, LLC

New Hampshire Department of Insurance

BY: 

BY: 

Name: LeeAnne Creevy

Name: Deborah Stone

Title: **Partner**

Title: **Director of Financial Regulation**

Date: **26 February 2015**

Date: **26 February 2015**

Exhibit B

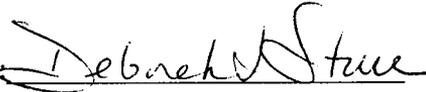
PAYMENT TERMS Risk & Regulatory Consulting, LLC

RRC will provide the subject services on an hourly rate of \$100 based on a 40-hour work week for a period of six weeks (\$24,000), as well as expenses comprising mileage and tolls at \$19/day (\$570), for a total estimated budget of \$24,570. RRC will bill the Department on a bi-weekly basis supported by reasonable bill detail. The Department will promptly pay RRC the bi-weekly amounts billed after review of the bills.

Risk & Regulatory Consulting, LLC

New Hampshire Insurance Department

BY: 

BY: 

Name: **LeeAnne Creevy**

Name: **Deborah L. Stone**

Title: **Partner**

Title: **Director of Financial Regulation**

Date: **26 February 2015**

Date: **26 February 2015**

EXHIBIT C

SPECIAL PROVISIONS

Delete Section 14.1.1 and replace with the following:

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 claims and \$1,000,000 per occurrence; and

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 Risk & Regulatory Consulting, LLC, a(n) Delaware limited liability company registered to do business in New Hampshire on May 18, 2012. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 26th day of February, A.D. 2015

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

William M. Gardner
Secretary of State

CERTIFICATE OF VOTE
(Corporation with Seal)

I, Joseph F. Clark, President of the
(Corporation Representative Name) (Corporation Representative Title)

Rick & Regulatory Consulting, LLC, do hereby certify
that: (Corporation Name)

(1) I am the duly elected and acting President of the
(Corporation Representative Title)

Rick & Regulatory Consulting, LLC, a Delaware corporation (the
"Corporation");
(Corporation Name) (State of Incorporation)

(2) I maintain and have custody of and am familiar with the Seal and minute books of the Corporation;

(3) I am duly authorized to issue certificates;

(4) the following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the

23rd day of February, 2015, which meeting was duly held in accordance with

Delaware law and the by-laws of the Corporation:
(State of Incorporation)

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting by and through the Insurance Department, providing for the performance by the Corporation of certain regulatory services, and that the President (any Vice

President) (and the Treasurer) (or any of them acting singly) be and hereby (is) (are) authorized and directed for and on behalf of this Corporation to enter into the said contract with the State and to take any and all such actions and to execute, seal, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) as (she) (he) (any of them) may deem necessary, desirable or appropriate to accomplish the same;

RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document described in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

The forgoing resolutions have not been revoked, annulled or amended in any manner whatsoever, and remain in full force and effect as of the date hereof; and the following person(s) (has) (have) been duly elected and now occupy the office(s) indicated below

Joseph F. Clark President Name

IN WITNESS WHEREOF, I have hereunto set my hand as the President
(Title)

of the Corporation and have affixed its corporate seal this 23rd day of February, 2015.

Joseph F. Clark
(Title) President

(Seal) No Corporate Seal exists for the LLC

STATE OF Connecticut

COUNTY OF Hartford

On this the 23rd day of February, 2015, before me, Susan M. Coassin, the undersigned officer, personally appeared Joseph F. Clark, who acknowledge her/himself to be the President, of Risk & Regulatory Consulting, LLC, a corporation, and that she/he, as (Title) (Name of Corporation)

such President being authorized to do so, executed the foregoing instrument for the
(Title)

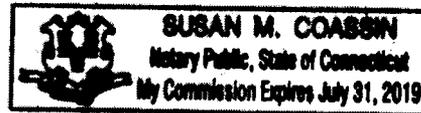
purposes therein contained, by signing the name of the corporation by her/himself as

Joseph F. Clark.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Susan Coassin
Notary Public/Justice of the Peace

My Commission expires: 7/31/2019



STANDARD EXHIBIT I

The Contractor identified as in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 and those parts of the HITECH Act applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the New Hampshire Insurance Department.

BUSINESS ASSOCIATE AGREEMENT

(1) Definitions.

- a. "Breach" shall have the same meaning as the term "Breach" in Title XXX, Subtitle D. Sec. 13400.
- b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164.
- i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.

- m. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- n. “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- o. “Unsecured Protected Health Information” means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.
- p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

(2) Use and Disclosure of Protected Health Information.

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, the Business Associate shall not, and shall ensure that its directors, officers, employees and agents, do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
 - I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HITECH Act, Subtitle D, Part 1, Sec. 13402 of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.
- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) Obligations and Activities of Business Associate.

- a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving Covered Entity data, in accordance with the HITECH Act, Subtitle D, Part 1, Sec. 13402.
- b. The Business Associate shall comply with all sections of the Privacy and Security Rule as set forth in, the HITECH Act, Subtitle D, Part 1, Sec. 13401 and Sec.13404.
- c. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- d. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section (3)b and (3)k herein. The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of use and disclosure of protected health information.
- e. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- f. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- g. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
- h. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- i. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.

- j. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- k. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

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

(5) Termination for Cause

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

(6) Miscellaneous

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, and the HITECH Act as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the

changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.

- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule and the HITECH Act.
- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section 3 k, the defense and indemnification provisions of section 3 d and standard contract provision #13, shall survive the termination of the Agreement.

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

NEW HAMPSHIRE INSURANCE DEPT.
The State

Deborah L. Stone
Signature of Authorized Representative

DEBORAH L. STONE
Name of Authorized Representative

DIRECTOR of FINANCIAL REGULATION
Title of Authorized Representative

24 February 2015
Date

Risk + Regulatory Consultants
Name of the Contractor

Douglas L. Bartlett
Signature of Authorized Representative

Douglas L. Bartlett
Name of Authorized Representative

Senior Director
Title of Authorized Representative

26 February 2015
Date