



THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION



23  
Blawie

Victoria F. Sheehan  
Commissioner

William Cass, P.E.  
Assistant Commissioner

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

February 6, 2017  
Bureau of Transportation, Systems,  
Management, and Operations (TSMO)

**REQUESTED ACTION**

Authorize the Department of Transportation to enter into a contract with Tilson Technology Management, Inc. (Vendor #267136) in the amount of \$4,225,966.31 to design, test, and build an Advanced Transportation Management System (ATMS) on the Frederick E. Everett Turnpike (FEET) from the Massachusetts Stateline in Nashua to the I-93 Exit 13 interchange in Concord within the Division of Operations effective upon Governor and Council approval. 100% Turnpike Funds.

Funding is available as follows for SFY 2017, and is contingent upon the availability and continued appropriation of funds for SFY 2018:

	<u>SFY 2017</u>	<u>SFY 2018</u>
04-96-96-961017-7507 Central NH Turnpike 046-500463 Eng Consultants Non-Benefits	\$415,000.00	\$3,810,966.31

**EXPLANATION**

The above referenced project involves engaging one Team to design and build an Advanced Transportation Management System (ATMS) on the Frederick E. Everett Turnpike (FEET) from the Massachusetts Stateline in Nashua to the I-93 Exit 13 interchange in Concord. This project includes new Intelligent Transportation System (ITS) field devices and a new wireless communications network connecting the field devices to the existing Transportation Management Center (TMC).

A Request For Proposal (RFP 2016-10) was developed using a procurement approach based on combined overall scoring of the technical proposal and cost proposal apportioned at 70% and 30%, respectively.

The Contract resulting from this RFP is a firm fixed price, which includes the following: systems engineering, design, permitting, construction, integration, and a 24-month maintenance period. The state has the sole discretion to extend the maintenance period for up to three additional 12-month periods. The Department of Information Technology (DoIT) reviewed and approved the RFP on February 25, 2016 prior to Vendor solicitation.

On March 2, 2016 the Department publicly advertised the subject RFP. The RFP stated that the Department has established an approximate budget for this project of between \$3.75 million and \$4 million. During the response period, the Department conducted a Vendor Conference for all Vendors who responded with intent to submit and entertained questions and/or inquiries from the Vendors. Proposals were received from the following Vendors in accordance with the requirements for submission, including the stipulated deadline of April 22, 2016:

**VENDOR TEAM NAME**

- Green Mountain Communications, Inc. (GMCI) Team;
- McCourt Construction (McCourt) Team; and,
- Tilson Technology Management, Inc. (Tilson) Team

Proposals from each Team were reviewed by the FEET RFP Selection Committee along with technical review support by the consulting firm Vanasse Hangen Brustlin (VHB). The Selection Committee was comprised of Bureau of Turnpikes Assistant Administrator, Bureau of Highway Design- Design Services Chief, Bureau of (TSMO) Project Manager, Bureau of TSMO Communications Supervisor, and DoIT IT Project Manager.

On June 8, 2016, the Selection Committee held interviews with the three Vendor Teams. Each Team conducted a presentation describing their Team, capabilities, and pertinent aspects of their proposal; provided answers to a specific set of questions targeting each proposal; and participated in an open question and answer period. Following the interviews, the Selection Committee met to discuss the Team interviews and to finalize the ratings of the Proposals.

The Selection Committee used the table below to rate the technical aspect of each proposal, taking into account the ATMS system design and technical aspects; the firm’s qualifications such as: project Team, capabilities, references, implementation, transition, and delivery approach. The technical aspect accounted for 70 of the total 100 maximum points. A minimum of 50 points were required, as specified in the RFP, for further consideration in the overall selection process. Proposals not receiving a technical score of 50 points or higher, in addition to being removed from further consideration, had the corresponding price proposal returned unopened to the applicable Vendor.

<b>CATEGORIES</b>	<b>POINTS</b>
<b>TECHNICAL PROPOSAL with the following potential maximum scores for each Technical Proposal category;</b>	<b>70</b>
<i>Project Need</i>	<i>5</i>
<i>Corporate Qualifications: Previous Experience</i>	<i>10</i>
<i>Management Summary: Key Personnel, Project Management, and Coordination</i>	<i>20</i>
<i>Work Plan: Technical Approach, Communication Systems, Innovation and Value Engineering, Ability to meet project schedule, System Maintenance, and Warranty Approach</i>	<i>35</i>
<b>*PRICE PROPOSAL POTENTIAL MAXIMUM POINTS</b>	<b>30</b>
<b>TOTAL POTENTIAL MAXIMUM POINTS AWARDED</b>	<b>100</b>

\*The following formula was used to assign points for the price proposal: Vendor’s Price Score = (Lowest Proposed Price/Vendor’s Proposed Price) x 30.

Based on the above mentioned analysis, the Selection Committee identified two Teams with technical scores exceeding 50 points and worthy of consideration in the selection process. The McCourt Team did not achieve the minimum technical score. As such, based on the requirements in the RFP 2016-10, Section 4.4, the proposal submission was disqualified from further consideration, and the corresponding price proposal is to be returned unopened to McCourt.

The cost proposals were opened on June 9, 2016 following the oral presentations. Only cost proposals for the GMCI Team and the Tilson Team were opened because their technical scores exceeded the minimum technical score required to open the cost proposals.

The RFP included a list of the individual bid items on a bid items form included as Appendix E of the RFP. The bid items form was divided into nine sections that cumulatively made up the Total Base Cost for the proposal. A tenth section included the value engineering options and other optional bid items for the Department's consideration. Each of the first five sections included the individual items that made up the project sub-systems (Closed Circuit TV (CCTV), Dynamic Message Signs (DMS), Motor Vehicle Detection Systems (MVDS), existing equipment, and communications). The remaining four sections included project-wide items such as engineering, testing and integration, training, system maintenance, and warranty.

The following table outlines the Committee's technical scoring, each Team's base price proposal, corresponding price score, and total score:

<b>Team</b>	<b>Technical Score (max. 70 points)</b>	<b>Base Cost</b>	<b>Total Price Score (max. 30 points)</b>	<b>Total Score</b>
GMCI	52.4	\$5,166,517.00	29.5	81.9
McCourt	37	N/A	N/A	N/A
Tilson	63	\$5,076,594.06	30	93

Based on the Selection Committee proposal review and interview process, the committee has concluded that Tilson's proposal meets, and or exceeds, each of stated goals in the RFP.

The RFP states that the Department reserves the right, at its discretion, to make an award by item, by a part of an item, by groups of items, or by the total proposal in accordance with the Department's available budget. This statement provides the Department's justification to negotiate a final project cost with the highest scoring Team.

Given the submitted price proposal, negotiation and a reduction in the scope of the project was required to meet the budget. A strategy was developed which prioritized the ATMS devices/elements and identified those portions of the infrastructure that could be implemented by other means outside of this RFP.

The TSMO Project Manager met with the Attorney General's office on Tuesday, June 21, 2016 to review the RFP selection process and to receive concurrence on subsequent steps in the process. Based on that conversation, consistent with RFP 2016-10 Sections 3.17-Award and 4.5-Contractor Selection, an Intent to Award letter was sent to the Tilson Team.

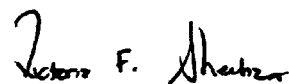
Accordingly, the Project Manager met with the Tilson Team to negotiate reductions in scope and cost. Based on these negotiations, Tilson reduced their pricing on August 11, 2016. The negotiated costs and reduction in scope included removing four CCTV, one DMS, and two MVDS. The final scope includes installing fourteen CCTV, five DMS, and thirteen MVDS. The overall project cost was reduced to \$4,225,966.31 based on these discussions.

This Contract has been approved by the Attorney General as to form and execution. The Department has verified that the necessary funds are available. Copies of the fully executed contract are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Based on the scoring and above information, the Department requests approval to enter into a contract with Tilson Technology Management, Inc.

It is respectfully requested that this resolution be approved.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan". The signature is written in a cursive style with a large initial "V".

Victoria Sheehan  
Commissioner

Attachment: Proposal Scoring summary

cc: C. Waszczuk  
D. Rodrigue  
M. Servetas  
S. Klasen

**PROPOSAL SUMMARY TALLY FORM**

SECTION	MAXIMUM POINTS			
	GMCI	McCourt	Tilson	
Project Need	5	4.2	3.2	4.8
Corporate Qualifications	10	6.2	4.6	8.4
Management Summary	20	14.6	10	17.6
Work Plan	35	27.4	19.2	32.2
<b>SUBTOTAL</b>	<b>70</b>	<b>52.4</b>	<b>37</b>	<b>63</b>
Cost Proposal	30	29.5	N/A	30
<b>TOTAL POINTS</b>	<b>100</b>	<b>81.9</b>	<b>N/A</b>	<b>93</b>



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**

27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
[www.nh.gov/doit](http://www.nh.gov/doit)

**Denis Goulet**  
*Commissioner*

December 30, 2016

Victoria F. Sheehan  
Commissioner  
Department of Transportation  
State of New Hampshire  
John O. Morton Bldg.  
7 Hazen Drive  
Concord, NH 03302-0483

Dear Commissioner Sheehan:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with Tilson Technology Management, Inc., as described below and referenced as DoIT No. 2016-094.

The purpose of this contract is to design and build an Advanced Transportation Management System (ATMS) along the Frederick E. Everett Turnpike Corridor from the Massachusetts state line in Nashua to the I-93 Exit 13 interchange in Concord with additional work possible along the existing NHDOT fiber optic infrastructure. This project includes new Intelligent Transportation System (ITS) field devices and a new wireless communications network connecting the field devices to the existing NHDOT Transportation Management Center (TMC) in Concord.

The contract amount is \$4,225,966.31 effective upon Governor and Council approval through May 30, 2018.

A copy of this letter should accompany the submission to the Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Denis Goulet", written over a light blue horizontal line.

Denis Goulet

DG/mh  
Contract 2016-094

cc: Gail Hambleton



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**

27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
[www.nh.gov/doi](http://www.nh.gov/doi)

**Denis Goulet**  
*Commissioner*

2017 FEB 14 PM 1:21  
STATE OF NH  
DEPT OF JUSTICE

## NHDOT Contract Template

Fill in the form below using one of the examples below that fit your contract type

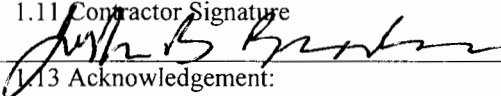
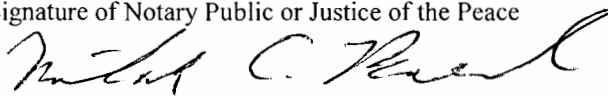

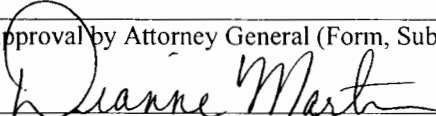
Date Posted	Date	Responses	Contract	Vendors	Amount/Score	Contact Person
1/13/2017	4/22/2016 Submission Deadline	3 Proposals	RFP 2016-10 (FEET) Corridor Advanced Transportation Management System (ATMS)	Tilson Technology Management, Inc. Green Mountain Communications, Inc McCourt Construction	\$4,225,966.31 / 93 \$5,166,517.00 / 81.9 n/a	Susan Soucie 603-271-6862 <a href="mailto:Susan.Soucie@dot.nh.gov">Susan.Soucie@dot.nh.gov</a>



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT CONTRACT**

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

**CONTRACT**

1.1 State Agency Name  Department of Transportation - Bureau of Transportation Systems Management and Operations (TSMO)		1.2 State Agency Address  PO BOX 483 Concord NH 03302-0483	
1.3 Contractor Name Tilson Technology Management, Inc.		1.4 Contractor Address 245 Commercial St. Suite 203 Portland, ME 04101	
1.5 Contractor Phone Number  (207) 591-6427	1.6 Account Number <b>04-96-96-96/017-7507-046</b>	1.7 Completion Date  <b>5/30/18</b>	1.8 Price Limitation  \$4,225,966.31
1.9 Contracting Officer for State Agency  Victoria F. Sheehan, Commissioner		1.10 State Agency Telephone Number  603-271-1486	
1.11 Contractor Signature 		1.12 Name & Title of Contractor Signatory <b>Joshua B. Boder, CEO</b>	
1.13 Acknowledgement:  On <b>12/23/16</b> , before the undersigned officer, personally appeared the person identified in block 1.12 or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [seal] 		<b>ME Bar # 004276</b>	
1.13.2 Name & Title of Notary or Justice of the Peace <b>Nicholas C. Bournabe I, Esq.</b>			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signatory <b>David Rodrigue Director of Operations</b>	
1.16 Approval by N.H. Department of Administration, Division of Personnel (if applicable)  By: _____ Director, On: _____			
1.17 Approval by Attorney General (Form, Substance and Execution)  By:  Assistant Attorney General, On: <b>3/1/17</b>			
1.18 Approval by the Governor & Council  By: _____ On: _____			

Contract Agreement RFP 2016-10 Contract  
Tilson Technology Management, Inc Initials: JBB  
Date: 12/23/16

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT TURNPIKE (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
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EXHIBIT A - CONTRACT DELIVERABLES

EXHIBIT B - PRICE AND PAYMENT SCHEDULE

EXHIBIT C - SPECIAL PROVISIONS

EXHIBIT D - ADMINISTRATIVE SERVICES

EXHIBIT E - IMPLEMENTATION SERVICES

EXHIBIT F - TESTING SERVICES

EXHIBIT G - MAINTENANCE AND SUPPORT SERVICES

EXHIBIT H - COMPLIANCE MATRIX

EXHIBIT I - WORK PLAN

EXHIBIT J - SOFTWARE LICENSE

EXHIBIT K - WARRANTY AND WARRANTY SERVICES

STATE OF NEW HAMPSHIRE  
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EXHIBIT L - TRAINING SERVICES

EXHIBIT M - RFP DOT 2016-10 (WITH ADDENDA) INCORPORATED

EXHIBIT N - VENDOR PROPOSAL AS UPDATED, BY REFERENCE

EXHIBIT O - CERTIFICATES AND ATTACHMENTS

**STATE OF NEW HAMPSHIRE  
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FREDERICK E. EVERETT TURNPIKE (FEET) CORRIDOR ATMS  
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**TERMS AND DEFINITIONS**

The following general contracting terms and definitions apply except as specifically noted elsewhere in this document.

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance Test Plan	The Acceptance Test Plan provided by the Vendor and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables.
Access Control	Supports the management of permissions for logging onto a computer or network.
Agency	"Agency" shall mean the Bureau or Department, both as defined herein.
Agreement	A contract duly executed and legally binding.
Appendix	Supplementary material that is collected and appended at the back of a document.
Approve	"Approve" and its variations (e.g., "Approval") when capitalized in this RFP refers to the State's Acceptance of a Document, condition, action or Deliverable in writing for its own internal purposes. The State's Approval shall not be construed to mean the State's endorsement or assumption of liability, nor shall it relieve the Vendor of its responsibilities under the Contract.
Breach of Security	Unlawful and unauthorized acquisition of unencrypted computerized data that materially compromises the security, confidentiality or integrity of personal information maintained by a person or commercial entity.
Bureau	New Hampshire Department of Transportation (NHDOT), Bureau of TSMO, 110 Smokey Bear Boulevard, PO Box 483, Concord, NH 03302-0483.
Business Day	The twenty-four (24) hour day expressed from 00:00 AM to 24:00 AM in military time. A business day excludes weekends (Saturdays and Sundays) and legal State of New Hampshire holidays.
Certification	The Vendor's written declaration with full supporting and written Documentation (including without limitation test results as

Contract Agreement RFP 2016-10 Contract  
Tilson Technology Management, Inc. Initials: SBB  
Date: 12/23/16

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	applicable) that the Vendor has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Change Order or Change Request	Formal documentation prepared for a proposed change in the Specifications or the Contract Document.
Completion Date	End date for the Contract.
Confidential Information	Information required to be kept Confidential from unauthorized disclosure under the Contract.
Contract	The Agreement between the State of New Hampshire and a Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
Contract Documents	Documents that comprise this Contract as set forth in Section 1.1.
Contract Managers	The persons identified by the State and the Vendor who shall be responsible for all contractual authorization and administration of the Contract. These responsibilities shall include but not be limited to processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities.
Data	State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used/converted by the Vendor during the Contract Term.
Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by the Vendor to the State or under the terms of a Contract requirement.
Department	An agency of the State – N.H. Department of Transportation.
Department of Information Technology (DoIT)	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.

**STATE OF NEW HAMPSHIRE  
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Design Documentation	System Design Documentation required under this Contract, including as example but not limited to: the Detailed Level Functional Requirements, Preliminary System Design, and Final System Design.
Documentation	All information that describes the installation, operation, and use, either in printed or electronic format as well as engineering calculations and information that supports the design.
Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract.
Encryption	Supports the encoding of data for security purposes.
Enhancements	New releases, updates, changes, customization, modifications, and additions to the ITS Software.
Final System Acceptance	Final System Acceptance will be considered by the State to have occurred when, the State in its sole discretion, determines the Vendor has complied with all of the completion requirements set forth for the Project in the Contract Agreement.
Firm Fixed Price Contract	A Firm Fixed Price Contract provides a price that is not subject to increase without an approved Change Order or Change Request as provided in this Agreement, i.e., adjustment on the basis of the Vendor's cost experience in performing the Contract.
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users.
Implementation	The process for making the System operational for processing the Data.

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Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.
Invoking Party	In a dispute, the party initiating dispute resolution proceedings, believing itself aggrieved.
Key Project Staff	Personnel identified by the State and by the Vendor as essential to work on the Project.
Licensee	The State of New Hampshire.
Maintenance	The phase of the Project immediately subsequent to Final System Acceptance through May 30, 2018 with of three (3) – one (1) year optional extensions at the sole discretion of the State.
Not to Exceed Contract	A contract executed by the State that places a ceiling on the amount to be paid to the Vendor for agreed upon services, subject to approved Change Orders or Change Requests.
Normal Business Hours	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, July 4th, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided.
Notice to Proceed (NTP)	The State Contract Manager’s written direction to the Vendor to begin work on the Contract on a given date and time.
Operational Test	The Operational Test is a verification process performed in a natural storm event. The Operational Test verifies System functionality against predefined acceptance criteria that support the successful execution of approved maintenance solution(s).

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BUREAU OF TSMO - CONTRACT RFP 2016-10  
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Order of Precedence	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence.
Project	The planned undertaking regarding the entire subject matter of an RFP, Vendor Proposal, and Contract and the activities of the parties related hereto.
Project Team	The group of State employees and contracted Vendor's personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality.
Project Managers	The persons identified who shall function as the State's and the Vendor's representative with regard to Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Orders.
Project Staff	State personnel assigned to work with the Vendor on the Project.
Proposal	The submission from a Vendor in response to the Request for a Proposal, provided in Exhibit N to this Agreement.
Review	The process of reviewing Deliverables for Acceptance.
Review Period	The period set for review of a Deliverable. If none is specified then the review period is fifteen (15) business days.
RFP (Request for Proposal)	A Request for Proposal solicits Proposals to satisfy State functional requirements by supplying data processing product and/or Service resources according to specific terms and conditions, provided in Exhibit M to this Agreement.
Schedule	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract.
Services	The work or labor to be performed by the Vendor on the Project as described in the Contract.



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Software	The configured software customized for the State provided by the Vendor in response to the RFP DOT 2016-10. All software provided by the Vendor under the contract, including, without limitation, custom software, vendor software, and COTS software.
Software Deliverables	COTS Software and Enhancements.
Software License	Licenses provided to the State under this Contract.
Specifications	The written Specifications that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
State	Reference to the term "State" shall include applicable agencies as defined in RFP DOT 2016-10 Appendix A-2.
State's Confidential Records	The State's information regardless of its form that is not subject to public disclosure under applicable State and federal laws and regulations, including but not limited to RSA Chapter 91-A.
State Data	Any information contained within the State systems in electronic or paper format.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1st through June 30th of the following calendar year.
State Project Leader	The State's representative with regard to Project oversight.
State's Project Manager (PM)	The State's representative with regard to Project management and technical matters. The State's Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Orders.

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Subcontractor	A person, partnership, or company not in the employment of, or owned by, the Vendor, which is performing Services under this Contract under a separate Contract with or on behalf of the Vendor.
System	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	The duration of the Contract.
TTMI	Tilson Technology Management, Inc.
Vendor	The contracted individual, firm, or company that will perform the duties and Specifications of the contract.
Warranty Period	A period of coverage during which the Vendor is responsible for providing a guarantee for products and services delivered set forth in the Contract Documents.
Warranty Releases	Code releases that are done during the Warranty Period as set forth in the Contract Documents.
Warranty Services	The Services to be provided by the Vendor during the Warranty Period as set forth in the Contract Documents.
Warranty Work	The work to be provided during the Warranty Period under the terms of the Warranty as set forth in the Contract Documents.
Work	The term Work, as used herein, includes all work which, in the judgment of the State, is necessary for completion of the construction and the Project under the Contract Documents and includes, without limitation, all plant, labor, materials, equipment, systems, services and software and other facilities, installation, testing, operations and maintenance and other things necessary or proper for or incidental to the carrying out and completion of the terms of the Contract

Contract Agreement RFP 2016-10 Contract

Tilson Technology Management, Inc. Initials: 366

Date: 12/23/16

**STATE OF NEW HAMPSHIRE  
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	Documents. Furthermore, without limiting the generality of the foregoing, the Work includes and is the result of performing or furnishing Design professional services and construction and installed equipment required by the Contract Documents.
Work Plan	The overall plan of activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project as specified in Vendor's Proposal and relevant updates in Exhibit N. The Work Plan shall include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.

**1. INTRODUCTION**

This Contract is by and between the State of New Hampshire, acting through New Hampshire Department Transportation ("State"), and Tilson Technology Management, Inc.

The State of New Hampshire (hereinafter known as State), acting through the Bureau of Transportation System Management and Operations (TSMO), has released a Request for Proposal (RFP) to design and build an Advanced Transportation Management System (ATMS) on the Frederick E. Everett Turnpike (FEET) from the Massachusetts state line in Nashua to the I-93 Exit 13 interchange in Concord with additional work along the existing NHDOT fiber optic infrastructure, as provided in Exhibit M: *RFP DOT 2016-10*.

**RECITALS**

WHEREAS, the State desires to have Tilson Technology Management Inc. ("TTMI") design and build an Advanced Transportation Management System (ATMS) on the Frederick E. Everett Turnpike (FEET) as described in the RFP DOT 2016-10 (Exhibit M) and Vendor Proposal, as updated (Exhibit N);

WHEREAS, TTMI desires to design and build an ATMS on the FEET as described in RFP DOT 2016-10 (Exhibit M), Vendor Proposal as updated (Exhibit N) and RFP DOT 2016-10 Final Work Plan (Exhibit P);

For good and valuable consideration, the State and TTMI therefore agree as follows:

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Contract Agreement RFP 2016-10 Contract  
Tilson Technology Management, Inc. Initials: JBB  
Date: 12/23/16

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT TURNPIKE (FEET) CORRIDOR ATMS  
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**1.1 CONTRACT DOCUMENTS**

This Contract is comprised of the following documents (Contract Documents):

- A. Contract Agreement and Contract Exhibits, as listed below
- B. Contract Exhibits
  - Exhibit A- Contract Deliverables
  - Exhibit B- Price and Payment Schedule
  - Exhibit C- Special Provisions
  - Exhibit D- Administrative Services
  - Exhibit E- Implementation Services
  - Exhibit F- Testing Services
  - Exhibit G- Maintenance and Support Services
  - Exhibit H- Compliance Matrix
  - Exhibit I- Work Plan
  - Exhibit J- Software License
  - Exhibit K- Warranty and Warranty Services
  - Exhibit L- Training Services
  - Exhibit M- RFP DOT 2016-10 Frederick E. Everett Turnpike (FEET) Corridor Advanced Transportation Management System (ATMS), Project No. 29408 (February 29, 2016) with related appendices, and addenda
  - Exhibit N- Vendor Proposal, by Reference, as updated
  - Exhibit O- Certificates and Attachments

**1.2 ORDER OF PRECEDENCE**

In the event of conflict or ambiguity among any of the text of the Contract Documents, the following Order of Precedence shall govern:

1. The State of New Hampshire, Department of Transportation Contract 2016-10 (resulting Contract from the RFP, once executed).
2. The State of New Hampshire Terms and Conditions, as stated in RFP DOT 2016-10 Appendix D.
3. Final State Responses to Vendor Inquiries to RFP DOT 2016-10.
4. RFP DOT 2016-10 Frederick E. Everett Turnpike (FEET) Corridor Advanced Transportation Management System (ATMS), Project No. 29408 (February 29, 2016) with related appendices, and addenda (Exhibit M).
5. Tilson Technology Management Inc. Proposal including interview presentation material and response to State's questions to RFP DOT 2016-10, as updated (Exhibit N).

**1.3 CONTRACT TERM**

TTMI shall be fully prepared to commence work by thirty (30) days after the Effective Date.

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Contract Agreement RFP 2016-10 Contract

Tilson Technology Management, Inc. Initials: TTM

Date: 12/23/16

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Contract initial term will begin on the Effective Date and extend through May 30, 2018 with three, one-year options to extend (“Extended Term”) at the sole option of the State, subject to the parties’ prior written agreement on applicable fees for each extended term, up to but not beyond May 30, 2021.

TTMI shall commence work upon issuance of a Notice to Proceed by the State, provided that State shall not issue any Notice to Proceed for work to commence earlier than thirty (30) days after the Effective Date without TTMI’s written consent.

The State does not require TTMI to commence work prior to the Effective Date; however, if TTMI commences work prior to the Effective Date and a Notice to Proceed, such work shall be performed at the sole risk of TTMI. In the event the Contract does not become effective, the State shall be under no obligation to pay TTMI for any costs incurred or Services performed.

**2. COMPENSATION**

**2.1 CONTRACT PRICE**

The Contract Price, method of payment, and terms of payment are identified and more particularly described in Exhibit B: *Price and Payment Schedule*.

The payment by the State of the contract price shall be the only and the complete reimbursement to TTMI for all expenses, of whatever nature incurred by TTMI in the performance hereof, and shall be the only and the complete compensation to TTMI for the services. The State shall have no liability to TTMI other than the Contract Price.

**2.2 NOT TO EXCEED CONTRACT**

This is a Not To Exceed Contract with price and term limitations as set forth in the Contract.

Except in the case of an approved Change Order or Change Request, total payments shall not exceed under the Contract exceed \$4,225,966.31 the amount listed in Contract, Block 1.8: *Price Limitation* of Page 1 of the Contract.

**3. CONTRACT MANAGEMENT**

TTMI must obtain written consent from the State before any public announcement or news release is issued pertaining to any Contract award. Such permission, at a minimum, will be dependent upon approval of the Contract by Governor and Executive Council of the State of New Hampshire.

The Project will require the coordinated efforts of a Project Team consisting of both Tilson TTMI and State personnel. TTMI shall provide all necessary resources to perform its obligations under the Contract. TTMI shall be responsible for managing the Project to its successful completion.

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**3.1 TTMI Contract Manager**

TTMI shall assign a Contract Manager who shall be responsible for all Contract authorization and administration. TTMI's Contract Manager is:

Michael MacCannell  
Tilson Technology Management Inc.  
Tel: (401) 298-0338  
Email: mmaccannell@tilsontech.com

**3.1.1 Contract Manager**

TTMI Contract Manager must be qualified to perform the obligations required of the position under the Contract, the RFP, the Vendor Proposal, as updated shall have full authority to make binding decisions under the Contract, and shall function as TTMI's representative for all administrative matters. TTMI Contract Manager must work diligently and use his/her best efforts on the Project.

**3.2 Tilson Technology Management Inc. Project Manager**

**3.2.1 Project Manager**

TTMI shall assign a Project Manager who meets the requirements of the Contract. TTMI's selection of the initial Project Manager shall be set forth in the Contract and deemed approved by the State upon the Effective Date. Any subsequent Project Manager selected by the TTMI shall be subject to the prior written approval of the State, provided that the State's approval shall not be unreasonably withheld or delayed. The State's approval process may include, without limitation, at the State's discretion, review of the proposed TTMI Project Manager's resume, qualifications, references, and background checks, and an interview. The State may require removal or reassignment of TTMI Project Manager who, in the reasonable judgment of the State, is found unacceptable or is not performing to the State's satisfaction.

**3.2.2** TTMI Project Manager must be qualified to perform the obligations required of the position under the Contract, and shall function as Tilson Technology Management Inc. representative for all project management matters. TTMI Project Manager shall perform the duties required under the Contract, the RFP, and the Vendor Proposal, as updated. Tilson Technology Management Inc. Project Manager must be available to promptly respond during Normal Business Hours within two (2) hours to inquiries from the State, and be at the site as needed. Tilson Technology Management Inc. Project Manager must work diligently and use his/her best efforts on the Project.

**3.2.3** Tilson Technology Management Inc. shall not change its assignment of Tilson Technology Management Inc. Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of Tilson Technology Management Inc. Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than TTMI Project Manager being replaced; meet the requirements of the Contract; and be subject to reference and background checks described above in Contract, Section 3.2.1: *Contract Project Manager*, and in Contract, Section 3.6:

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Contract Agreement RFP 2016-10 Contract

Tilson Technology Management, Inc. Initials: SB

Date: 12/23/16

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*Reference and Background Checks*, below. TTMI shall assign a replacement Tilson TTMI Project Manager within ten (10) business days of the departure of the prior TTMI Project Manager, and TTMI shall continue during the ten (10) business day period to provide competent Project Management Services through the assignment of a qualified interim Project Manager.

**3.2.4** Notwithstanding any other provision of the Contract, in the event of TTMI's failure to satisfy the provisions of Section 3.2.1, 3.2.2 and 3.2.3, the State shall have the option, at its discretion, to provide notice of an Event of Default and pursue its remedies at law and in equity, including termination of the Contract for convenience in accordance with the terms of this Contract.

**3.2.5** TTMI Project Manager is:  
Mike Costa  
Mobility Tech Corporation  
6 Highwoods Drive  
Methuen, MA 01844  
Tel: (617) 285-2921  
Email: mcosta@tilsontech.com

**3.3 TTMI Key Project Staff**

**3.3.1** TTMI shall assign Key Project Staff who meet the requirements of the Contract, and can meet the requirements set forth in RFP Appendix C: *High Level Design Document*. The State may conduct reference and background checks on TTMI Key Project Staff. The State reserves the right to require removal or reassignment of TTMI Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with Contract, Section 3.6: *Reference and Background Checks*.

**3.3.2** TTMI shall not change any Tilson TTMI Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of TTMI Key Project Staff will not be unreasonably withheld or delayed. The replacement TTMI Key Project Staff shall have comparable or greater skills than TTMI Key Project Staff being replaced; meet the requirements of the Contract, including but not limited to the requirements set forth in RFP Appendix C: *High Level Design Document* and be subject to reference and background checks described in Contract, Section 3.6: *Reference and Background Checks*. In the event a change in TTMI Key Project Staff becomes necessary for reasons beyond TTMI's reasonable control, TTMI shall appoint new Key Project Staff on an interim basis, subject to the State's review and approval, which shall not be unreasonably withheld or delayed.

**3.3.3** Notwithstanding any other provision of the Contract, in the event of TTMI's failure to satisfy the provisions of Section 3.3.1 and 3.3.2, the State shall have the option, at its discretion, to provide notice of an Event of Default and pursue its remedies at law and in equity, including termination of the Contract for convenience in accordance with the terms of this Contract.

**3.3.3.1** TTMI Key Project Staff shall consist of the following individuals in the roles identified below:

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Contract Agreement RFP 2016-10 Contract

Tilson Technology Management, Inc. Initials:                     

Date: 12/23/16

**STATE OF NEW HAMPSHIRE  
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**TTMI Key Project Staff:**

<b>Key Member(s)</b>	<b>Title</b>
Michael MacCannell	Principal in Charge
Mike Costa	Project Manager
Carl-Henry Piel	Engineer of Record
Bart Cima	Design QA/QC
Todd Cleveland	Construction Supervisor

**3.4 STATE CONTRACT MANAGER**

The State shall assign a Contract Manager who shall function as the State's representative with regard to Contract administration. The State Contract Manager is:

Susan K. Soucie, PE  
Department of Transportation  
Bureau of TSMO  
Tel: (603)-271-6862  
Fax: (603)-271-8626  
Cell: (603)-419-0107  
ssoucie@dot.state.nh.us

**US Mail:**  
110 Smokey Bear Blvd  
PO Box 483  
Concord, NH 03302-0483

**3.5 STATE PROJECT MANAGER**

The State shall assign a Project Manager. The State Project Manager's duties shall include the following:

- a. Leading the Project;
- b. Engaging and managing TTMI and NHDOT;
- c. Managing significant issues and risks.
- d. Reviewing and accepting Contract Deliverables;
- e. Invoice sign-offs;
- f. Review and approval of change proposals; and
- g. Managing stakeholders' concerns.

The State Project Manager is:

Susan K. Soucie, PE  
Department of Transportation  
Bureau of TSMO

**3.6 REFERENCE AND BACKGROUND CHECKS**

The State may, at its sole expense, conduct reference and background screening of Tilson Technology Management Inc. Project Manager and Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Contract, Section 11: *Use of State's Information, Confidentiality.*



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**4. DELIVERABLES**

**4.1 VENDOR RESPONSIBILITIES**

TTMI shall be solely responsible for meeting all requirements, and terms and conditions specified in this Contract, regardless of whether or not a subcontractor is used.

**4.2 DELIVERABLES AND SERVICES**

TTMI shall provide the State with the Deliverables and Services in accordance with the time frames in the final approved Work Plan for this Contract, and as more particularly described in Exhibit A: *Contract Deliverables* and Exhibit N: Vendor Proposal, as updated.

Upon its submission of a Deliverable or Service, TTMI represents that it has performed its obligations under the Contract associated with the Deliverable or Service.

**4.3 DELIVERABLES REVIEW AND ACCEPTANCE**

After receiving written Certification from Tilson Technology Management Inc. that a Deliverable is final, complete, and ready for Review, the State will Review the Deliverable to determine whether it meets the Requirements outlined in Exhibit A: *Contract Deliverables*.

Unless otherwise noted or instructed by NHDOT document deliverables require a draft, final draft submission for NHDOT review and approval.

- Draft – Draft submittals shall be completed by TTMI with intent to represent a 90% completion. NHDOT’s review of the Draft shall serve as the initial review and to resolve any outstanding issues and/or clarifications needed for TTMI to complete the document and submit a Final Draft. NHDOT shall be allowed a 15 business day review period for all Draft submittals.
- Final Draft – The Final Draft shall be considered 100% complete taking into consideration and applying all comments and resolutions from the Draft submittal. NHDOT’s review of the Final Draft is intended to verify that all comments and resolutions have been appropriately applied. NHDOT shall be allowed a 15 business day review period for all submittals.

Final submittals shall also be subject to final review and approval by NHDOT and for subsequent payment where applicable. The NHDOT reserves the right to reject any submittal which it reasonably determines has not been adequately prepared. The NHDOT will inform TTMI in writing in such event and will request a resubmittal of the deliverable. NHDOT’s rejection shall not waive TTMI responsibility to fulfill and maintain the approved project schedule.

If the State rejects the Deliverable, the State shall notify TTMI of the nature and class of the Deficiency and TTMI shall correct the Deficiency within the period identified in the Work Plan. If no period for TTMI correction of the Deliverable is identified, TTMI shall correct the Deficiency in the Deliverable within five (5) business days. Upon receipt of the corrected Deliverable, the State shall have fifteen (15) business days to review the Deliverable and TTMI of its Acceptance or rejection thereof. If TTMI fails to correct the Deficiency within the allotted period of time, the State may, at its option, continue reviewing the Deliverable until the Deficiency is corrected, or may provide TTMI a notice of default as provided in this Contract, and pursue its remedies at law

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and in equity. In the event TTMI fails to address comments appropriately requiring additional or repetitive reviews the NHDOT reserves the right to seek reimbursement for any additional consultant costs related to the additional review efforts.

NHDOT will review and approve all deliverables required under the Contract. In the event TTMI fails to receive approval of any document prior to the Final System Approval as identified in Exhibit A: *Contract Deliverables*, the NHDOT may withhold, in its entirety, monthly operations payments until such documents are satisfactorily submitted and approved.

TTMI shall take into consideration the expected review and response times of both the NHDOT and TTMI in preparing and managing the timeliness of the document deliverables. In the event of unanticipated or unreasonable delays or repetition of such review and response, the State and TTMI agree to adjust the Work Plan and Schedule as necessary to accommodate the NHDOT review process and advance the Project.

As part of each review process, NHDOT will provide TTMI with a consolidated set of comments on the deliverable submitted for review. TTMI shall respond in writing to all NHDOT provided comments. A comment resolution meeting may be conducted to clarify and resolve any remaining questions and issues concerning the comments and/or responses provided. Based on NHDOT comments and the results of the comment resolution meeting, TTMI shall prepare a final version of the deliverable for NHDOT approval.

#### **4.4 SYSTEM/SOFTWARE TESTING AND ACCEPTANCE**

System/Software Testing and Acceptance shall be performed as set forth in the Test Plans for the various components of the System.

#### **4.5 SECURITY**

The State must ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of its information technology resources, information, and services. State resources, information, and services must be available on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and safeguard State networks, Systems and Data.

IT Security involves all functions pertaining to the securing of State Data and Systems through the creation and definition of security policies, procedures and controls covering such areas as identification, authentication and non-repudiation.

All components of the Software shall be reviewed and tested to ensure they protect the State's hardware and software and its related Data assets.

#### **5. SOFTWARE**

TTMI shall provide the State with Software Licenses and Documentation as set forth in the Contract, and particularly described in Exhibit J: *Software License and Related Terms*, and Exhibit H: *Requirements - Compliance Matrix*.

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**6. WARRANTY SERVICES**

TTMI shall provide the Warranty and Warranty Services set forth in the Contract Documents.

**7. SERVICES**

TTMI shall provide the Services required under the Contract Documents. All Services shall meet, and be performed, in accordance with the Specifications.

**7.1 ADMINISTRATIVE SERVICES**

TTMI shall provide the State with the administrative Services set forth in the Contract, and particularly described in Exhibit D: *Administrative Services*.

**7.2 IMPLEMENTATION SERVICES**

TTMI shall provide the State with the Implementation Services set forth in the Contract, and particularly described in Exhibit E: *Implementation Services*.

**7.3 TESTING SERVICES**

TTMI shall perform testing Services for the State set forth in the Contract, and particularly TTMI described in Exhibit F: *Testing Services*.

**7.4 TRAINING SERVICES**

TTMI shall provide the State with training Services set forth in the Contract Documents, and particularly TTMI described in Exhibit L: *Training Services*.

**7.5 MAINTENANCE AND SUPPORT SERVICES**

TTMI shall provide the State with Maintenance and support Services for the Software set forth in the Contract Documents, and particularly described in Exhibit G: *System Maintenance and Support Services*.

**8. WORK PLAN DELIVERABLE**

TTMI shall provide the State with a Work Plan that shall include, without limitation, a detailed description as described in the RFP DOT 2016-10 of the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment Schedule.

The initial Work Plan shall be a separate Deliverable and is referenced in Vendor Proposal as updated (Exhibit N). TTMI shall update the Work Plan as necessary, but no less than every month, to accurately reflect the status of the Project, including, without limitation, the Schedule, Tasks, Deliverables, Major Milestones, Task dependencies, and Payment Schedule. Any such updates to the Work Plan must be approved by the FEET Corridor ATMS Project Manager, in writing, prior to final incorporation.

Unless otherwise agreed in writing by the State, changes to the Work Plan shall not relieve TTMI from liability to the State for damages resulting from TTMI's failure to perform its obligations under the Contract, including, without limitation, performance in accordance with the Schedule.

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In the event of any delay in the Schedule, TTMI must immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inactions of TTMI or the State causing the problem; its estimated duration period to reconciliation; specific actions that need to be taken to correct the problem; and the expected Schedule impact on the Project.

In the event additional time is required by TTMI to correct Deficiencies, the Schedule shall not change unless previously agreed in writing by the State, except that the Schedule shall automatically extend on a day-to-day basis to the extent that the delay does not result from TTMI failure to fulfill its obligations under the Contract. To the extent that the State's execution of its major tasks takes longer than described in the Work Plan, the Schedule shall automatically extend on a day-to-day basis, or as mutually agreed to between the parties.

## **9. CHANGE ORDERS**

### **9.1 DESIGN, DEVELOPMENT, TESTING, AND GO-LIVE**

The State and TTMI may request changes or revisions at any time by written Change Order or Change Request. Within ten (10) business days of TTMI's receipt of a Change Order or Change Request from the State, TTMI shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan. In any Change Order or Change Request made by TTMI, TTMI shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan.

Change Orders or Change Requests must be approved in writing. The receiving party shall respond to the Change Order or Change Request within ten (10) business days. If accepted, the Change Order or Change Request may be subject to the Contract amendment process, as reasonably determined by the State.

### **9.2 OPERATIONS**

The State may make changes or revisions at any time by written Change Order or Change Request per NHDOT's Form of Change Order included in Exhibit O: *Certificates and Attachments*. The State originated changes or revisions shall be approved by the Department of Information Technology. Within fifteen (15) business days of TTMI receipt of a Change Order or Change Request, and test plan, TTMI shall advise the State, in detail, of any impact on cost, estimate time frame/schedule.

TTMI may request a change or revisions at any time by written Change Request per NHDOT's Form of Change Order included in Exhibit O: *Certificates and Attachments*. The State shall respond to TTMI requested Change Request within fifteen (15) business days. The State Agency, as well as the Department of Information Technology, must approve all Change Requests in writing.

All Change Request(s) from TTMI to the State, and the State acceptance of TTMI estimate for a State requested change, will be acknowledged and responded to, either acceptance or rejection, in writing. If accepted, the Change Request(s) may be subject to the Contract amendment process, as determined to apply by the State.

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**10. INTELLECTUAL PROPERTY**

**10.1 SOFTWARE TITLE**

Tilson Technology Management Inc. shall grant the Department and TMC user rights for all vendor and project developed software and its associated documentation until such time as the implementation of the Project is successfully completed and/or terminated and software licenses are assigned to the Department.

The license shall grant the Department perpetual, nonexclusive, nontransferable, and irrevocable use of the software and its associated documentation.

TTMI shall hold the right to allow the Department to use the software or hold all title, right, and interest in the software and its associated documentation.

**10.2 STATE'S DATA AND PROPERTY**

All rights, title and interest in State Data shall remain with the State. 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, at no additional cost to the State.

**10.3 VENDOR'S MATERIALS**

Subject to the provisions of this Contract, TTMI may develop for itself, or for others, materials that are competitive with, or similar to, the Deliverables. In accordance with the confidentiality provision of this Contract, TTMI shall not distribute any products containing or disclose any State Confidential Information. TTMI shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this Contract, provided that such is not obtained as the result of the deliberate memorization of the State Confidential Information by TTMI employees or third party consultants engaged by TTMI.

Without limiting the foregoing, the parties agree that the general knowledge referred to herein cannot include information or records not subject to public disclosure under New Hampshire RSA Chapter 91-A: *Access to Public Records and Meetings*, which includes but is not limited to the following: records of grand juries and petit juries; records of parole and pardon boards; personal school records of pupils; records pertaining to internal personnel practices, financial information, test questions, scoring keys and other examination data use to administer a licensing examination, examination for employment, or academic examination and personnel, medical, welfare, library use, video tape sale or rental, and other files containing personally identifiable information that is private in nature.

**10.4 STATE WEBSITE COPYRIGHT**

**10.4.1 WWW Copyright and Intellectual Property Rights**

N/A.

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**10.5 CUSTOM SOFTWARE SOURCE CODE**

N/A.

**10.6 SURVIVAL**

This Contract, Section 10: *Intellectual Property* shall survive the termination of the Contract.

**11. USE OF STATE'S INFORMATION, CONFIDENTIALITY**

**11.1 USE OF STATE'S INFORMATION**

In performing its obligations under the Contract, TTMI may gain access to information of the State, including State Confidential Information. "State Confidential Information" shall include, but not be limited to, information exempted from public disclosure under New Hampshire RSA Chapter 91-A: *Access to Public Records and Meetings* (see e.g. RSA Chapter 91-A: 5 Exemptions). TTMI shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Contract, except as directly connected to and necessary for TTMI performance under the Contract.

**11.2 STATE CONFIDENTIAL INFORMATION**

TTMI shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information that becomes available to TTMI in connection with its performance under the Contract, regardless of its form.

Subject to applicable federal or State laws and regulations, Confidential Information shall not include information which: (i) shall have otherwise become publicly available other than as a result of disclosure by the receiving party in breach hereof; (ii) was disclosed to the receiving party on a non-confidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favor of the disclosing party; (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party; or (iv) is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

Any disclosure of the State Confidential Information shall require the prior written approval of the State. TTMI shall immediately notify the State if any request, subpoena or other legal process is served upon TTMI regarding the State Confidential Information, and TTMI shall cooperate with the State in any effort the State undertakes to contest the request, subpoena or other legal process, at no additional cost to the State.

In the event of the unauthorized release of State Confidential Information, TTMI shall immediately notify the State, and the State may immediately be entitled to pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

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**11.3 VENDOR CONFIDENTIAL INFORMATION**

Insofar as TTMI seeks to maintain the confidentiality of its confidential or proprietary information, TTMI must clearly identify in writing all information it claims to be confidential or proprietary. Notwithstanding the foregoing, the State acknowledges that TTMI considers the Software and Documentation to be Confidential Information. TTMI acknowledges that the State is subject to State and federal laws governing disclosure of information including, but not limited to, RSA Chapter 91-A: *Access to Public Records and Meetings*. The State shall maintain the confidentiality of the identified Confidential Information insofar as it is consistent with applicable State and federal laws or regulations, including but not limited to, RSA Chapter 91-A: *Access to Public Records and Meetings*. In the event the State receives a request for the information identified by TTMI as confidential, the State shall notify TTMI and specify the date the State will be releasing the requested information. At the request of the State, TTMI shall cooperate and assist the State with the collection and review of TTMI information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be TTMI's sole responsibility and at TTMI's sole expense. If TTMI fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to TTMI, without any liability to TTMI.

**11.4 SURVIVAL**

This Contract, Section 11: *Use of State's Information, Confidentiality*, shall survive termination or conclusion of the Contract.

**12. LIMITATION OF LIABILITY**

**12.1 STATE**

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to TTMI shall not exceed the total Contract price set forth in Contract, Block 1.8.

**12.2 TILSON TECHNOLOGY MANAGEMENT INC.**

Subject to applicable laws and regulations, in no event shall TTMI be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and TTMI liability to the State shall not exceed the total Contract price set forth in Contract, Block 1.8.

Notwithstanding the foregoing, this limitation of liability shall not apply to TTMI indemnification obligations set forth in the General Provision Section 13: *Indemnification* and confidentiality obligations in Contract, Section 11: *Use of State's Information, Confidentiality*, which shall be unlimited.

**12.3 STATE'S IMMUNITY**

Notwithstanding the foregoing, nothing contained in this Contract 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 termination or Contract conclusion.

**12.4 SURVIVAL**

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Contract Agreement RFP 2016-10 Contract

Tilson Technology Management, Inc. Initials: 3BB

Date: 12/23/16

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT TURNPIKE (FEET) CORRIDOR ATMS  
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This Contract, Section 12: *Limitation of Liability* shall survive termination or Contract conclusion.

**13. INDEMNIFICATION**

TTMI 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 willful misconduct or negligent acts or omissions of TTMI.

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.

**14. TERMINATION**

**14.1 TERMINATION FOR DEFAULT**

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

- a. Material failure to perform the Services in accordance with the Specifications and other contract documents or on schedule;
- b. Failure to submit any material report required; and/or
- c. Failure to perform any other material covenant, term or condition of the Contract.

The following acts or omissions of the State shall constitute an Event of Default:

- a. Failure to perform any material covenant, term or condition of the Contract.

**14.1.1** Upon the occurrence of any TTMI Event of Default, unless otherwise provided in the Contract, the State shall provide TTMI written notice of Event of Default and require it to be remedied within thirty (30) days from the date of notice ("Cure Period"). If TTMI fails to cure the Event of Default within the Cure Period, the State may:

- a. Terminate the Contract effective two (2) days after giving TTMI written notice of termination, at its sole discretion;
- b. Give TTMI a written notice suspending all payments to be made under the Contract and ordering that the portion of the Contract price which would otherwise accrue to TTMI during the period from the date of such suspension notice until such time as the State determines that TTMI has cured the Event of Default. The State may withhold the suspended payments at its reasonable discretion to offset any damages the State suffers by reason of the Event of Default.
- c. Set off against any other obligations the State may owe to TTMI any damages the State suffers by reason of any Event of Default;
- d. Treat the Contract as breached and pursue any of its remedies at law or in equity, or both;



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- e. Procure Services that are the subject of the Contract from another source and TTMI shall be liable for reimbursing the State for the replacement Services, and all reasonable administrative costs directly related to the replacement of the Contract and procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; all of which shall be subject to the limitations of liability set forth in the Contract.

**14.1.2** Upon the occurrence of any State Event of Default, unless otherwise provided in the Contract, the TTMI shall provide State written notice of Event of Default and require it to be remedied within thirty (30) days from the date of notice (“Cure Period”). If State fails to cure the Event of Default within the Cure Period, the TTMI may:

- a. Terminate the Contract effective two (2) days after giving State written notice of termination, at its sole discretion; and/or
- b. Treat the Contract as breached and pursue its remedies at law or in equity or both.

**14.1.3** 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 termination or Contract Conclusion.

**14.2 TERMINATION FOR CONVENIENCE**

**14.2.1** The State may, at its sole discretion, terminate the Contract for convenience by thirty (30) days written notice to TTMI. In the event of a termination for convenience, the State shall pay TTMI the agreed upon price, if separately stated in this Contract, for Deliverables for which Acceptance has been given by the State and shall pay TTMI for reasonable demobilization costs as agreed upon by the parties. Amounts for Services or Deliverables provided prior to the date of termination for which no separate price is stated under the Contract shall be paid, in whole or in part, generally in accordance with Exhibit B: *Price and Payment Schedule*, of the Contract.

**14.2.2** During the thirty (30) day termination for convenience notice period, TTMI shall wind down and cease Services as quickly and efficiently as reasonably possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services.

**14.3 TERMINATION FOR CONFLICT OF INTEREST**

**14.3.1** The State may terminate the Contract by written notice if it determines during the Contract Term that a conflict of interest existed on the Effective Date, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of Contracts.

In such case, where the conflict of interest was known by TTMI on the Effective Date, the State shall be entitled to a pro-rated refund of any current development, support, and maintenance costs. The State shall pay all other contracted payments that would have become due and payable if TTMI reasonably did not know of the conflict of interest.

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**14.3.2** In the event the Contract is terminated as provided in section 14.3.1 above pursuant to a violation by TTMI, the State shall be entitled to pursue the same remedies against TTMI as it could pursue in the event of a default of the Contract by Tilson Technology Management Inc.

**14.3.3** If either party determines during the Contract Term that a conflict of interest arose subsequent to the Effective Date, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of Contracts, the party shall give written notice of such conflict of interest to the other party. If either party determines that such conflict of interest constitutes an Event of Default, the provisions of Section (14.1) shall apply.

**14.4 TERMINATION PROCEDURE**

**14.4.1** Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require TTMI to deliver to the State any property, including without limitation, Deliverables, for such part of the Contract as has been terminated.

**14.4.2** After receipt of a notice of termination, and except as otherwise directed by the State, TTMI shall:

- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
- b. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
- c. Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession of TTMI and in which State has an interest;
- d. Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to State and which has been accepted or requested by the State;
- e. Provide written certification to the State that TTMI has surrendered to the State all said property; and
- f. Assist in Transition Services, as reasonably requested by the State at no additional cost.

**15. CHANGE OF OWNERSHIP**

TTMI shall notify the State of any change in the controlling ownership of TTMI. Change in control of TTMI shall not change the terms and conditions of this Agreement. In the event a change in control of TTMI creates a conflict of interest, the provisions of Section 14.3 shall apply.

**16. ASSIGNMENT, DELEGATION AND SUBCONTRACTS**

**16.1** TTMI shall not assign, delegate, subcontract, or otherwise transfer any of its interest, rights, or duties under the Contract other than those specified in the Contract Documents without the prior

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Contract Agreement RFP 2016-10 Contract

Tilson Technology Management, Inc. Initials: SBB

Date: 02/23/16

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT TURNPIKE (FEET) CORRIDOR ATMS  
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written consent of the State. Such consent shall not be unreasonably withheld or delayed. Any attempted transfer, assignment, delegation, or other transfer other than those specified in the Contract Documents made without the State’s prior written consent shall be null and void, and may constitute an Event of Default at the reasonable discretion of the State.

**16.2** TTMI shall remain wholly responsible for performance of the entire Contract even if assignees, delegates, Sub-TTMIs, or other transferees (“Assigns”) are used, unless otherwise agreed to in writing by the State, and the Assigns fully assumes in writing any and all obligations and liabilities under the Contract from the Effective Date. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract, or other transfer shall neither relieve TTMI of any of its obligations under the Contract nor affect any remedies available to the State against TTMI that may arise from any event of default of the provisions of the contract. The State shall consider TTMI to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

**16.3** Notwithstanding the foregoing, nothing herein shall prohibit TTMI from assigning the Contract to the successor of all or substantially all of the assets or business of TTMI provided that the successor fully assumes in writing all obligations and responsibilities under the Contract. In the event that TTMI should change controlling ownership, Contract, Section 15: *Change of Ownership* shall apply.

**17. DISPUTE RESOLUTION**

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or Confidential Information), the party believing itself aggrieved (the “Invoking Party”) shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party’s right to any other remedy permitted under the Contract.

The parties shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

**Dispute Resolution Responsibility and Schedule Table**

<b>LEVEL</b>	<b>TTMI</b>	<b>STATE</b>	<b>CUMULATIVE ALLOTTED TIME</b>
<b>Primary</b>	Mike Costa Tilson Technology Management Inc. Project Manager (PM)	Susan Soucie State Project Manager (PM)	5 Business Days
<b>Secondary</b>	Mike MacCannell Tilson Technology Management Inc. Project Principal	Dave Rodrigue Director of Operations	10 Business Days

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<b>Tertiary</b>	Joshua Broder, CEO	Assistant Commissioner	10 Business Days

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

In the event the dispute is not resolved in accordance to the dispute resolution table above, the parties shall submit to binding arbitration under the applicable expedited commercial construction arbitration rules in New Hampshire.

**18. GENERAL CONDITIONS**

**18.1 CONDITIONAL NATURE OF CONTRACT**

Notwithstanding any provision of the Contract to the contrary, all obligations of the State, including, without limitation, the continuance of payments, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments in excess of such available appropriated funds. In the event of a reduction or termination of those funds during the Contract Term, the State shall provide prompt notice to TTMI of the reduction or termination of funds and shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate the Contract immediately upon giving notice of such termination.

The State shall not be required to transfer funds from any other account to the account identified in Contract, Block 1.6: *Account No.* in the event funds in that account are reduced or unavailable.

**18.2 COMPLIANCE WITH LAWS AND REGULATIONS: EQUAL EMPLOYMENT OPPORTUNITY**

**18.2.1** In connection with the performance of the Contract, TTMI shall comply with all applicable statutes, laws, regulations, orders of federal, state, county or municipal authorities which impose any obligation or duty upon, including, but not limited to, civil rights and equal opportunity laws. TTMI shall also comply with all applicable local, State and federal licensing requirements and standards necessary in the performance of the Contract. In addition, TTMI shall comply with all applicable copyright laws.

**18.2.2** During the term of the Contract, TTMI shall not discriminate against employees or applicants for employment in violation of applicable State or federal laws, including but not limited to non-discrimination because of race, color, religion, creed, age, sex, handicap, sexual orientation, gender identity, gender expression, or national origin and shall take affirmative action to prevent such discrimination.

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**18.2.3** If the Contract is funded in any part by monies of the United States, TTMI 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 issues to implement these regulations. TTMI further agrees to permit the State, or United States, access to any of pertinent books, records, and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and covenants and conditions of the Contract.

**18.3 REGULATORY/GOVERNMENT APPROVALS**

TTMI shall obtain applicable regulatory or other governmental approvals necessary for it to perform its obligations under the Contract. The State shall reasonably cooperate in TTMI's obtaining applicable regulatory or other governmental approvals.

**18.4 WORKERS' COMPENSATION.**

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

**18.4.2** To the extent TTMI is subject to the requirements of N.H. RSA chapter 281-A, TTMI shall maintain, and require any sub or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. TTMI 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, or any sub or employee of, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**18.5 PERSONNEL**

**18.5.1** The performance of TTMI's obligations under the Contract shall be carried out by TTMI, at its own expense, and TTMI shall provide all personnel, materials and resources required under the Contract and as necessary to perform' obligations under the Contract. TTMI warrants that all personnel engaged in the Contract Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

**18.5.2** Unless otherwise authorized in writing, during the term of the Contract, and for a period of six (6) months after the Completion Date of the Contract (Contract, Block 1.7 of the Contract Agreement), shall not hire, and TTMI shall not permit any sub 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 the Contract. This provision shall survive termination of the Contract.

**18.6 WAIVER OF BREACH**

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Contract Agreement RFP 2016-10 Contract

Tilson Technology Management, Inc. Initials: TTB

Date: 12/23/16

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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 TTMI.

**18.7 AMENDMENT**

Except for the Approval of Change Orders or Change Requests, 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.

**18.8 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 insures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement was chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

**18.9 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.

**18.10 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.

**18.11 SPECIAL PROVISIONS**

Additional provisions set forth in the attached Exhibit C: *Special Provisions* are incorporated herein by reference.

**18.12 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.

**18.13 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.

**18.14 TRAVEL EXPENSES**

The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services of this Contract. The State will reimburse for any travel or out of pocket expenses incurred in the performance of any Services deemed to be outside the scope of this

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Contract i.e. Change Request and Work Orders as described in Exhibit B: *Price and Payment Schedule*.

**18.15 SHIPPING AND DELIVERY FEE EXEMPTION**

The State will not pay for any shipping or delivery fees unless specifically itemized in the Contract.

**18.16 ACCESS/COOPERATION**

As applicable, and reasonably necessary, and subject to the applicable State and federal laws and regulations and restrictions imposed by third parties upon the State, the State shall provide TTMI with access to all program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware as required to complete contracted services.

The State shall use reasonable efforts to provide approvals, authorizations, and decisions reasonably necessary to allow TTMI to perform its obligations under the Contract.

**18.17 REQUIRED WORK PROCEDURES**

All work done must conform to applicable standards and procedures established by DoIT and the State and communicated by the State to TTMI.

**18.18 COMPUTER USE**

In consideration for receiving access to and use of the computer facilities, network, licensed or developed software, software maintained or operated by any of the State entities, systems, equipment, Documentation, information, reports, or data of any kind (hereinafter "Information"), TTMI understands and agrees to the following rules:

- a. Every Authorized User has the responsibility to assure the protection of information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- b. That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use and that at no time shall TTMI access or attempt to access any information without having the express authority to do so.
- c. That at no time shall TTMI access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and /or agreements relating to system entry/access.
- d. That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times TTMI must use commercially reasonable care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State. Only equipment or software owned, licensed, or being evaluated by the State, can be used by TTMI. Personal software shall not be installed on any equipment.  
That if TTMI is found to be in violation of any of the above-stated rules, the User may face removal from the State Contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.

**18.19 (INTENTIONALLY LEFT BLANK)**

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**18.20 (INTENTIONALLY LEFT BLANK)**

**18.21 INSURANCE**

**18.21.1 TTMI Insurance Requirement**

TTMI shall, at its sole expense, obtain and maintain in force, and shall require any sub-TTMI or assignee to obtain and maintain in force, the following insurance:

**18.21.1.1** Comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amount of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

**18.21.1.2** Fire and extended coverage insurance covering all property subject to Contract, Section 10.1: *Software Title* herein, in an amount not less than 80% of the whole replacement value of the property.

**18.21.2** The policies described in Contract, Section 18.21.1 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.

**18.21.3** TTMI 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. TTMI 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 thirty (30) days prior written notice of cancellation of the policy by the issuer, except for cancellation due to the non-payment of premium.

**18.21.4** The ACORD Insurance Certificate should note the Certificate Holder in the lower left hand block including State of New Hampshire, Department Name, name of the individual responsible for the funding of the contracts and his/her address.

**18.22 EXHIBITS**

The Exhibits referred to, in and attached to the Contract are incorporated by reference as if fully included in the text.

**18.23 VENUE AND JURISDICTION**

Any action on the Contract may only be brought in the State of New Hampshire, Merrimack County Superior Court.

**18.24 SURVIVAL**

The terms, conditions and warranties contained in the Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the Contract shall so



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survive, including, but not limited to, the terms of the Exhibit D, Section 3: *Records Retention and Access Requirements*, Exhibit D, Section 4: *Accounting Requirements*, and Contract, Section 11: *Use of State's Information, Confidentiality* and Contract, Section 13: *Indemnification* which shall all survive the termination of the Contract.

**18.25 FORCE MAJEURE**

Neither TTMI nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lock outs, riots, and acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

Except in the event of the foregoing, Force Majeure events shall not include TTMI inability to hire or provide personnel needed for TTMI performance under the Contract.

**18.26 NOTICES**

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 following addresses.

TILSON TECHNOLOGY MANAGEMENT  
INC.

ATTN: JOSHUA BRODER  
245 COMMERCIAL ST  
SUITE 203  
PORTLAND, ME 04101  
(207) 591-6427

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
BUREAU OF TSMO  
PO BOX 483  
CONCORD NH 03302-0483  
(603) 271-6862

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT A - CONTRACT DELIVERABLES**

**1. DELIVERABLES, MILESTONES AND ACTIVITIES**

TTMI shall provide an Advanced Transportation Management System (ATMS) along the Frederick E. Everett Corridor and associated services for the New Hampshire Department of Transportation (NHDOT).

**General Project Assumptions**

1. TTMI will provide necessary project tracking tools and templates to record and manage Issues, Risks, Change Orders, Requirements, Decision Sheets, and other documents used in the management and tracking of the Project. The State and TTMI Project Managers will review these tools and templates and determine which ones will be used for the Project. Training on these tools and templates will be conducted at the start of each phase in which they will be used.
2. Prior to the commencement of work on Deliverables, TTMI shall provide to the State a template, table of contents, or agenda for Review and prior approval by the State.
3. TTMI shall ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of the State's Information Technology resources, information, and services. Security requirements are defined in Exhibit M: *RFP DOT 2016-10*. TTMI shall provide the State resources, information, and Services on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and to safeguard the confidentiality and integrity of State Networks, Systems and Data.
4. The Deliverables are set forth in the Schedule described below in Section 2. By unconditionally accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all testing as set forth in Exhibit F: *Testing Services*, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.
5. Pricing for Deliverables is set forth in Exhibit B: *Price and Payment Schedule*. Pricing will be effective for the Term of this Contract, and any extensions thereof subject to the terms of this Contract, Section 1.3: *Contract Term*.

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CONTRACT AGREEMENT - EXHIBIT A - CONTRACT DELIVERABLES**

**2. DELIVERABLES, MILESTONES, AND ACTIVITIES SCHEDULE**

Unless otherwise provided in the Agreement or in this Exhibit A, definitions for capitalized terms in Exhibit A are set forth in Exhibit M: *RFP DOT 2016-10*.

**2.1 Design/Implementation/Testing**

ID	ACTIVITIES/DELIVERABLES /MILESTONES
1	Project Kick Off Meeting
2	DLFR Delivery
	DLFR Document
	Expanded Traceability Matrix
3	NHDOT Review period for DLFR
4	Revisions and Final Approval of DLFR
5	PSD Kickoff Meeting
6	PSD Development and Delivery
	Camera Video
	FCC Licensing – Engineering Study
	60% Design Plans
	Structural Calculations
	Communications System Build-out Analysis
	Subsystems Diagrams and Documentation
	TMC Installation Plans
	Subsystem Test Plans
	Updated Traceability Matrix
	Maintenance Access Plan
	Security Plan
	Leasing Agreements
	Integration Specifications and Documentation
	Environmental Study
	Historical Resources Request for Project Review (RPR)
7	Equipment Submittals
8	NHDOT Review period for PSD Submittals
9	Revisions and Final Approval of PSD
10	DSD Kickoff Meeting
11	DSD Development
	FCC Licensing – License Application
	100% Ready for Construction Plans
	Subsystem Diagrams and Documentation
	Final TMC Install Plans
	Revised Subsystem Test Plans
	Updated Traceability Matrix
	Final Field Installation Plans
	Construction Site Plans
	Updates to ITS Project Architecture
	Updated Security Plan
	Final Maintenance Access Plan
	Final Leasing Agreements

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT A - CONTRACT DELIVERABLES**

ID	ACTIVITIES/DELIVERABLES /MILESTONES
	Final Environmental Study
	Permit Applications
12	NHDOT Review Period for DSD Submittals
13	Revisions and Final Approval of DSD
14	Equipment /Infrastructure Installation
	CCTV Subsystem
	DMS Subsystem
	MVDS Subsystem
	Communications Subsystem
	TMC Central Control Subsystem
	TMC Workstation Delivery and Set-up; Laptop Delivery
15	Spare Parts Delivery
16	Subsystem Testing
	Factory Acceptance Tests
	Stand-Alone Tests
	Subsystem Tests (including testing of RWIS and PCMS)
	Central Control Test
	Nighttime Test
	MVDS Validation Tests
17	Substantial Completion of Construction
18	Operational Acceptance Test
19	System Integration to Statewide ATMS
20	Integration Central Control Test
21	Training
22	Final System Acceptance
23	24-Month System Maintenance and Warranty Period

\*Final due dates will be set based on TTMI Project Schedule approved by NHDOT.

**3. TRAINING DELIVERABLES**

Training will be in accordance with the requirements set forth in Exhibit L: *Training Services*. All pricing has been established in Exhibit B: *Price and Payment Schedule*.

**4. SOFTWARE LICENSES**

Once executed, TTMI shall provide the State Software Licenses as set forth in Exhibit J: *Software Licenses*.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT B - PRICE AND PAYMENT SCHEDULE**

**1. PAYMENT SCHEDULE**

Unless otherwise provided in the Agreement or in this Exhibit B, definitions for capitalized terms in Exhibit B are set forth in Exhibit M: *RFP DOT 2016-10*.

**1.1 Not to Exceed**

This is a Not to Exceed contract with a maximum contract value of \$4,225,966.31 for the period between the Notice to Proceed through May 30, 2018. Tilson Technology Management Inc. shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow TTMI to invoice the State for the following activities, Deliverables, or milestones appearing in the price and payment tables below.

**1.2 Price and Payment Detail**

**Percent Complete Payment Table**

RFP Section Reference	ACTIVITIES/DELIVERABLES /MILESTONES	PAYMENT SCHEDULE
	Project Kick Off Meeting	
	DLFR Delivery	
2.2.2	DLFR Document	
2.2.2	Expanded Traceability Matrix	
2.2	Revisions and Final Approval of DLFR	\$40,000.00
	PSD Kickoff Meeting	
	PSD Development and Delivery	
2.3.1.1	Camera Video	
2.3.1.1	FCC Licensing – Engineering Study	
2.3.1.1.1	60% Design Plans	\$125,000.00
2.3.1.1	Structural Calculations	
2.3.1.1	Communications System Build-out Analysis	
2.3.1.1	Subsystems Diagrams and Documentation	
2.3.1.1	TMC Installation Plans	
2.3.1.1	Subsystem Test Plans	
2.3.1.1	Updated Traceability Matrix	
2.3.1.1	Maintenance Access Plan	
2.3.1.1	Security Plan	
2.3.1.1	Leasing Agreements	
2.3.1.1	Integration Specifications and Documentation	
2.3.1.1	Environmental Study	
2.3.1.1	Historical Resources Request for Project Review	
2.3.1.1.2	Equipment Submittals	
2.3.1	Revisions and Final Approval of PSD	\$250,000.00
	DSD Kickoff Meeting	
	DSD Development	
2.3.2.1	FCC Licensing – License Application	
2.3.2.1	100% Ready for Construction Plans	\$200,000.00

**STATE OF NEW HAMPSHIRE  
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FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT B - PRICE AND PAYMENT SCHEDULE**

RFP Section Reference	ACTIVITIES/DELIVERABLES /MILESTONES	PAYMENT SCHEDULE
2.3.2.1	Subsystem Diagrams and Documentation	
2.3.2.1	Final TMC Install Plans	
2.3.2.1	Revised Subsystem Test Plans	
2.3.2.1	Updated Traceability Matrix	
2.3.2.1	Final Field Installation Plans	
2.3.2.1	Construction Site Plans	
2.3.2.1	Updates to ITS Project Architecture	
2.3.2.1	Updated Security Plan	
2.3.2.1	Final Maintenance Access Plan	
2.3.2.1	Final Leasing Agreements	
2.3.2.1	Final Environmental Study	
2.3.2.1	Permit Applications	
2.3.2	Revisions and Final Approval of DSD	\$400,000.00
	Equipment /Infrastructure Installation	\$850,000.00 upon 50% purchase of major equipment
	CCTV Subsystem	\$800,000.00 upon installation of 50% each of CCTV, DMS, and MVDS devices
	DMS Subsystem	
	MVDS Subsystem	
	Communications Subsystem	
	TMC Central Control Subsystem	
	TMC Workstation and Laptop Delivery; Set-up	
2.5	Subsystem Testing	
2.5A	Factory Acceptance Tests	
2.5B	Stand-Alone Tests	\$450,000.00
2.5C	Subsystem Tests (including testing of RWIS and PCMS)	
2.5D	Central Control Test	
2.5E	Nighttime Test	
2.5F	MVDS Validation Tests	
2.5G	Substantial Completion of Construction	\$400,000.00
2.5H	Operational Acceptance Test	\$75,000.00
2.6	Training	
5.34	Integration with Statewide ATMS	\$130,000.00
2.5I	Integration Central Control Testing	
2.5J	Final System Acceptance	\$215,453.08
2.7	System Maintenance and Warranty (2-years)	1/24 monthly payments of unit cost at \$12,382.50 each
2.7.1.1	Spare Parts Delivery	\$22,500.00
2.7.3	Optional System Maintenance Training (1 week)	\$6,250.00
2.7.4	Year Three (3) Maintenance	1/12 monthly payments at \$10,428.92 each
2.7.4	Year Four (4) Maintenance	1/12 monthly payments at \$11,133.42 each
2.7.4	Year Five (5) Maintenance	1/12 monthly payments at \$12,263.25 each

**STATE OF NEW HAMPSHIRE  
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Project Implementation / Warranty Deliverables Table

N/A

Maintenance Cost Table

N/A

**TTMI Labor Rates Table**

1	Installation Technician	\$90.00/hr	\$90.00/hr	\$95.00/hr	\$95.00/hr
2	System Developer	\$120.00/hr	\$120.00/hr	\$125.00/hr	\$125.00/hr
3	Project Manager	\$100.00/hr	\$100.00/hr	\$105.00/hr	\$105.00/hr

\* Labor Rates for additional years will be based on Cost of Living Adjustment (COLA).

\*\*Any travel for out of scope work will be reimbursed by NHDOT without markup. All travel shall be approved by NHDOT prior to commencement of travel for out of scope work. Prior to travel for out of scope work, TTMI shall submit to NHDOT a travel request detailing the estimated costs to complete the trip for each individual. All travel reimbursements must be supported by appropriate records and receipts.

**2. CONTRACT PRICE**

Except in the case of an approved Change Order or Change Request, the total payments made by the State under the Contract shall not exceed \$4,225,966.31 ("Total Contract Price"). Except in the case of an approved Change Order or Change Request, the payment by the State of the total Contract price shall be the only, and the complete reimbursement to TTMI for all fees and expenses, of whatever nature, incurred by TTMI in the performance hereof.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT B - PRICE AND PAYMENT SCHEDULE**

**3. INVOICING**

TTMI shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. TTMI shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Deliverable and identification of the Deliverable for which payment is sought, and the Acceptance date triggering such payment; date of delivery and/or installation; monthly maintenance charges; any other Project costs or retention amounts if applicable.

Upon Acceptance of a Deliverable, and a properly documented and undisputed invoice, the State will pay the correct and undisputed invoice within thirty (30) days of invoice receipt. Invoices will not be backdated and shall be promptly dispatched.

**4. PAYMENT ADDRESS**

All invoices shall be sent to the following address:

Susan Soucie

New Hampshire Department of Transportation  
- Bureau of TSMO

**UPS, DHL, Federal Express (etc.):**  
110 Smokey Bear Blvd  
Concord NH 03302

**US Mail:**

PO Box 483  
Concord NH 03301-0483

**5. OVERPAYMENTS TO TTMI**

TTMI shall promptly, but no later than fifteen (15) business days, return to the State the full amount of any overpayment or erroneous payment upon discovery or notice from the State.

**6. CREDITS**

The State may apply credits due to the State arising out of this Contract, against TTMI invoices with appropriate information attached.

**7. CONTRACT SECURITY/PERFORMANCE BOND**

TTMI shall furnish the Agency with a Performance Bond in an amount equal to 100% of the total value of the amount listed in Contract, Block 1.8: *Price Limitation* of Page 1 of the Contract within ten (10) business days of receipt of notice of intent to award a contract. TTMI shall bear the full expense for the Performance Bond including any extensions or renewals as may be required. If such is not provided, the award may be nullified.



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
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CONTRACT AGREEMENT - EXHIBIT B - PRICE AND PAYMENT SCHEDULE**

The Performance Bond shall be in a form and substance satisfactory to the Agency. The Performance Bond shall be maintained by TTMI in full force and effect until Final System Acceptance. TTMI or any of its sureties shall not be released from their obligations under the Performance Bond from any change or extension of time, or termination of this Contract. The Performance Bond shall contain a waiver of notice of any changes to this contract or the Deliverables or the Specifications, or of any Change Orders.

A licensed insurance company authorized to do business in the State of New Hampshire shall issue the Performance Bond made payable to the State of New Hampshire. The Performance Bond shall contain the Contract number and dates of performance. TTMI shall extend the validity and enforcement of the Performance Bond until Final System Acceptance is achieved.

**8. CONTRACT EXTENSION COSTS**

No contract extension costs are applicable to this Agreement.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
AUTOMATIC VEHICLE LOCATION SYSTEM (AVL)  
BUREAU OF TURNPIKES TSMO - CONTRACT RFP 2016-10016  
CONTRACT AGREEMENT - EXHIBIT C - SPECIAL PROVISIONS**

**SPECIAL PROVISIONS**

There are no Special Provisions associated with this Contract. Specific equipment and directions are available at RFP DOT 2016-10 Appendix C: *High Level Design Document* to Exhibit M: *RFP DOT 2016-10*.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
AUTOMATIC VEHICLE LOCATION SYSTEM (AVL)  
BUREAU OF TURNPIKES TSMO - CONTRACT RFP 2016-01610  
CONTRACT AGREEMENT - EXHIBIT D - ADMINISTRATIVE SERVICES**

**ADMINISTRATIVE SERVICES**

**1. STATE--OWNED DOCUMENTS AND DATA**

TTMI shall provide the State access to all Documents, State Data, materials, reports, and other work in progress relating to the Contract ("State- Owned Documents"). Upon expiration or termination of the Contract with the State, TTMI shall turn over all State-Owned Documents, State Data, material, reports, and work in progress relating to this Contract to the State at no additional cost to the State. State-Owned Documents must be provided in both printed and electronic format.

**2. ACCESS/COOPERATION**

As applicable, and subject to the applicable laws and regulations, the State will provide TTMI with access to all program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware as required to complete the contracted Services.

The State will use reasonable efforts to provide approvals, authorizations, and decisions reasonably necessary to allow TTMI to perform its obligations under the Contract.

**3. RECORDS RETENTION AND ACCESS REQUIREMENTS**

TTMI shall agree to the conditions of all applicable State and federal laws and regulations, which are incorporated herein by reference, regarding retention and access requirements, including without limitation, retention policies consistent with the Federal Acquisition Regulations (FAR) Subpart 4.7 *Contractor Records Retention*.

TTMI and its Subcontractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs invoiced in the performance of their respective obligations under the Contract. TTMI and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and federal officials so authorized by law, rule, regulation or Contract, as applicable. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. TTMI shall include the record retention and review requirements of this section in any of its subcontracts.

The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to TTMI cost structure and profit factors shall be excluded from the State's review

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AUTOMATIC VEHICLE LOCATION SYSTEM (AVL)  
BUREAU OF TURNPIKES TSMO - CONTRACT RFP 2016-01610  
CONTRACT AGREEMENT - EXHIBIT D - ADMINISTRATIVE SERVICES**

unless the cost of any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

**4. ACCOUNTING REQUIREMENTS**

TTMI shall maintain an accounting system in accordance with Generally Accepted Accounting Principles (GAAP). The costs applicable to the Contract shall be ascertainable from the accounting system and TTMI shall maintain records pertaining to the Services and all other costs and expenditures.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT E - IMPLEMENTATION SERVICES**

**IMPLEMENTATION SERVICES**

TTMI shall provide the State with the services set forth in this Contract, including Exhibit M: *RFP DOT 2016-10*, Exhibit N: *Vendor Proposal*, as updated, and any approved Change Orders or Change Requests.

**STATE MEETINGS AND REPORTS**

The State and Vendor believe that effective communication and reporting are essential to Project success.

TTMI's Key Project Staff shall participate in meetings as requested by the State, in accordance with the requirements and terms of this Contract.

- a) **Status Meetings:** Participants will include, at the minimum, the TTMI Project Manager and the State Project Manager. These meetings will be conducted at least monthly and address overall Project status and any additional topics needed to remain on schedule. A status and error report from TTMI shall serve as the basis for status meeting discussion.
- b) **The Work Plan:** shall be reviewed at each Status Meeting and updated, at minimum, a prior to the meeting.
- c) **Special Meetings:** Need may arise for special meetings with State leaders or Project stakeholders to address specific issues.
- d) **Exit Meeting:** Participants will include Project leaders from TTMI and the State. Discussion will focus on lessons learned from the Project and on follow up options that the State may wish to consider.

The State expects TTMI to prepare agendas and background for and minutes of meetings. Background for each status meeting must include an updated Work Plan. Drafting of formal presentations, such as a presentation for the kickoff meeting, will also be TTMI's responsibility.

The TTMI Project Manager shall submit monthly progress report in accordance with the Schedule and terms of this Contract. If the TTMI's schedule falls behind, the progress reports may be required bi-weekly as reasonably directed by the State. All progress reports shall be prepared in formats approved by the State, which approval shall not be unreasonably conditioned, withheld or delayed. The TTMI Project Manager shall assist the State's Project Manager, or itself produce reports related to Project Management as reasonably requested by the State, all at no additional cost to the State.

As reasonably requested by the State, TTMI shall provide the State with information or reports regarding the Project. TTMI shall prepare special reports and presentations relating to Project Management, and shall assist the State in preparing reports and presentations, as reasonably requested by the State, all at no additional cost to the State.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
AUTOMATIC VEHICLE LOCATION SYSTEM (AVL)  
BUREAU OF TURNPIKES TSMO - CONTRACT RFP 2016-10016  
CONTRACT AGREEMENT - EXHIBIT F - TESTING SERVICES**

**TESTING SERVICES**

TTMI shall provide the testing services as described in Section 2.5 of Exhibit M: *RFP DOT 2016-10*, and Exhibit N: *Vendor Proposal*.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
AUTOMATIC VEHICLE LOCATION SYSTEM (AVL)  
BUREAU OF TURNPIKES TSMO - CONTRACT RFP 2016-10016  
CONTRACT AGREEMENT - EXHIBIT G - MAINTENANCE AND SUPPORT  
SERVICES**

**MAINTENANCE AND SUPPORT SERVICES**

TTMI shall provide the maintenance and support services as described in Section 2.7 of Exhibit M:  
*RFP DOT 2016-10, Exhibit N: Vendor Proposal.*

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT H - COMPLIANCE MATRIX

**COMPLIANCE MATRIX**

This section has been revised and saved as an independent document due to its size.

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Contract Agreement RFP 2016-10 - Exhibit H - Compliance Matrix  
Tilson Technology Management Inc. Initials *STB* Date: *12/23/16*



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
AUTOMATIC VEHICLE LOCATION SYSTEM (AVL)  
BUREAU OF TURNPIKES TSMO - CONTRACT RFP 2016-01610  
CONTRACT AGREEMENT - EXHIBIT I - WORK PLAN**

**WORK PLAN**

The preliminary Work Plan is set forth in Exhibit M: *RFP DOT 2016-10*, Exhibit N: *Vendor Proposal*. TTMI's Project Manager and the State Project Manager shall finalize the preliminary Work Plan within 45 days of the Notice to Proceed. The Work Plan will be managed, developed, revised and updated by the parties as described in Exhibit E: *Implementation Services*.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-010  
CONTRACT AGREEMENT - EXHIBIT J - SOFTWARE LICENSE**

**SOFTWARE LICENSE**

**1. LICENSE GRANT**

To the extent of its legal authority, TTMI hereby grants to the State a worldwide, perpetual, irrevocable, non-exclusive, non-transferable, unlimited number of users, limited license to use the Software and its associated Documentation, subject to the terms of the Contract. The State may allow its agents and Contractors to access and use the Software, and in such event, the State shall first obtain written agreement from such agents and Contractors that each shall abide by the terms and conditions set forth herein.

**2. DOCUMENTATION COPIES**

TTMI shall provide the State a copy of software documentation in Microsoft WORD, a copy of the software documentation in PDF format, and three (3) hard copies of the software's associated documentation. The State agrees to include copyright and proprietary notices provided to the State by TTMI in any copies it makes of software or software associated documentation provided pursuant to this Contract.

**3. RESTRICTIONS**

Except as otherwise permitted under the Contract, the State agrees not to:

- a. Remove or modify any program markings or any notice of TTMI proprietary rights;
- b. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; or
- c. Cause or permit reverse engineering, disassembly or recompilation of the programs.
- d. License restricted to use only on operations and maintenance of the NHDOT BOS.

**4. TITLE**

Nothing in this Contract shall be construed to transfer title, right, and interest (including all ownership and intellectual property rights) in the Software, and its associated Documentation, to the State.

**5. VIRUSES**

TTMI shall use reasonable efforts to provide Software that is free of viruses, destructive programming, and mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

As a part of its internal development process, TTMI will use reasonable efforts to test the Software for viruses TTMI shall also maintain a master copy of the appropriate versions of the Software, free of viruses. If the State believes a virus may be present in the Software, then upon its request, TTMI shall provide a master copy for comparison with and correction of the State's copy of the Software.

**6. SOFTWARE NON-INFRINGEMENT**

TTMI warrants that it has good title to, or the right to allow the State to use all Services, equipment, and Software ("Material") provided under this Contract, and that such Services, equipment, and Software do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-010  
CONTRACT AGREEMENT - EXHIBIT J - SOFTWARE LICENSE**

The warranty of non-infringement shall be an on-going and perpetual obligation that shall survive termination of the Contract. In the event that someone makes a claim against the State that any Material infringes their intellectual property rights, TTMI shall defend and indemnify the State against the claim provided that the State:

- a. Promptly notifies TTMI in writing, not later than 30 days after the State receives actual written notice of such claim;
- b. Gives TTMI control of the defense and any settlement negotiations;
- c. Gives TTMI the information, authority, and assistance reasonably needed to defend against or settle the claim; and
- d. Notwithstanding the foregoing, the State's counsel may participate in any claim to the extent the State seeks to assert any immunities or defenses applicable to the State.

If TTMI believes or it is determined that any of the Material may have violated someone else's intellectual property rights, TTMI may choose to either modify the Material to be non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, TTMI may end the license, and require return of the applicable Material and refund all fees the State has paid TTMI under the Contract. TTMI will not indemnify the State if the State alters the Material without TTMI consent or uses it outside the scope of use identified in TTMI user Documentation or if the State uses a version of the Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was provided to the State at no additional cost. TTMI will not indemnify the State to the extent that an infringement claim is based upon any information design, Specification, instruction, Software, data, or material not furnished by TTMI. TTMI will not indemnify the State to the extent that an infringement claim is based upon the combination of any Material with any products or services not provided by TTMI without TTMI consent.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT K - WARRANTY AND WARRANTY  
SERVICES**

**WARRANTY AND WARRANTY SERVICES**

TTMI shall provide the system maintenance and warranty and warranty services as described in Section 2.7 of Exhibit M: *RFP DOT 2016-10* and Exhibit N: *Vendor Proposal*.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
AUTOMATIC VEHICLE LOCATION SYSTEM (AVL)  
BUREAU OF TURNPIKES TSMO - CONTRACT RFP 2016-10016  
CONTRACT AGREEMENT - EXHIBIT L - TRAINING SERVICES**

**TRAINING SERVICES**

TTMI shall provide required Training Services as described in Section 2.6 of Exhibit M: *RFP DOT 2016-10*, Exhibit N: *Vendor Proposal*.

The Optional System Maintenance Training described in Section 2.6.1 of Exhibit M is not part of the initial Contract Agreement but may be added to the Project through an approved Change Order or Change Request at the sole discretion of the State at the unit price proposed in the Exhibit N: *Vendor Proposal*.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT M - RFP DOT 2016-10 (WITH  
ADDENDA) INCORPORATED**

**RFP DOT 2016-10 (WITH ADDENDA) INCORPORATED**

RFP DOT 2016-10 Frederick E. Everett Turnpike (FEET) Corridor Advanced Transportation Management System (ATMS), Project No. 29408 (February 29, 2016) with related appendices, and addenda, available at <https://das.nh.gov/purchasing/specRFP.asp?rfpID=10027>, is included by reference to this Contract.

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Contract Agreement RFP 2016-10 - Exhibit M - NHDOT RFP 2016-10 (with Addendums) Incorporated

Tilson Technology Management Inc. Initials SBB

Date: 12/23/16

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT N - VENDOR PROPOSAL AS  
UPDATED, BY REFERENCE**

**VENDOR PROPOSAL, BY REFERENCE, AS UPDATED**

Tilson Technology Management Inc. Technical Proposal, dated April 22, 2016, to Department of Transportation RFP DOT 2016-10 (Project No. 29408) Frederick E. Everett Turnpike (FEET) Corridor Advanced Transportation Management System (ATMS) and the RFP DOT 2016-10 Revised Pricing and scope is hereby incorporated by reference as fully set forth herein, with updates provided herein.

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Contract Agreement RFP 2016-10 - Exhibit N - Vendor Proposal AS UPDATED, by Reference

Tilson Technology Management Inc. Initials JB

Date: 12/23/16

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
FREDERICK E. EVERETT (FEET) CORRIDOR ATMS  
BUREAU OF TSMO - CONTRACT RFP 2016-10  
CONTRACT AGREEMENT - EXHIBIT O - CERTIFICATES AND  
ATTACHMENTS**

**CERTIFICATES AND ATTACHMENTS**

Attached are:

- A. Tilson Technology Management Inc.'s Certificate of Vote/Authority
- B. Tilson Technology Management Inc.'s Certificate of Good Standing
- C. Tilson Technology Management Inc.'s Certificate of Insurance
- D. Tilson Technology Management Inc.'s Proposal Transmittal Form Letter
- E. State of New Hampshire Form of Change Order





**CERTIFICATE OF TILSON TECHNOLOGY MANAGEMENT, INC.**

**(Corporation Without Seal)**

I, Lynne D. Houle, do hereby represent and certify that:

- (1) I am the Clerk of Tilson Technology Management, Inc., a Maine Corporation (the "Corporation").
- (2) I maintain and have custody of and am familiar with the minutes of the Corporation.
- (3) I am duly authorized to issue certificates with respect to the contents of such books.
- (4) The following statements are true and accurate based on the resolutions adopted by the Board of Directors of the Corporation via unanimous written consent in lieu of a meeting of the Board of Directors dated as of April 18, 2016, which written consent was duly adopted in accordance with Maine law and the Bylaws of the Corporation.
- (5) The signature of Joshua Broder, Chief Executive Officer of the Corporation, affixed to any contract, instrument or document shall bind the Corporation to the terms of such contract, instrument or document.
- (6) The foregoing signature authority has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof.
- (7) The Corporation has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand as Clerk of the Corporation.

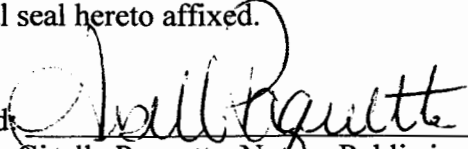
This document is dated the 23<sup>rd</sup> day of December, 2016.

  
\_\_\_\_\_  
Lynne D. Houle, Clerk of Tilson Technology Management, Inc.

STATE OF MAINE,  
COUNTY OF CUMBERLAND, ss.:

Personally appeared before me Lynne D. Houle, to me known to be the person described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her voluntary act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal hereto affixed.

Signed   
\_\_\_\_\_  
Giselle Paquette, Notary Public in and for the State of Maine  
My commission expires \_\_\_\_\_

<b>GISELLE PAQUETTE</b> NOTARY PUBLIC YORK COUNTY MAINE MY COMMISSION EXPIRES NOVEMBER 7, 2020
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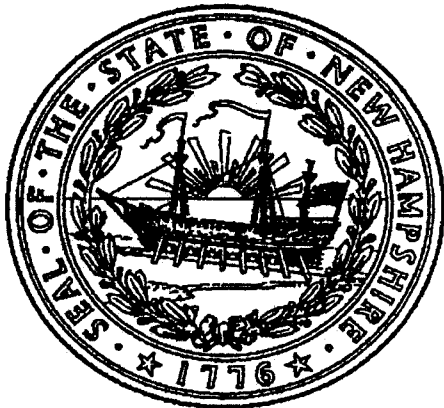
# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that TILSON TECHNOLOGY MANAGEMENT, INC. is a Maine Profit Corporation registered to transact business in New Hampshire on December 02, 2015. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 735502



IN TESTIMONY WHEREOF,  
I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 20th day of December A.D. 2016.

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

William M. Gardner  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/13/2016

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

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

<b>PRODUCER</b> Rutherford, A Marsh & McLennan Agency LLC Co. 5500 Cherokee Avenue, Suite 300 Alexandria VA 22312	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 800-274-0268 FAX (A/C, No): E-MAIL ADDRESS: certificates@rutherford.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> TILSOTECHN1 Tilson Technology Management, Inc. SQF, LLC 245 Commercial Street Suite 203 Portland ME 04101	<b>INSURER A:</b> Zurich American Insurance Company NAIC # 16535	
	<b>INSURER B:</b> Atlantic Specialty Insurance Company NAIC # 27154	
	<b>INSURER C:</b> Federal Insurance Company NAIC # 20281	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
<b>INSURER F:</b>		

**COVERAGES** CERTIFICATE NUMBER: 646037632 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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<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 checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER: Tech E & O			711014383	4/1/2016	4/1/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 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 General Aggregate \$3,000,000
	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			711014383	4/1/2016	4/1/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			711014383	4/1/2016	4/1/2017	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
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 N/A	WC574685502	4/1/2016	4/1/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B C	Installation Crime			711014383 82236058	4/1/2016 4/1/2016	4/1/2017 4/1/2017	Limit \$1,000,000 Limit \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Per the cancellation clause contained in the policies noted on this certificate, the policy provisions include at least 30 days notice of cancellation except for non-payment of premium.

<b>CERTIFICATE HOLDER</b>  New Hampshire Department of Transportation 110 Smokey Bear Blvd Concord NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b> 
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