



Frank Edelblut  
Commissioner

Christine M. Brennan  
Deputy Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, NH 03301  
TEL. (603) 271-3495  
FAX (603) 271-1953

July 20, 2018

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

**REQUESTED ACTION**

Authorize the New Hampshire Department of Education, Bureau of Adult Education to enter into a contract with Aztec Software, (Vendor Code 289789) of Springfield, New Jersey, in an amount not to exceed \$29,925.00, to provide licenses for online adult education digital technology software to expand New Hampshire adult education program capacity and meet technology requirements under the Workforce Innovation and Opportunity Act of 2014, effective upon Governor and Council approval through June 30, 2021 with an option to renew for two additional years through June 30, 2023. 100% Federal Funds.

Funding is available in the account titled Adult Education as follows:

	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
06-56-56-565010-25350000-102-500731 Contracts for Program Services	\$9,975.00	\$9,975.00	\$9,975.00
<b>TOTAL: \$29,925.00</b>			

**EXPLANATION**

Approval of this request will allow the Department of Education, Bureau of Adult Education to provide online educational programming for students at its fifty-four (54) adult education centers. Adult education centers will use the software from Aztec Software to:

- Increase accessibility to adult education for students unable to attend classes at an adult education center
- Extend learning opportunities outside the classroom for adult learners
- Improve the integration of technology in the adult education classroom without increasing preparation time for instructors through the use of blended/hybrid learning
- Meeting federal requirements under the Workforce Innovation and Opportunity Act of 2014 (WIOA) for distance learning options and integration of technology in the classroom.

Aztec Software has more than thirty-eight (38) years of experience providing educational software to school districts, adult education programs and colleges in the area of adult basic education and high school equivalency preparation. The software solution is aligned with the College & Career Readiness Standards for Adult Education, as required under WIOA, and includes features identified by the Joyce Foundation as best practices for adult learners.

The Bureau of Adult Education serves approximately 6,000 adult education students in seven (7) different type of programs in fifty-four (54) centers across the state. Adult education students have reading, writing and/or math skills at or below the secondary level and lack a high school credential. According to the 2016 American Community Survey, there are more than 81,000 adults in New Hampshire without a high school credential. The distance learning options for adult education students through Aztec Software will increase our programs' ability to serve adults who are unable to attend class due to their work schedules or the rural geography of New Hampshire.

A Request for Proposals was released on March 15, 2018, posted on the NH Department of Administrative Services website, distributed through the newsletter of the National Association of State Adult Education Directors and sent to vendors who have provided services to local adult education centers in the past. Three proposals were received and reviewed. In addition to scoring, the evaluation team participated in online demonstrations with each vendor. This is one of two contracts that will be awarded.

Respectfully submitted,



Frank Edelblut  
Commissioner of Education

## BAE-RFP-2018-123 Evaluation

Three proposals were received in response to this RFP.

		Edmentum	Aztec	Cell-Ed
<b>Proposed Software Solution</b>		<b>Maximum 500</b>		
	CP	500	500	250
	GC	400	400	150
	AH	475	450	300
	CC	475	450	300
	BB	428.5	447	300
	TB	450	450	200
	VC	475	450	375
	<b>Average</b>	<b>457.6</b>	<b>449.6</b>	<b>267.9</b>
<b>Vendor's Technical, Service &amp; Project Management Experience</b>		<b>Maximum 75</b>		
	CP	75	75	45
	GC	75	45	40
	AH	65	65	50
	CC	70	60	50
	BB	75	72	59
	TB	75	65	50
	VC	65	60	50
	<b>Average</b>	<b>71.4</b>	<b>63.1</b>	<b>49.1</b>
<b>Vendor Company</b>		<b>Maximum 75</b>		
	CP	75	75	60
	GC	75	60	35
	AH	70	50	60
	CC	70	60	50
	BB	65	75	60
	TB	75	70	50
	VC	70	70	45
	<b>Average</b>	<b>71.4</b>	<b>65.7</b>	<b>51.4</b>
<b>Staffing Qualifications</b>		<b>Maximum 50</b>		
	CP	50	50	25
	GC	50	20	25
	AH	50	25	40
	CC	50	25	25
	BB	50	50	50
	TB	50	30	30
	VC	45	40	35
	<b>Average</b>	<b>49.3</b>	<b>34.3</b>	<b>32.9</b>
<b>Solution Cost</b>		<b>Vendor Cost/Lowest-Cost * 300 points</b>		

300	39	124
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TOTAL SCORE	Maximum 1000			
	Average	949.8	651.7	525.3

**Reviewers:**

- Amy Hood has been the Program Director at Claremont Adult Education for four years, with experience in adult education for eleven years. She runs an Adult Diploma Program with extensive online instruction as well as an Adult Basic Education.
- Chris Powers is the former Program Director for the Manchester Adult Learning Center and is now the English as a Second Language Mentor responsible for assisting teachers with classroom strategies and teaching techniques. She has been piloting a digital ESL program this year.
- Tiffany Brand is the Technology Coordinator at Dover Adult Learning Center as well as the Technology Mentor for the Statewide Professional Development contract. She has eight years of experience in adult education and sixteen years of technology education. She assists programs with integrating technology in the classroom as well as developing distance learning strategies.
- Bridget Barker is an Adult Basic Education and High School Equivalency Preparation instructor at the Exeter Adult Education Program with sixteen years of experience in adult education. She is the Distance Learning Coordinator for the program and has provided assistance and training for instructors across the state.
- Connie Cullen is the Adult Learner Services coordinator for Nashua Adult Learning Center, managing over hundred volunteer tutors working with adult literacy, English language acquisition and high school equivalency preparation. She has four years of adult education experience and she has successfully integrated technology for use with tutors and provides training and support for tutors and instructors.
- Vaughn Coburn is a Software Development Specialist for the NH Department of Information Technology and provide support for the Department of Education, Bureau of Adult Education. He has more than 40 years of experience in the technology field and has worked on adult education data system and technology for six years.



**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*

August 3, 2018

Frank Edelblut, Commissioner  
Department of Education  
State of New Hampshire  
101 Pleasant Street  
Concord, NH 03301

Dear Commissioner Edelblut:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with Aztec Software, Springfield, NJ, as described below and referenced as DoIT No. 2018-164.

The Department of Education, Bureau of Adult Education, seeks to provide Digital Learning Technology Software for adult education students to increase their academic skills as well as providing local adult education programs the ability to expand their services through distance learning options.

This solution provides 10 concurrent licenses for the high school equivalency program. The contract price is \$29,925.00 for the contract term of August 8, 2018 or upon Governor and Council approval, through June 30, 2023.

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

Sincerely,

Denis Goulet

DG/ik/ck  
DoIT #2018-164

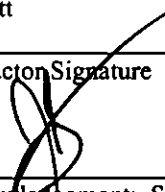
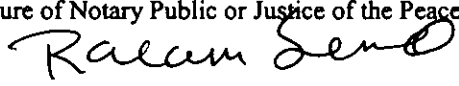
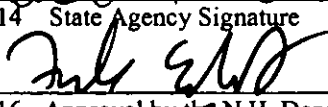

cc: Chris Hensel, IT Manager, DoIT

**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS****1. IDENTIFICATION.**

1.1 State Agency Name Department of Education, Bureau of Adult Education		1.2 State Agency Address 21 South Fruit Street, Suite 20 Concord, NH 03301	
1.3 Contractor Name Aztec Software		1.4 Contractor Address 51 Commerce Street Springfield, NJ 07081	
1.5 Contractor Phone Number 973-258-0011	1.6 Account Number 25350000-102-500575	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$ 29,925.00
1.9 Contracting Officer for State Agency Sarah Bennett		1.10 State Agency Telephone Number 603-271-6699	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Jonathan Blitt, CEO	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Union</u> On <u>7-23-18</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]		<div style="border: 1px solid black; padding: 5px; text-align: center;"> <b>Raeann E Sereno</b>  <b>Notary Public</b>  <b>New Jersey</b>  <b>My Commission Expires 8-2-2020</b>  <b>No. 2398915</b> </div>	
1.13.2 Name and Title of Notary or Justice of the Peace Raeann Sereno Accounting Manager			
1.14 State Agency Signature  Date: <u>8-16-18</u>		1.15 Name and Title of State Agency Signatory Frank Edelblut Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By:  Director, On: <u>9/18/2018</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: _____ On: _____			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

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

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

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

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

## **12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.**

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

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

## **14. INSURANCE.**

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

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

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

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



14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) 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 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 or modification of the policy.

#### 15. WORKERS' COMPENSATION.

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

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

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

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

18. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

#### 19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

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

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

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

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

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

**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
**Adult Education Digital Technology Software**  
**SAAS CONTRACT 2018-164**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**New Hampshire Department of Information Technology**  
**Contract Cover Sheet**

<b>Name of Agency/Division:</b> NH Department of Education, Bureau of Adult Education	
<b>Contract Number/Name:</b> 2018-164 Adult Education Digital Technology Software	
<b>Contract Purpose:</b> To provide educational software for adult education students.	
<b>Name of Vendor:</b> Aztec Software	<b>Who Negotiated the Contract:</b> Sarah Bennett
<b>Amount of Contract:</b> \$ 29,925.00	<b>Funding Source:</b> General Funds <i>Federal Funds 8/6/18</i>
<b>Term of Contract:</b> August 8, 2018 – June 30, 2021	<b>Is this an amendment?</b> No
<b>Competitive Bid Process: (Explain if "No")</b> RFP issued March 15, 2018. Proposals due April 20, 2018. Evaluations completed May 15, 2018.	
<b>Background Information:</b> Under the Workforce Innovation and Opportunity Act of 2014, all adult education programs are required to integrate technology into the classroom, teach digital literacy skills and provide the opportunity for distance learning. This software will allow programs to expand their capabilities in meeting these requirements.	
<b>Special Concerns:</b> N/A	
<b>Amendment History (if applicable):</b> N/A	
<b>Submitted By: Sarah Bennett</b>	<b>Current Date: July 17, 2018</b>
<b>Phone: 603-271-6699</b>	<b>Email:</b> <u>Sarah.Bennett@doe.nh.gov</u>

**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
**Adult Education Digital Technology Software**  
**SAAS CONTRACT 2018-164**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
**Adult Education Digital Technology Software**  
**SAAS CONTRACT 2018-164**  
**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

**TERMS AND DEFINITIONS**

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

<b>Acceptance</b>	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
<b>Acceptance Letter</b>	An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review.
<b>Acceptance Period</b>	The timeframe during which the Acceptance Test is performed
<b>Acceptance Test Plan</b>	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.
<b>Acceptance Test and Review</b>	Tests performed to determine that no Defects exist in the application Software or the System
<b>Access Control</b>	Supports the management of permissions for logging onto a computer or network
<b>Agreement</b>	A contract duly executed and legally binding.
<b>Appendix</b>	Supplementary material that is collected and appended at the back of a document
<b>Audit Trail Capture and Analysis</b>	Supports the identification and monitoring of activities within an application or system
<b>Authorized Persons</b>	The Contractor's employees, contractors, subcontractors or other agents who need to access the State's personal data to enable the Contractor to perform the services required.
<b>Certification</b>	The Vendor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Vendor has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
<b>Change Order</b>	Formal documentation prepared for a proposed change in the Specifications.
<b>Completion Date</b>	End date for the Contract
<b>Confidential Information</b>	Information required to be kept Confidential from unauthorized disclosure <i>under the Contract</i>
<b>Contract</b>	This 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.
<b>Contract Agreement</b>	Part 1, 2, and 3.. The documentation consisting of both the General

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	Provisions and the Exhibits which represents the understanding and acceptance of the reciprocal legal rights and duties of the parties with respect to the Scope of Work
<b>Contract Conclusion</b>	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.
<b>Contract Documents</b>	Documents that comprise this Contract (See Contract Agreement, Section 1.1)
<b>Contract Managers</b>	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. (See Section 4: <i>Contract Management</i> )
<b>Contract Price</b>	The total, not to exceed amount to be paid by the State to the Contractor for product and services described in the Contract Agreement. This amount is listed in the General Provisions Section 1.8 (P-37).
<b>Contractor</b>	The Vendor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.
<b>Contracted Vendor/Vendor</b>	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
<b>Conversion Test</b>	A test to ensure that a Data conversion process correctly takes Data from a legacy system and successfully converts it to a form that can be used by the new System.
<b>Cure Period</b>	The thirty (30) day period following written notification of a default within which a contracted vendor must cure the default identified.
<b>Custom Code</b>	Code developed by the Vendor specifically for this project for the State of New Hampshire
<b>Custom Software</b>	Software developed by the Vendor specifically for this Project for the State of New Hampshire
<b>Data</b>	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
<b>Data Breach</b>	The unauthorized access by a non-authorized person/s that results in the use, disclosure or theft of a the State's unencrypted non-public data.
<b>DBA</b>	Database Administrator

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<b>Deficiencies/Defects</b>	<p>A failure, deficiency or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.</p> <p><b>Class A Deficiency – Software</b> - Critical, does not allow System to operate, no work around, demands immediate action; <i>Written Documentation</i> - missing significant portions of information or unintelligible to State; <i>Non Software</i> - Services were inadequate and require re-performance of the Service.</p> <p><b>Class B Deficiency – Software</b> - important, does not stop operation and/or there is a work around and user can perform tasks; <i>Written Documentation</i> - portions of information are missing but not enough to make the document unintelligible; <i>Non Software</i> - Services were deficient, require reworking, but do not require re-performance of the Service.</p> <p><b>Class C Deficiency – Software</b> - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; <i>Written Documentation</i> - minimal changes required and of minor editing nature; <i>Non Software</i> - Services require only minor reworking and do not require re-performance of the Service.</p>
<b>Deliverable</b>	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.
<b>Department of Information Technology (DoIT)</b>	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
<b>Documentation</b>	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
<b>Digital Signature</b>	Certification that guarantees the unaltered state of a file, also known as "code signing."
<b>Effective Date</b>	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
<b>Encryption</b>	Supports the transformation of data for security purposes
<b>Enhancements</b>	Updates, additions, modifications to, and new releases for the Software, and all changes to the Documentation as a result of Enhancements, including, but not limited to, Enhancements produced by Change Orders
<b>Firm Fixed Price Contract</b>	A Firm-Fixed-Price Contract provides a price that is not subject to

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	increase, i.e., adjustment on the basis of the Vendor's cost experience in performing the Contract
<b>Fully Loaded</b>	Rates are inclusive of all allowable expenses, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses
<b>Governor and Executive Council</b>	The New Hampshire Governor and Executive Council.
<b>Identification and Authentication</b>	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users
<b>Implementation</b>	The process for making the System fully operational for processing the Data.
<b>Implementation Plan</b>	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
<b>Information Technology (IT)</b>	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.
<b>Input Validation</b>	Ensure that the values entered by users or provided by other applications meets the size, type and format expected. Protecting the application from cross site scripting, SQL injection, buffer overflow, etc.
<b>Intrusion Detection</b>	Supports the detection of illegal entrance into a computer system
<b>Invoking Party</b>	In a dispute, the party believing itself aggrieved.
<b>Key Project Staff</b>	Personnel identified by the State and by the Contractor as essential to work on the Project.
<b>Licensee</b>	The State of New Hampshire
<b>Non Exclusive Contract</b>	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
<b>Non-Public Information</b>	Data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.
<b>Non-Software Deliverables</b>	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other
<b>Normal Business Hours</b>	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,

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	President's Day, Memorial Day, July 4 <sup>th</sup> , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided
<b>Notice to Proceed (NTP)</b>	The State Contract Manager's written direction to the Vendor to begin work on the Contract on a given date and time
<b>Open Data Formats</b>	A data format based on an underlying Open Standard.
<b>Open Source Software</b>	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
<b>Open Standards</b>	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
<b>Operating System</b>	System is fully functional, all Data has been loaded into the System, is available for use by the State in its daily operations.
<b>Operational</b>	The System is operating and fully functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
<b>Order of Precedence</b>	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
<b>Personal Data</b>	Data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or protected health information (PHI) relating to a person.
<b>Project</b>	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.
<b>Project Team</b>	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
<b>Project Management Plan</b>	A document that describes the processes and methodology to be employed by the Vendor to ensure a successful Project.
<b>Project Managers</b>	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 Requests (CR) utilizing the Change Control Procedures (CCP)
<b>Project Staff</b>	State personnel assigned to work with the Vendor on the Project
<b>Proposal</b>	The submission from a Vendor in response to the Request for a



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	Proposal or Statement of Work	
<b>Protected Health Information (PHI)</b>	Individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.	
<b>Regression Test Plan</b>	A plan integrated into the Work Plan used to ascertain whether fixes to Defects have caused errors elsewhere in the application/process.	
<b>Review</b>	The process of reviewing Deliverables for Acceptance	
<b>Review Period</b>	The period set for review of a Deliverable. If none is specified then the Review Period is five (5) business days.	
<b>RFP (Request for Proposal)</b>	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	
<b>Role/Privilege Management</b>	Supports the granting of abilities to users or groups of users of a computer, application or network	
<b>Schedule</b>	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract	
<b>Security Incident</b>	The potentially unauthorized access by non-authorized persons to personal data or non-public data the Contractor believes could reasonably result in the use, disclosure or theft of a State's unencrypted personal data or non-public data within the possession or control of the Contractor. A security incident may or may not turn into a data breach.	
<b>Security Review &amp; Testing Terms</b>	Identification and Authentication	Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users
	Access Control	Supports the management of permissions for logging onto a computer or network
	Encryption	Supports the encoding of data for security purposes
	Intrusion Detection	Supports the detection of illegal

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		entrance into a computer system
	Verification	Supports the confirmation of authority to enter a computer system, application or network
	Digital Signature	Guarantees the unaltered state of a file
	User Management	Supports the administration of computer, application and network accounts within an organization.
	Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network
	Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system
	Input Validation	Ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server
<b>Service Level Agreement (SLA)</b>	A signed agreement between both the State and the Contractor that is subject to the terms and conditions in this document that unless otherwise agreed to includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.	
<b>Service</b>	The work or labor to be performed by the Vendor on the Project as described in the Contract.	
<b>the Contractor</b>	The vendor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.	
<b>Software</b>	All custom Software and COTS Software provided by the Vendor under the Contract	
<b>Software-as-a-Service (SaaS)</b>	The capability provided to the State to use the Contractor's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program	

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	interface. The State does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
<b>Software Deliverables</b>	Software and Enhancements
<b>Software License</b>	Licenses provided to the State under this Contract
<b>Solution</b>	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Contract Specifications. The off-the-shelf Software and configured Software customized for the State provided by the Vendor in response to this RFP.
<b>Specifications</b>	The written provisions 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.
<b>State</b>	STATE is defined as: State of New Hampshire Department of Education, Bureau of Adult Education 21 South Fruit Street, Suite 20 Concord, NH 03301 Reference to the term "State" shall include applicable agencies
<b>Statement of Work (SOW)</b>	A Statement of Work clearly defines the basic requirements and objectives of a Project. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Vendor. The Contract Agreement SOW defines the results that the Vendor remains responsible and accountable for achieving.
<b>State's Confidential Records</b>	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 <u>RSA Chapter 91-A</u>
<b>State Data</b>	For SaaS applications means all data created or in any way originating with the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Contractor.

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<b>State Fiscal Year (SFY)</b>	The New Hampshire State Fiscal Year extends from July 1 <sup>st</sup> through June 30 <sup>th</sup> of the following calendar year
<b>State Identified Contact</b>	The person or persons designated in writing by the State to receive security incident or breach notification.
<b>State's Project Manager (PM)</b>	State's representative with regard to Project management and technical matters. Agency Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Proposal (CP).
<b>Subcontractor</b>	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
<b>System</b>	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
<b>TBD</b>	To Be Determined
<b>Technical Authorization</b>	Direction to a Vendor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the Contract Agreement
<b>Test Plan</b>	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.
<b>Term</b>	Period of the Contract from the Effective Date through termination.
<b>Transition Services</b>	Services and support provided when Contractor is supporting System changes.
<b>UAT</b>	User Acceptance Test
<b>Unit Test</b>	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
<b>User Acceptance Testing</b>	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
<b>User Management</b>	Supports the administration of computer, application and network accounts within an organization
<b>Vendor/ Contracted Vendor</b>	The Vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and

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	Deliverables of the Contract.
<b>Verification</b>	Supports the confirmation of authority to enter a computer system, application or network
<b>Walk Through</b>	A step-by-step review of a Specification, usability features or design before it is handed off to the technical team for development
<b>Work Hours</b>	Vendor personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.
<b>Work Plan</b>	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 Appendix C. 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.
<b>Written Deliverables</b>	Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Vendor either in paper or electronic format.

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**INTRODUCTION**

This Contract is by and between the State of New Hampshire, acting through New Hampshire Department of Education, Bureau of Adult Education, and Aztec Software, a New Jersey Corporation, ("Contractor"), having its principal place of business at 51 Commerce Street, Springfield, NJ 07081.

Aztec will provide licenses for Kaplan HiSET Learning System powered by Aztec Software.

**RECITALS**

Whereas the State desires to have the Contractor provide digital learning software for adult basic education, high school equivalency preparation and other adult education students needing customized skills assessments and/or remedial curricula, and associated Services for the State;

Whereas the Contractor wishes to provide concurrent seat licensing for the Kaplan HiSET Learning System powered by Aztec Software.

The parties therefore agree as follows:

**1. CONTRACT DOCUMENTS**

**1.1 CONTRACT DOCUMENTS**

This Contract Agreement (2018-164) is comprised of the following documents:

- A. Part 1 - Form P-37 General Provision
- B. Part 2 - Information Technology Provisions
- C. Part 3 - 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- Requirements
  - Exhibit I- Work Plan
  - Exhibit J- Software Agreement
  - Exhibit K- Warranty and Warranty Services
  - Exhibit L- Training Services
  - Exhibit M- Agency RFP with Addendums, by reference

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Exhibit N- Vendor Proposal, by reference  
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:

- a. State of New Hampshire Terms and Conditions, Form P-37, Part 1.
- b. State of New Hampshire, Department of Education, Bureau of Adult Education Contract Agreement 2018-164, including Parts 2, and 3.
- c. State of New Hampshire, Department of Education, Bureau of Adult Education RFP 2018-123.
- d. Vendor Proposal Response to RFP 2018-123 dated April 20, 2018

Initial *g*  
Acceptance of  
Change:  
Date: *9-12-18*

**2. CONTRACT TERM**

The Contract and all obligations of the parties hereunder shall become effective after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council of the State of New Hampshire approval ("Effective Date").

The Contract shall begin on the Effective Date and extend through June 30, 2021. The Term may be extended up to two years, through June 30, 2023, ("Extended Term") at the sole option of the State, subject to the parties prior written agreement on applicable fees for each extended term.

The Contractor shall commence work upon issuance of a Notice to Proceed by the State.

**3. COMPENSATION**

**3.1 CONTRACT PRICE**

The Contract Price, Part 1, P37, block 1.8 price limitation, method of payment, and terms of payment are identified and more particularly described in section 5 of P-37 Agreement and Part 3 Contract Exhibit B: *Price and Payment Schedule*.

**3.2 NON-EXCLUSIVE CONTRACT**

The State reserves the right, at its discretion, to retain other vendors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal. the Contractor shall not be responsible for any delay, act, or omission of such other vendors, except that the Contractor shall be responsible for any delay, act, or

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omission of the other vendors if such delay, act, or omission is caused by or due to the fault of the Contractor.

**4. CONTRACT MANAGEMENT**

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

**4.1 THE CONTRACTOR'S CONTRACT MANAGER**

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

Adriane Fajnor  
Vice President of Client Relations & Communication  
51 Commerce Street  
Springfield, NJ 07081  
Tel: 973-258-0011  
Email: afajnor@aztecsoftware.com

**4.2 THE CONTRACTOR'S PROJECT MANAGER**

**4.2.1 Contract Project Manager**

The Contractor shall assign a Project Manager who meets the requirements of the Contract. The Contractor's selection of the Contracted Vendor Project Manager shall be subject to the prior written approval of the State. The State's approval process may include, without limitation, at the State's discretion, review of the proposed Contractor's Project Manager's resume, qualifications, references, and background checks, and an interview. The State may require removal or reassignment of the Contractor's Project Manager who, in the sole judgment of the State, is found unacceptable or is not performing to the State's satisfaction.

**4.2.2** The Contractor's Project Manager must be qualified to perform the obligations required of the position under the Contract, shall have full authority to make binding decisions under the Contract, and shall function as the Contractor's representative for all administrative and management matters. The Contractor's Project Manager shall perform the duties required under the Contract, including, but not limited to, those set forth in Exhibit I, Section 2. The Contractor's 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. The



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Contractor's Project Manager must work diligently and use his/ her best efforts on the Project.

4.2.3 The Contractor shall not change its assignment of the Contractor's Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than of the Contractor's Project Manager being replaced; meet the requirements of the Contract; and be subject to reference and background checks described above in General Provisions, Section 4.2.1: *Contract Project Manager*, and in Contract Agreement General Provisions, Section 4.6: *Reference and Background Checks*, below. The Contractor shall assign a replacement of the Contractor's Project Manager within ten (10) business days of the departure of the prior Contractor's Project Manager, and the Contractor shall continue during the ten (10) business day period to provide competent Project management Services through the assignment of a qualified interim Project Manager.

4.2.4 Notwithstanding any other provision of the Contract, the State shall have the option, at its discretion, to terminate the Contract, declare the Contractor in default and pursue its remedies at law and in equity, if the Contractor fails to assign a the Contractor Project Manager meeting the requirements and terms of the Contract.

4.2.5 CONTRACTOR Project Manager is:  
Adriane Fajnor  
Vice President of Client Relations & Communication  
51 Commerce Street  
Springfield, NJ 07081 Tel: 973-258-0011  
Email: afajnor@aztecsoftware.com

**4.3 CONTRACTOR KEY PROJECT STAFF**

4.3.1 The Contractor shall assign Key Project Staff who meet the requirements of the Contract, and can implement the Software Solution meeting the requirements set forth in RFP Appendix C: *System Requirements and Deliverables*, Table C.2: *System Requirements and Deliverables-Vendor Response Checklist*. The State may conduct reference and background checks on the Contractor's Key Project Staff. The State reserves the right to require removal or reassignment of the Contractor's Key Project Staff who are found unacceptable to the State. Any background

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checks shall be performed in accordance with General Provisions Section 4.6:  
*Background Checks.*

4.3.2 The Contractor shall not change any of the Contractor's Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Key Project Staff will not be unreasonably withheld. The replacement of the Contractor's Key Project Staff shall have comparable or greater skills than of the Contractor's Key Project Staff being replaced; meet the requirements of the Contract, including but not limited to the requirements set forth in RFP Appendix C: *System Requirements and Deliverables* and be subject to reference and background checks described in Contract Agreement- General Provisions, Section 4.6: *Reference and Background Checks,*

4.3.3 Notwithstanding any other provision of the Contract to the contrary, the State shall have the option to terminate the Contract, declare the Contractor in default and to pursue its remedies at law and in equity, if the Contractor fails to assign Key Project Staff meeting the requirements and terms of the Contract or if it is dissatisfied with the Contractor's replacement Project staff.

4.3.3.1 The Contractor Key Project Staff shall consist of the following individuals in the roles identified below:

The Contractor's Key Project Staff:

Key Member(s)	Title
Adriane Fjanor	Vice President of Client Relations & Communication
Michael Kheyfets	Chief Operating Office/President
Jonathan Blitt	Chief Executive Officer/Chairman

**4.4 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:

Sarah Bennett  
Administrator  
Bureau of Adult Education  
21 South Fruit Street  
Concord, NH 03301

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Tel: 603-271-6699  
Fax: 603-271-3454  
Email: Sarah.Bennett@doe.nh.gov

**4.5 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 all Contractors;
- 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:

Sarah Bennett  
Administrator  
Bureau of Adult Education  
21 South Fruit Street, Suite 20  
Concord, NH 03301  
Tel: 603-271-6699  
Fax: 603-271-3454  
Email: Sarah.Bennett@doe.nh.gov

**4.6 REFERENCE AND BACKGROUND CHECKS**

The Contractor shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The Contractor shall promote and maintain an awareness of the importance of securing the State's information among the Contractor's employees and agents.

The State may, at its sole expense, conduct reference and background screening of the Contracted Vendor Project Manager and the Contractor Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Contract Agreement – General Provisions-Section 11: Use of State's Information, Confidentiality.

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**5. DELIVERABLES**

**5.1 CONTRACTOR RESPONSIBILITIES**

The Contractor 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.

The Contractor may subcontract Services subject to the provisions of the Contract, including but not limited to, the terms and conditions in the Contract Agreement. The Contractor must submit all information and documentation relating to the Subcontractor, including terms and conditions consistent with this Contract. The State will consider the Contractor to be wholly responsible for the performance of the Contract and the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

**5.2 DELIVERABLES AND SERVICES**

The Contractor shall provide the State with the Deliverables and Services in accordance with the time frames in the Work Plan for this Contract, and as more particularly described in Contract Exhibit A: *Contract Deliverables*.

**5.3 NON-SOFTWARE AND WRITTEN DELIVERABLES REVIEW AND ACCEPTANCE**

After receiving written Certification from the Contractor that a Non-Software or Written Deliverable is final, complete, and ready for Review, the State will Review the Deliverable to determine whether it meets the Requirements outlined in Contract Exhibit A: *Contract Deliverables*. The State will notify the Contractor in writing of its Acceptance or rejection of the Deliverable within five (5) business days of the State's receipt of the Contractor's written Certification. If the State rejects the Deliverable, the State shall notify the Contractor of the nature and class of the Deficiency and the Contractor shall correct the Deficiency within the period identified in the Work Plan. If no period for the Contractor's correction of the Deliverable is identified, the Contractor shall correct the Deficiency in the Deliverable within five (5) business days. Upon receipt of the corrected Deliverable, the State shall have five (5) business days to review the Deliverable and notify the Contractor of its Acceptance or rejection thereof, with the option to extend the Review Period up to five (5) additional business days. If the Contractor fails to correct the Deficiency within the allotted period of time, the State may, at its option, continue reviewing the Deliverable and require the Contractor to continue until the Deficiency is corrected, or immediately terminate the Contract, declare the Contractor in default, and pursue its remedies at law and in equity.

**5.4 SOFTWARE REVIEW AND ACCEPTANCE**

System/Software Testing and Acceptance shall be performed as set forth in the Test Plan and more particularly described in Exhibit F: *Testing Services*.

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**6. SOFTWARE**

The Contractor shall provide the State with access to the Software and Documentation set forth in the Contract, and particularly described in Exhibit J: *Software Agreement*.

**7. SERVICES**

The Contractor 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**

The Contractor 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**

The Contractor 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**

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

**7.4 TRAINING SERVICES**

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

**7.5 MAINTENANCE AND SUPPORT SERVICES**

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

**7.6 WARRANTY SERVICES**

The Contractor shall provide the State with warranty Services set forth in the Contract, and particularly described in Exhibit K: Warranty & Warranty Services.

**8. WORK PLAN DELIVERABLE**

The Contractor shall provide the State with a Work Plan that shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment Schedule.

The initial Work Plan shall be a separate Deliverable and is set forth in Contract Exhibit I: *Work Plan*. The Contractor shall update the Work Plan as necessary to accurately reflect the status of the

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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 State, in writing, prior to final incorporation into Contract Exhibit I: *Work Plan*. The updated Contract Exhibit I: *Work Plan*, as approved by the State, is incorporated herein by reference.

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

In the event of any delay in the Schedule, the Contractor must immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inactions of the Contractor 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 the Contractor 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 the Contractor's 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.

Notwithstanding anything to the contrary, the State shall have the option to terminate the Contract for default, at its discretion, if it is dissatisfied with the Vendor's Work Plan or elements within the Work Plan.

## **9. CHANGE ORDERS**

The State may make changes or revisions at any time by written Change Order. The State originated changes or revisions shall be approved by the Department of Information Technology. Within five (5) business days of the Contractor's receipt of a Change Order, the Contractor shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan.

The Contractor may request a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, or the Work Plan. The State shall attempt to respond to the Contractor's requested Change Order within five (5) business days. The State Agency, as well as the Department of Information Technology, must approve all Change Orders in writing. The State shall be deemed to have rejected the Change Order if the parties are unable to reach an agreement in writing.

All Change Order requests from the Contractor to the State, and the State acceptance of the Contractor's estimate for a State requested change, will be acknowledged and responded to, either

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acceptance or rejection, in writing. If accepted, the Change Order(s) shall be subject to the Contract amendment process, as determined to apply by the State.

**10. INTELLECTUAL PROPERTY**

**10.1 SOFTWARE TITLE**

Title, right, and interest (including all ownership and intellectual property rights) in the Software, and its associated Documentation, shall remain with the Contractor.

Upon successful completion and/or termination of the Implementation of the Project, the Contracted Vendor shall own and hold all, title, and rights in any Software modifications developed in connection with performance of obligations under the Contract, or modifications to the Contracted Vendor provided Software, and their associated Documentation including any and all performance enhancing operational plans and the Vendors' special utilities. the Contracted Vendor shall license back to the State the right to produce, publish, or otherwise use such software, source code, object code, modifications, reports, and Documentation developed under the Contract.

In no event shall the Vendor be precluded from developing for itself, or for others, materials that are competitive with, or similar to Custom Software, modifications developed in connection with performance of obligations under the Contract. In addition, the Vendor shall be free to use its general knowledge, skills, experience, and any other ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this agreement.

**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. the Contractor shall not access State user accounts or State data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the State's written request.

**10.3 CONTRACTOR'S MATERIALS**

Subject to the provisions of this Contract, the Contractor may develop for itself, or for others, materials that are competitive with, or similar to, the Deliverables. In accordance with the provision of this Contract, the Contractor shall not distribute any products containing or disclose any State Confidential Information. The Contractor 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

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result of the deliberate memorization of the State Confidential Information by the Contractor employees or third party consultants engaged by the Contractor.

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, 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 SURVIVAL**

This Contract Agreement 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, the Contractor 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*). The Contractor 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 the Contractor's performance under the Contract.

**11.2 STATE CONFIDENTIAL INFORMATION**

The Contractor shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information that becomes available to the Contractor 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



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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. The Contractor shall immediately notify the State if any request, subpoena or other legal process is served upon the Contractor regarding the State Confidential Information, and the Contractor 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, the Contractor 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.

**11.3 CONTRACTOR CONFIDENTIAL INFORMATION**

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

**11.4 SURVIVAL**

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

**12 LIMITATION OF LIABILITY**

**12.1 STATE**

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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 the Contractor shall not exceed the total Contract price set forth in Contract Agreement – General Provisions, Block 1.8.

**12.2 CONTRACTOR**

Subject to applicable laws and regulations, in no event shall the Contractor be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and the Contractor's liability to the State shall not exceed two times (2X) the total Contract price set forth in Contract Agreement – P-37, General Provisions, Block 1.8.

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

**12.3 STATE'S IMMUNITY**

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.

**12.4 SURVIVAL**

This Section 12: *Limitation of Liability* shall survive termination or Contract conclusion.

**13 TERMINATION**

This Section 13 shall survive the termination or Contract Conclusion.

**13.1 TERMINATION FOR DEFAULT**

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

- a. Failure to perform the Services satisfactorily or on schedule;
- b. Failure to submit any report required; and/or
- c. Failure to perform any other covenant, term or condition of the Contract

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

- a. Unless otherwise provided in the Contract, the State shall provide the Contractor written notice of default and require it to be remedied within, in the absence of a

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greater or lesser specification of time, within thirty (30) days from the date of notice, unless otherwise indicated within by the State ("Cure Period"). If the Contractor fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving the Contractor notice of termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.

- b. Give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under the Contract and ordering that the portion of the Contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor.
- c. Set off against any other obligations the State may owe to the Vendor any damages the State suffers by reason of any Event of Default;
- d. Treat the Contract as breached and pursue any of its remedies at law or in equity, or both.
- e. Procure Services that are the subject of the Contract from another source and the Contractor shall be liable for reimbursing the State for the replacement Services, and all 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.

13.1.2 The Vendor shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days.

**13.2 TERMINATION FOR CONVENIENCE**

13.2.1 The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to the Contractor. In the event of a termination for convenience, the State shall pay the Contractor the agreed upon price, if separately stated in this Contract, for Deliverables for which Acceptance has been given by the State. 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 Contract Exhibit B, *Price and Payment Schedule*, of the Contract.

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13.2.2 During the thirty (30) day period, the Contractor 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.

**13.3 TERMINATION FOR CONFLICT OF INTEREST**

13.3.1 The State may terminate the Contract by written notice if it determines that a conflict of interest exists, 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, 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 the Contractor did not know, or reasonably did not know, of the conflict of interest.

13.3.2 In the event the Contract is terminated as provided above pursuant to a violation by the Contractor, the State shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a default of the Contract by the Contractor.

**13.4 TERMINATION PROCEDURE**

13.4.1 Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require the Contractor to deliver to the State any property, including without limitation, Software and Written Deliverables, for such part of the Contract as has been terminated.

13.4.2 After receipt of a notice of termination, and except as otherwise directed by the State, the Contractor shall:

- a. The State shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the SLA.
- b. Stop work under the Contract on the date, and to the extent specified, in the notice;
- c. 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;

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- d. 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 the Contractor and in which the State has an interest;
- e. During any period of service suspension, the Contractor shall not take any action to intentionally erase any State data.
  1. In the event of termination of any services or agreement in entirety, the Contractor shall not take any action to intentionally erase any State data for a period of:
    - 10 days after the effective date of termination, if the termination is in accordance with the contract period
    - 30 days after the effective date of termination, if the termination is for convenience
    - 60 days after the effective date of termination, if the termination is for cause
  2. After such period, the Contractor shall have no obligation to maintain or provide any State data and shall thereafter, unless legally prohibited, delete all State data in its systems or otherwise in its possession or under its control.
- f. 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 the State and which has been accepted or requested by the State; and
- g. The Contractor shall implement an orderly return of State data in a CSV or another mutually agreeable format at a time agreed to by the parties and the subsequent secure disposal of State data;
- h. The Contractor shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the State. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the State.
- i. Provide written Certification to the State that the Contractor has surrendered to the State all said property.

**14 CHANGE OF OWNERSHIP**

In the event that the Contractor should change ownership for any reason whatsoever, the State shall have the option of continuing under the Contract with the Contractor, its successors or assigns for the full remaining term of the Contract; continuing under the Contract with the Contractor, its successors

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or assigns for such period of time as determined necessary by the State; or immediately terminate the Contract without liability to the Contractor, its successors or assigns.

**15 ASSIGNMENT, DELEGATION AND SUBCONTRACTS**

**15.1** The Contractor shall not assign, delegate, subcontract, or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the State. Such consent shall not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void, and may constitute an event of default at the sole discretion of the State.

**15.2** The Contractor shall remain wholly responsible for performance of the entire Contract even if assignees, delegates, Subcontractors, 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 the Contractor of any of its obligations under the Contract nor affect any remedies available to the State against the Contractor that may arise from any event of default of the provisions of the contract. The State shall consider the Contractor to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

**15.3** Notwithstanding the foregoing, nothing herein shall prohibit the Contractor from assigning the Contract to the successor of all or substantially all of the assets or business of the Contractor provided that the successor fully assumes in writing all obligations and responsibilities under the Contract. In the event that the Contractor should change ownership, as permitted under Section 15: *Change of Ownership*, the State shall have the option to continue under the Contract with the Contractor, its successors or assigns for the full remaining term of the Contract; continue under the Contract with the Contractor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminating the Contract without liability to the Contractor, its successors or assigns.

**16 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>Aztec Software</b>	<b>STATE</b>	<b><u>CUMULATIVE ALLOTTED TIME</u></b>
<b>Primary</b>	Adriane Fajnor Vice President of Client Relations & Communication	Sarah Bennett State Project Manager (PM)	5 Business Days
<b>First</b>	Michael Khefets Chief Operating Officer/President	Heather Gage Division Director	10 Business Days
<b>Second</b>	Jonathan Blitt Chief Executive Officer/Chairman	Frank Edelblut Commissioner	15 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.

**17 SAAS GENERAL TERMS AND CONDITIONS****17.1 REGULATORY GOVERNMENT APPROVALS**

The Contractor shall obtain all necessary and applicable regulatory or other governmental approvals necessary to perform its obligations under the Contract.

**17.2 INSURANCE CERTIFICATE**

The Insurance Certificate should note the Certificate Holder in the lower left hand block including State of New Hampshire, Department of Education, Frank Edelblut, Commissioner of Education, 101 Pleasant Street, Concord, NH 03301.

**17.3 EXHIBITS**

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

**17.4 VENUE AND JURISDICTION**

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

**17.5 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 survive, including, but not limited to, the terms of the Exhibit E Section 3: Records Retention and Access Requirements, Exhibit E Section 4: Accounting Requirements, and General Provisions-Section 11: Use of State's Information, Confidentiality and General Provisions- Section 14: Termination which shall all survive the termination of the Contract.

#### **17.6 FORCE MAJEURE**

Neither the Contractor 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 the Contractor's inability to hire or provide personnel needed for the Contractor's performance under the Contract.

#### **17.7 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.

TO THE CONTRACTOR  
ADRIANE FAJNOR  
51 COMMERCE STREET  
SPRINGFIELD, NJ 07081  
TEL: (973)258-0011  
E.MAIL:  
AFAJNOR@AZTECSOFTWARE.COM

TO STATE:  
STATE OF NEW HAMPSHIRE  
BUREAU OF ADULT EDUCATION  
21 SOUTH FRUIT STREET, SUITE 20  
CONCORD, NH 03301  
TEL: (603) 271-6699

#### **17.8 DATA PROTECTION**

Protection of personal privacy and data shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the following conditions:

- a. The Contractor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Contractor applies to its own personal data and non-public data of similar kind.



b. All data obtained by the Contractor in the performance of this contract shall become and all personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Contractor is responsible for encryption of the personal data.

c. Unless otherwise stipulated, the Contractor shall encrypt all non-public data at rest and in transit. The State shall identify data it deems as non-public data to the Contractor. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.

d. At no time shall any data or processes — that either belong to or are intended for the use of the State or its officers, agents or employees — be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.

e. The Contractor shall not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.

#### **17.9 DATA LOCATION**

The Contractor shall provide its services to the State and its end users solely from data centers in the U.S. Storage of State data at rest shall be located solely in data centers in the U.S. the Contractor shall not allow its personnel or contractors to store State data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. the Contractor shall permit its personnel and contractors to access State data remotely only as required to provide technical support. the Contractor may provide technical user support on a 24/7 basis using a Follow the Sun model, unless otherwise prohibited in this contract.

#### **17.10 SECURITY INCIDENT OR DATA BREACH NOTIFICATION**

The Contractor shall inform the State of any security incident or data breach in accordance with NH RSA 359-C:20.

a. Incident Response: the Contractor may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the contract. Discussing security incidents with the State should be handled on an urgent as-needed basis, as part of the Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the contract.

b. Security Incident Reporting Requirements: the Contractor shall report a security incident to the appropriate State identified contact immediately as defined in the SLA.

c. Breach Reporting Requirements: If the Contractor has actual knowledge of a confirmed data breach that affects the security of any State content that is subject to applicable data breach notification law, the Contractor shall (1) promptly notify the appropriate State identified contact within 24 hours or sooner, unless shorter time is required by applicable

law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

#### **17.11 BREACH RESPONSIBILITIES**

This section only applies when a data breach occurs with respect to personal data within the possession or control of the Contractor.

a. The Contractor, unless stipulated otherwise, shall immediately notify the appropriate State identified contact by telephone in accordance with the agreed upon security plan or security procedures if it reasonably believes there has been a security incident.

b. The Contractor, unless stipulated otherwise, shall promptly notify the appropriate State identified contact within 24 hours or sooner by telephone, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a data breach. the Contractor shall (1) cooperate with the State as reasonably requested by the State to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

c. Unless otherwise stipulated, if a data breach is a direct result of the Contractor's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the Contractor shall bear the costs associated with:

- (1) the investigation and resolution of the data breach;
- (2) notifications to individuals, regulators or others required by State law;
- (3) a credit monitoring service required by State (or federal) law;
- (4) a website or a toll-free number and call center for affected individuals required by State law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$201 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute<sup>17</sup> at the time of the data breach; and
- (5) complete all corrective actions as reasonably determined by the Contractor based on root cause; all [(1) through (5)] subject to this Contract's limitation of liability.

#### **17.12 NOTIFICATION OF LEGAL REQUESTS**

The Contractor shall contact the State upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the State's data under this contract, or which in any way might reasonably require access to the data of the State. the Contractor shall not respond to subpoenas, service of process and other legal requests related to the State without first notifying the State, unless prohibited by law from providing such notice.

#### **17.13 ACCESS TO SECURITY LOGS AND REPORTS**

The Contractor shall provide reports to the State in a format as agreed to by both the Contractor and the State. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State files related to this contract.

#### **17.14 CONTRACT AUDIT**

The Contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion and at the State's expense.

#### **17.15 DATA CENTER AUDIT**

The Contractor shall perform an independent audit of its data centers at least annually at its expense, and provide a redacted version of the audit report upon request. The Contractor may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.

#### **17.16 ADVANCE NOTICE**

The Contractor shall give advance notice (to be determined at the contract time and included in the SLA) to the State of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics. It usually includes a new version number.

#### **17.17 SECURITY**

The Contractor shall disclose its non-proprietary security processes and technical limitations to the State such that adequate protection and flexibility can be attained between the State and the Contractor. For example: virus checking and port sniffing — the State and the Contractor shall understand each other's roles and responsibilities.

#### **17.18 NON-DISCLOSURE AND SEPARATION OF DUTIES**

The Contractor shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of State data to that which is absolutely necessary to perform job duties.

#### **17.19 IMPORT AND EXPORT OF DATA**

The State shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the Contractor. This includes the ability for the State to import or export data to/from other service providers.

#### **17.20 RESPONSIBILITIES AND UPTIME GUARANTEE**

The Contractor shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments

are the responsibilities of the Contractor. The system shall be available 24/7/365 (with agreed-upon maintenance downtime), and provide service to customers as defined in the SLA.

#### **17.21 RIGHT TO REMOVE INDIVIDUALS**

The State shall have the right at any time to require that the Contractor remove from interaction with State any the Contractor representative who the State believes is detrimental to its working relationship with the Contractor. The State shall provide the Contractor with notice of its determination, and the reasons it requests the removal. If the State signifies that a potential security violation exists with respect to the request, the Contractor shall immediately remove such individual. the Contractor shall not assign the person to any aspect of the contract or future work orders without the State's consent.

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**PART 3 - EXHIBIT A**  
**CONTRACT DELIVERABLES**

**a. Problem Statement** The NH Department of Education, Bureau of Adult Education needs to improve basic performance outcomes for adult education students as well as increasing the capacity of its programs to serve a greater number of students.

**b. Goals** – To provide opportunities for distance learning, blended/hybrid learning and supplemental activities for several types of programming funded by the Bureau of Adult Education.

**c. Project Overview**

The general scope of the project is to provide online learning opportunities in a cost-effective manner.

**d. Statement of Work**

Aztec Software will provide online learning software to meet the educational needs of adult education students in adult basic education, high school equivalency preparation and postsecondary transitions programs. The software will allow programs to extend learning, integrate technology in the classroom and provide distance learning opportunities.

**e. General Project Assumptions**

1. The Contractor will provide project tracking tools and templates to record and manage Issues, Risks, Change Requests, Requirements, Decision Sheets, and other documents used in the management and tracking of the project. The State of New Hampshire and the Contractor's 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 Non-Software and Written Deliverables, the Contractor shall provide to the State a template, table of contents, or agenda for Review and prior approval by the State.
3. The Contractor 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 Appendix C-2 of the Request for Proposal. The Contractor 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 Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof. Pricing for Deliverables set forth in Exhibit B: *Price and Payment Schedule*. Pricing will be effective for the Term of this Contract, and any extensions thereof.

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**CONTRACT DELIVERABLES**

**DELIVERABLES, MILESTONES, AND ACTIVITIES SCHEDULE**

	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date
<b>PLANNING AND PROJECT MANAGEMENT</b>			
1	Conduct Project Kickoff Meeting	Non-Software	8/8/2018
2	Project Status Reports	Written	8/8/2018
3	Work Plan	Written	8/8/2018
4	Security Plan	Written	8/8/2018
5	Communications and Change Management Plan	Written	8/8/2018
6	Deployment Plan	Written	8/8/2018
7	Comprehensive Training Plan and Curriculum	Written	9/1/2018
8	End User Support Plan	Written	8/8/2018
9	Business Continuity Plan	Written	8/8/2018
<b>INSTALLATION</b>			
10	Provide Software Licenses if needed	Written	8/8/2018
<b>TESTING</b>			
11	Conduct Integration Testing	Non-Software	8/8/2018
12	Conduct User Acceptance Testing	Non-Software	8/8/2018
13	Perform Production Tests	Non-Software	8/8/2018
14	Conduct System Performance (Load/Stress) Testing	Non-Software	8/8/2018
15	Certification of 3 <sup>rd</sup> Party Pen Testing and Application Vulnerability Scanning.	Non-Software	8/8/2018
<b>SYSTEM DEPLOYMENT</b>			
16	Conduct Training	Non-Software	9/1/2018
17	Provide Documentation	Written	8/8/2018
18	Execute Security Plan	Non-Software	8/8/2018
<b>OPERATIONS</b>			
19	Ongoing Hosting Support	Non-Software	8/8/2018
20	Ongoing Support & Maintenance	Software	8/8/2018
21	Conduct Project Exit Meeting	Non-Software	If applicable

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Exhibit A – Contract Deliverables – Part 3  
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**PART 3 - EXHIBIT B**  
**PRICE AND PAYMENT SCHEDULE**

**1. PAYMENT SCHEDULE**

**1.1 Not to Exceed**


This is a Not to Exceed (NTE) Contract for the period between the Effective Date through June 30, 2021. The Contractor shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow the Contractor to invoice the State for the following activities, Deliverables, or milestones appearing in the price and payment tables below.

**1.2**

	Activity, Deliverable, or Milestone	Projected Delivery Date	Price
<b>PLANNING AND PROJECT MANAGEMENT</b>			
1	Conduct Project Kickoff Meeting	8/8/2018	Included
2	Project Status Reports	8/8/2018	Included
3	Work Plan	8/8/2018	Included
4	Security Plan	8/8/2018	Included
5	Communications and Change Management Plan	8/8/2018	Included
6	Deployment Plan	8/8/2018	Included
7	Comprehensive Training Plan and Curriculum	9/1/2018	Included
8	End User Support Plan	8/8/2018	Included
9	Business Continuity Plan	8/8/2018	Included
<b>INSTALLATION</b>			
10	Provide Software Licenses if needed	8/8/2018	Included
<b>TESTING</b>			
11	Conduct Integration Testing	8/8/2018	Included
12	Conduct User Acceptance Testing	8/8/2018	Included
13	Perform Production Tests	8/8/2018	Included
14	Conduct System Performance (Load/Stress) Testing	8/8/2018	Included
15	Certification of 3 <sup>rd</sup> Party Pen Testing and Application Vulnerability Scanning.	8/8/2018	Included
<b>SYSTEM DEPLOYMENT</b>			
16	Conduct Training	9/30/2018	Included

State of NH Contract 2018-164

Exhibit B – Price and Payment Schedule – Part 3

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17	Provide Documentation	8/8/2018	Included
18	Execute Security Plan	8/8/2018	Included
<b>OPERATIONS</b>			
19	Ongoing Hosting Support	8/8/2018	Included
20	Ongoing Support & Maintenance	8/8/2018	Included
21	Conduct Project Exit Meeting	As applicable	Included

**1.4 SAAS Services Pricing Worksheet**

Pricing must reflect the payment of maintenance through the Contract end date. Price estimate should reflect the most optimistic implementation date. Actual payments may differ from the estimate if project start date slips or if implementation takes longer as this will cause a shorter maintenance period. Table should be customized to reflect the project and the cost composing the Contractor's proposal.

**Table 1.4: SAAS Services Pricing Worksheet**

SAAS SERVICES	Year 1	Year 2	Year 3	TOTAL
Web Site Hosting Fee	Included	Included	Included	Included
Technical Support and updates	Included	Included	Included	Included
Maintenance and Updates	Included	Included	Included	Included
Licensing	\$9,975.00	\$9,975.00	\$9,975.00	\$ 29,925.00
<b>GRAND TOTAL</b>	<b>\$9,975.00</b>	<b>\$9,975.00</b>	<b>\$9,975.00</b>	<b>\$ 29,925.00</b>

**2. CONTRACT PRICE**

Notwithstanding any provision in the Contract to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments made by the State exceed the amount indicated in the P-37 General Provisions Block 1.8 ("Price Limitation"). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to the Contractor for all fees and expenses, of whatever nature, incurred by the Contractor in the performance hereof.

The State will not be responsible for any travel or out of pocket expenses incurred in the performance of the Services performed under this Contract.

**3. INVOICING**

The Contractor 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. The Contractor shall only submit invoices for Services or Deliverables as permitted by the



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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.

Invoices shall be sent to:

Sarah Bennett  
Department of Education  
Bureau of Adult Education  
21 South Fruit Street, Suite 20  
Concord, NH 03301

**4. PAYMENT ADDRESS**

All payments shall be sent to the following address:

Aztec Software  
51 Commerce Street  
Springfield, NJ 07081

**5. OVERPAYMENTS TO THE CONTRACTOR**

The Contractor 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 the Contractor's invoices with appropriate information attached.

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**EXHIBIT C**  
**SPECIAL PROVISIONS**

Use the special provision section to show appropriate changes to the terms outlined in the General Provisions.

1. The Contractor shall comply with the following requirement in accordance with Section 502 of the Workforce Innovation and Opportunities Act of 2014.

**PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**— In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

2. The Contractor attests to compliance with the General Education Provision Act section 427 as attached to this Exhibit.

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**EXHIBIT C**  
**SPECIAL PROVISIONS**

**GENERAL EDUCATION PROVISIONS ACT (GEPA) Sec. 427 Attestation –**  
**WORKFORCE INVESTMENT ACT, TITLE II – ADULT EDUCATION AND FAMILY**  
**LITERACY**

This attestation outlines the steps that \_\_\_\_\_ will ensure be taken  
(Applicant)  
should the Adult Education application be funded.


The purpose of this requirement is to assist the United States Department of Education in implementing its mission to ensure equal access to education and to promote educational excellence.

If funded, the following steps will be taken to ensure equitable access to and equitable participation in the project or activity to be conducted with federal adult education assistance by addressing the access needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability and age.

The Act highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, determine whether these or other barriers may prevent students, teachers, etc., from such access or participation in the federally-funded project or activity. Please describe the steps to be taken to comply with the GEPA requirements.

Project Director: (Name and Title) \_\_\_\_\_

Signature of Project Director: \_\_\_\_\_ Date: \_\_\_\_\_

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Exhibit C – Special Provisions – Part 3  
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**EXHIBIT D**  
**ADMINISTRATIVE SERVICES**

**1. TRAVEL EXPENSES**

The Contractor must assume all reasonable travel and related expenses. All labor rates will be “fully loaded”, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses.

**2. SHIPPING AND DELIVERY FEE EXEMPTION**

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

**3. ACCESS/COOPERATION**

As applicable, and subject to the applicable laws and regulations, the State will provide the Contractor 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 the Contractor to perform its obligations under the Contract.

**4. STATE-OWNED DOCUMENTS AND COPYRIGHT PRIVILEGES**

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

**5. RECORDS RETENTION AND ACCESS REQUIREMENTS**

The Contractor 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*.

The Contractor 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. The Contractor 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

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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. The Contractor 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 the Contractor's cost structure and profit factors shall be excluded from the State's review unless the cost of any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

**6. ACCOUNTING REQUIREMENTS**

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

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**EXHIBIT E**  
**IMPLEMENTATION SERVICES**

**1. PROJECT MANAGEMENT**

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

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

- a. **Introductory Meeting:** Participants will include the Contractor's Key Project Staff and State Project leaders from both Department of Education and the Department of Information Technology. This meeting will enable leaders to become acquainted and establish any preliminary Project procedures.
- b. **Kickoff Meeting:** Participants will include the State and the Contractor's Project Team and major stakeholders. This meeting is to establish a sound foundation for activities that will follow.
- c. **Status Meetings:** Participants will include, at the minimum, the Contractor's Project Manager and the State Project Manager. These meetings will be conducted at least quarterly and address overall Project status and any additional topics needed to remain on schedule and within budget. A status and error report from the Contractor shall serve as the basis for discussion.
- d. **The Work Plan:** must be reviewed at each Status Meeting and updated, at minimum, on a quarterly basis, in accordance with the Contract.
- e. **Special Meetings:** Need may arise for a special meeting with State leaders or Project stakeholders to address specific issues.
- f. **Exit Meeting:** Participants will include Project leaders from the Contractor 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 the Contractor 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 the Contractor's responsibility.

The Contractor's Project Manager or the Contractor's Key Project Staff shall submit quarterly status reports in accordance with the Schedule and terms of this Contract. All status reports shall be prepared in formats approved by the State. The Contractor's 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. The Contractor shall produce Project status reports, which shall contain, at a minimum, the following:

1. Project status related to the Work Plan;
2. Deliverable status;
3. Accomplishments during weeks being reported;
4. Planned activities for the upcoming quarter;
5. Future activities; and

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6. Issues and concerns requiring resolution.
7. Report and remedies in case of falling behind Schedule

As reasonably requested by the State, the Contractor shall provide the State with information or reports regarding the Project. The Contractor 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.

## **2. IMPLEMENTATION STRATEGY**

### **2.1 Key Components**

The Contractor shall employ an industry-standard Implementation strategy with a timeline set forth in accordance with the Work Plan;

The Contractor and the State shall adopt a change management approach to identify and plan key strategies and communication initiatives.

The Contractor's team will provide training templates as defined in the Training Plan, which will be customized to address the State's specific requirements. Decisions regarding format, content, style, and presentation shall be made early on in the process, by the State, providing sufficient time for development of material as functionality is defined and configured.

The Contractor shall manage Project execution and provide the tools needed to create and manage the Project's Work Plan and tasks, manage and schedule Project staff, track and manage issues, manage changing requirements, maintain communication within the Project Team, and report status.

### **2.2 Timeline**

The timeline is set forth in the Work Plan. During the initial planning period Project task and resource plans will be established for: the preliminary training plan, the change management plan, communication approaches, Project standards and procedures finalized, and team training initiated. Timing will be structured to recognize interdependencies between applications and structure a cost effective and timely execution. Processes will be documented, training established, and the application will be ready for Implementation in accordance with the Work Plan.

### **2.3 Change Management and Training**

The Contractor's change management and training services shall be focused on developing change management and training strategies and plans. Its approach relies on State resources for the execution of the change management and end user training.

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**EXHIBIT F**  
**TESTING SERVICES**

The Contractor shall provide the following Products and Services described in this Exhibit F, including but not limited to:

1. The Contractor shall bear all responsibilities for following the testing requirements related to application system development and maintenance as defined in Table C-2, Testing.
2. The Contractor is responsible for appropriate performance, tuning, load tests and penetration tests for new application releases. In addition, the Contractor must provide a report of the results of such tests to the State Technical Lead.
3. The Contractor shall bear all responsibilities for implementing a methodology for penetration testing that includes the following:
  - a. Is based on industry-accepted penetration testing approaches (for example, NIST SP800-115)
  - b. Includes coverage for the entire CDE perimeter and critical systems
  - c. Includes testing from both inside and outside the network
  - d. Includes testing to validate any segmentation and scope-reduction controls
  - e. Defines application-layer penetration tests to include, at a minimum, the vulnerabilities listed in Requirement 6.5
  - f. Defines network-layer penetration tests to include components that support network functions as well as operating systems
  - g. Includes review and consideration of threats and vulnerabilities experienced in the last 12 months
  - h. Specifies retention of penetration testing results and remediation activities results.
4. Perform external penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade, a sub-network added to the environment, or a web server added to the environment)
5. Exploitable vulnerabilities found during penetration testing are corrected and testing is repeated to verify the corrections.
6. Verification of User Acceptance Testing through a local adult education center designated by the State Project Manager,

UAT begins upon completion of the Software configuration as required and user training according to the Work Plan. Testing ends upon issuance of a letter of UAT Acceptance by the State.

The User Acceptance Test (UAT) is a verification process performed in a copy of the production environment. The User Acceptance Test verifies System functionality against predefined Acceptance criteria that support the successful execution of approved business processes.



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**TESTING SERVICES**

UAT will also serve as a performance and stress test of the System. It may cover any aspect of the new System, including administrative procedures such as backup and recovery. The results of the UAT provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.

The results of the User Acceptance Test provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.

Upon successful conclusion of UAT and successful System deployment, the State will issue a letter of UAT Acceptance and the respective Warranty Period shall commence

<b>Activity Description</b>	The System User Acceptance Tests verify System functionality against predefined Acceptance criteria that support the successful execution of approved processes.
<b>Contractor Team Responsibilities</b>	<ul style="list-style-type: none"><li>• Provide the State an Acceptance Test Plan and selection of test scripts for the Acceptance Test.</li><li>• Monitor the execution of the test scripts and assist as needed during the User Acceptance Test activities.</li><li>• Work jointly with the State in determining the required actions for problem resolution.</li></ul>
<b>State Responsibilities</b>	<ul style="list-style-type: none"><li>• Approve the development of the User Acceptance Test Plan and the set of data for use during the User Acceptance Test.</li><li>• Validate the Acceptance Test environment.</li><li>• Execute the test scripts and conduct User Acceptance Test activities.</li><li>• Document and summarize Acceptance Test results.</li><li>• Work jointly with the Contractor in determining the required actions for problem resolution.</li><li>• Provide Acceptance of the validated Systems.</li></ul>
<b>Work Product Description</b>	The Deliverable for User Acceptance Tests is the User Acceptance Test Results. These results provide evidence that the new System meets the User Acceptance criteria defined in the Work Plan.

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**MAINTENANCE AND SUPPORT SERVICES**

**1. SYSTEM MAINTENANCE**

The Contractor shall maintain and support the System in all material respects as described in the applicable program Documentation through the contract end date.

**1.1 CONTRACTOR'S RESPONSIBILITY**

The Contractor shall maintain the System in accordance with the Contract.

**1.1.1 Maintenance Releases**

The Contractor shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.

**1.1.2 Standard Agreement**

The State will adopt the Contractor's standard maintenance agreement modified to address terms and conditions inconsistent with State Statutes and general State information technology practices.

**1.2 SYSTEM SUPPORT**

**1.2.1** The Contractor will be responsible for performing on-site or remote technical support in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein.

**1.2.2** As part of the Software maintenance agreement, ongoing Software maintenance and support levels, including all new Software releases, shall be responded to according to the following:

**1.2.2.1 Class A Deficiencies** – The Contractor shall have available to the Department on-call telephone assistance, with issue tracking available to the Department, during Department business hours (M – F, 8:00 am – 4:30 pm) with an email/telephone response within two (2) hours of request, or the Contractor shall provide support with remote diagnostic Services within four (4) business hours of a request;

**1.2.2.2 Class B & C Deficiencies** – The Department shall notify the Contractor of such Deficiencies during regular business hours and the Contractor shall respond back within two (2) hours of notification of planned corrective action.

**2. SUPPORT OBLIGATIONS AND TERM**

**2.1** The Contractor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications and terms and requirements of the Contract, including but not limited to S1.1 through S1.20 of the Support and Maintenance Requirements in Exhibit H *Requirements*, Attachment 1.

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- 2.1.1** The Contractor shall maintain a record of the activities related to warranty repair or maintenance activities performed for the Department.
- 2.1.2** For all maintenance Service calls, the Contractor shall ensure the following information will be collected and maintained: nature of Deficiency; current status of the Deficiency; action plans, dates and times; expected and actual completion time; Deficiency resolution information; Resolved by; Identifying number i.e. work order number; and Issue identified by.
- 2.1.3** The Contractor must work with the Department to identify and troubleshoot potentially large scale System failures or Deficiencies by collecting the following information: mean time between reported Deficiencies with the Software; diagnosis of the root cause of the problem; and identification of repeat calls or repeat Software problems.
- 2.2** If the Contractor fails to correct a Deficiency within the allotted period of time stated above, the Contractor shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies in Part 2 Section 13.1.1.2, as well as to return the Contractor's product and receive a refund for all amounts paid to the Contractor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Contractor of the State's refund request
- 2.3** If the Contractor fails to correct a Deficiency within the allotted period of time stated above, the Contractor shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies in Part 1 Section 14.

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**REQUIREMENTS**

Attachment 1: Project Requirements, Table C-2, is hereby incorporated.

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The Contractor's Project Manager and the State Project manager shall finalize the Work Plan for Implementation within one (1) day of the Effective Date and further refine the tasks required to implement the Project. The elements of the preliminary Work Plan are documented in accordance with the Contractor's plan to implement the System. Continued development and management of the Work Plan is a joint effort on the part of the Contractor and State Project Managers.

The preliminary Work Plan for Implementation created by the Contractor and the State is set forth at the end of this Exhibit.

In conjunction with the Contractor's Project Management methodology, which shall be used to manage the Project's life cycle, the Contractor team and the State shall finalize the Work Plan at the onset of the Project. This plan shall identify the **tasks, Deliverables, major milestones, task dependencies, and a payment Schedule** required to implement the Project. It shall also address intra-task dependencies, resource allocations (both State and Contractor's team members), refine the Project's scope, and establish the Project's Schedule. The Plan is documented in accordance with the Contractor's Work Plan and shall utilize Kaplan HiSET Prep Solution as indicated in Attachment 2 - Vendor Quote to support the ongoing management of the Project.

## **1. ASSUMPTIONS**

### **A. General**

- The State shall provide team members with decision-making authority to support the Implementation efforts, at the level outlined in the Request for Proposal Document State Staffing Matrix.
- All State tasks must be performed in accordance with the revised Work Plan.
- All key decisions will be resolved within five (5) business days. Issues not resolved within this initial period will be escalated to the State Project Manager for resolution.
- Any activities, decisions or issues taken on by the State that affect the mutually agreed upon Work Plan timeline, scope, resources, and costs shall be subject to the identified Change Control process.
- The Contractor shall maintain an accounting system in accordance with Generally Accepted Accounting Principles (GAAP).

### **B. Project Management**

- The State shall approve the Project Management Methodology used for the Project.
- The State shall provide the Project Team with reasonable access to the State personnel as needed to complete Project tasks.
- The Contractor assumes that an Alternate Project Manager may be appointed from time to time to handle reasonable and ordinary absences of the Project Manager.

### **C. Project Schedule**

- Deployment is planned to begin on 7/25/2018 with a planned go-live date of 7/25/2018.

### **D. Reporting**

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- The Contractor shall conduct quarterly status meetings, and provide reports that include, but are not limited to, minutes, action items, test results, and Documentation.

**E. User Training**

- The Contractor's Team shall lead the development of the end-user training plan.
- A train the trainer approach shall be used for the delivery of end-user training.
- The State is responsible for the delivery of end-user training.
- The State shall schedule and track attendance on all end-user training classes.

**F. Performance and Security Testing**

- The Contractor's Team shall provide a performance test workshop to identify the key scenarios to be tested, the approach and tools required, and best practices information on performance testing.
- The State shall work with the Contractor on all testing as set forth in Contract Exhibit F – *Testing Services*.

**2. ROLES AND RESPONSIBILITIES**

**A. Contractor Team Roles and Responsibilities**

**1) Contractor Team Project Executive**

The Contractor Team's Project Executives (Contractor and Subcontractor Project Executives) shall be responsible for advising on and monitoring the quality of the Services throughout the Project life cycle. The Project Executive shall advise the Contractor Team Project Manager and the State's Project leadership on the best practices for implementing the Contractor Software Solution within the State. The Project Executive shall participate in the definition of the Project Plan and provide guidance to the State's Team.

**2) Contractor Team Project Manager**

The Contractor Team Project Manager shall have overall responsibility for the day-to-day management of the Project and shall plan, track, and manage the activities of the Contractor Implementation Team. The Contractor Team Project Manager will have the following responsibilities:

- Maintain communications with the State's Project Manager;
- Work with the State in planning and conducting a kick-off meeting;
- Create and maintain the Work Plan;
- Assign the Contractor Team consultants to tasks in the Implementation Project according to the scheduled staffing requirements;
- Define roles and responsibilities of all the Contractor Team members;
- Provide quarterly and month update progress reports to the State Project Manager;
- Review task progress for time, quality, and accuracy in order to achieve progress;
- Review requirements and scheduling changes and identify the impact on the Project in order to identify whether the changes may require a change of scope;

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- Implement scope and Schedule changes as authorized by the State Project Manager and with appropriate Change Control approvals as identified in the Implementation Plan;
- Inform the State Project Manager and staff of any urgent issues if and when they arise;
- Provide the State completed Project Deliverables and obtain sign-off from the State's Project Manager.
- Manage handoff to the Contractor operational staff;
- Manage Transition Services as needed.

**3) Contractor Team Analysis**

The Contractor Team shall conduct analysis of requirements, validate the Contractor Team's understanding of the State business requirements by application, and perform business requirements mapping:

- Construct and confirm application test case scenarios;
- Produce application configuration definitions and configure the applications;
- Conduct testing of the configured application;
- Produce functional Specifications for extensions, conversions, and interfaces;
- Assist the State in the testing of extensions, conversions, and interfaces;
- Assist the State in execution of the State's Acceptance Test;
- Conduct follow-up meetings to obtain feedback, results, and concurrence/approval from the State;
- Assist with the correction of configuration problems identified during system, integration and Acceptance Testing; and
- Assist with the transition to production.

**4) Contractor Team Tasks**

The Contractor team shall assume the following tasks:

- Development and review of functional and technical Specification to determine that they are at an appropriate level of detail and quality;
- Development and Documentation of conversion and interface programs in accordance with functional and technical Specifications;
- Development and Documentation of installation procedures; and
- Unit testing of conversions and interfaces developed; and
- System Integration Testing.

**B. State Roles and Responsibilities**

The following State resources have been identified for the Project. The time demands on the individual State team members will vary depending on the phase and specific tasks of the Implementation. The demands on the Subject Matter Experts' time will vary based on the need determined by the State Leads and the phase of the Implementation.

**1) State Project Manager**

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The State Project Manager shall work side-by-side with the Contractor Project Manager. The role of the State Project Manager is to facilitate completion of all tasks assigned to State staff, and communicate Project status on a regular basis. The State Project Manager represents the State in all decisions on Implementation Project matters, provides all necessary support in the conduct of the Implementation Project, and provides necessary State resources, as defined by the Work Plan and as otherwise identified throughout the course of the Project. The State Project Manager has the following responsibilities:

- Plan and conduct a kick-off meeting with assistance from the Contractor team;
- Assist the Contractor Project Manager in the development of a detailed Work Plan;
- Identify and secure the State Project Team members in accordance with the Work Plan;
- Define roles and responsibilities of all State Project Team members assigned to the Project;
- Identify and secure access to additional State end-user staff as needed to support specific areas of knowledge if and when required to perform certain Implementation tasks;
- Communicate issues to State management as necessary to secure resolution of any matter that cannot be addressed at the Project level;
- Inform the Contractor Project Manager of any urgent issues if and when they arise; and
- Assist the Contractor team staff to obtain requested information if and when required to perform certain Project tasks.
- Manage handoff to State operational staff;
- Manage State staff during Transition Services as needed.

**2) State Subject Matter Expert(s) (SME)**

The role of the State SME is to assist application teams with an understanding of the State's current business practices and processes, provide agency knowledge, and participate in the Implementation. Responsibilities of the SME include the following:

- Be the key user and contact for their Agency or Department;
- Attend Project Team training and acquire in-depth functional knowledge of the relevant applications;
- Attend Project meetings when requested; and
- Assist in training end users in the use of the Contractor Software Solution and the business processes the application supports.

**3) State Technical Lead and Architect**

The State's Technical Lead and Architect reports to the State's Project Manager and is responsible for leading and managing the State's technical tasks. Responsibilities include:

- Attend technical training as necessary to support the Project;
- Assist the State and the Contractor Team Project Managers to establish the detailed Work Plan;
- Manage the day-to-day activities of the State's technical resources assigned to the Project;
- Work with State IT management to obtain State technical resources in accordance with the Work Plan;





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- Work in partnership with the Contractor and lead the State technical staff's efforts in documenting the technical operational procedures and processes for the Project. This is a Contractor Deliverable and it will be expected that the Contractor will lead the overall effort with support and assistance from the State; and
- Represent the technical efforts of the State.

**3. SOFTWARE APPLICATION**

This software is an internet-delivery solution, the only system requirements are the use of an HTML5-compatible browser. Below is a partial list of compatible browsers:

- Internet Explorer 10 and higher
- Mozilla Firefox 7 and higher
- Google Chrome 14 and higher
- Safari 5 and higher
- Opera 11 and higher
- Mobile Safari 3.2 and higher
- Opera Mobile 5 and higher
- Android 2.1 and higher

**4. PRELIMINARY WORK PLAN**

The following Table 7.1 provides the preliminary agreed upon Work Plan for the Contract.

**Table 7.1: High Level Preliminary NH Project Plan**

Task Name	Duration	Start	Finish
Purchase licenses	1 day	8/8/2018	
Training	Ongoing	9/1/2018	

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**1. LICENSE GRANT**

In the event of conflict with the State terms and conditions as indicated in Part 1, General Provisions, the State terms and conditions shall have precedence.

**Terms and Conditions**

**Aztec System Terms of Use**

This Terms of Use Agreement ("Terms of Use", or "Agreement") between you and Aztec Software ("Aztec") establishes binding legal terms for the use of Aztec produced software and/or intellectual property including but not limited to use and installations of Aztec created software on mobile device(s), telephone(s), entertainment device(s), gaming system(s), computer(s), server(s) and website(s). This includes but is not limited to any device that can display, produce sound or create tactile representation of any content created by Aztec or its Agent(s).

Aztec created software and/or intellectual property includes access and/or use of the Administration System, Content Development Tools, Player, Testing Tools, Learning Management System and all related systems and subsystems. These components are collectively referenced as the "System" or "Aztec System", and are also referenced as the "Service" as well as "Software".

This agreement expressly forbids the modification and/or duplication of any component of the provided Service and/or Software including programs, executable code, binary code, images, animations, videos, sound, music, text, courses, subjects, lessons, tests, reports, questions, assets, content creation tools, certificates and assessments.

Agreement is made unconditionally and in full. Use of any Aztec capability in any way implies you have agreed to these terms and agree to be legally bound to these terms.

Please see the Privacy Policy for more information about how we collect, use, and share information.

It is the customer's responsibility to read and understand these terms.

**Service and Software Description**

Aztec provides to customers systems, services, software and/or support allowing a customer's user to view online content typically presented as learning material (in various forms: including but not limited to, text, animations, sound, video, directed instructions) in order for users to engage in, but not limited to, a learning experience, interact with users, create groups of users, administer classes, administer learning content, create reports, conduct assessments, create learning content, modify learning content, administer other users, create tests, modify tests and conduct testing. Users are typically, but not necessarily members of an organization such as a school or an organization that provides learning as part of its own services. Thus users may or may not be required to pay the customer organization for use of the Aztec System. User can also be individuals using the Services and/or Software.

This agreement encompasses all the components of an Aztec System. This includes, but is not limited to the administration system, learning system, content creation tools, testing programs, assets, learning content, reports, certificates, questions, lessons, problems, courses, subjects, assessments, and classes. There are two implementation categories of the System, which may reuse components from the other category. The Service category is a hosted environment intended to provide learning over the Internet or an Intranet. The hosted environment ("Service") is can be shared by multiple customers by one customer. A Software version is also available that is intended to support only one customer at a time. Hosting can be provided by a number of different network configurations including but not limited to intranets, Internet and/or private networks.

Aztec in providing its Service and/or Software may require the use of third party hardware, communications systems, networking systems and software. You, the customer, are responsible for maintaining all computer hardware, software and communications equipment needed to access the Service or Software, and for paying all related charges including but not limited access (e.g. ISP, telecommunications) incurred while using the Service or Software. In such cases the user is providing a required piece of hardware, software, communications or networking system, it is not the responsibility of Aztec to support, test, provision, administer, pay for, or otherwise interact with in any way those components. It would be prudent for customers to understand the minimum platform requirements for each Aztec System. Support will not be offered for installations that do not meet the minimum platform requirements.

The Software and Service is designed to be used by people with an understanding of using a computer, experience using a web browser and general operation of a computer. It is not the responsibility of Aztec to provide the basic computer training necessary to use the Software or Service.

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Exhibit J - Software Agreement – Part 3

Date: 7/23/18

Contractor's initials: *[Signature]*

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Aztec is not liable for any loss incurred by the customer related to the operation of the Service or Software, accuracy of content, reports, testing content, or failure to connect to the System. You, the customer acknowledges that damages for financial or other loss resulting system failure or content accuracy cannot be claimed from Aztec.

### Usage

During the registration process, the customer (you) will be provided either with a login and password combination or an access key as well as be requested to provide required account information. It is your responsibility to inform Aztec if this information is compromised so that Aztec can disable the account and re-credential the account. You recognized that illegitimate users or customers or using another customer's set of credentials does not relieve the customer of the responsibilities and obligations of these Terms. Thus the customer is responsible for protecting the confidentiality of the account credentials. Any violation of these terms no matter if by use of credentials by a legitimate or illegitimate user or customer may be grounds for termination of service or software at Aztec's sole discretion.

You may not use a customer login and password combination other than the one assigned to you by Aztec. You must immediately notify Aztec of any suspected use of your account by another party.  
Aztec is not responsible for any losses due to unauthorized use of your account.

This initial login and password might be enabled to allow creation of additional logins and passwords to the limit of the allowed license. It is the customer's responsibility to monitor the use of these logins so they are only used by legitimate users for the sole purpose of administrating, providing or receiving learning.

Aztec reserves the right to report any violation of law or regulations to appropriate government agencies.

The customer and customer's users interact with the system to provide a learning experience to a collection of users including but not limited to roles known as students, instructors, tutors and administrators. Additional roles can be defined by the customer in the Administration component of the Service or Software. It is the customer's responsibility to maintain user information accurately and protect the confidentiality of that information.

The customer is expected to provide Aztec, one or more contact names, with associated email address, telephone address and additional information as requested by Aztec for the purposes of administration, billing, maintenance, upgrade announcements, unexpected behavior reports and service notifications at the option of Aztec. You may inform Aztec you do not wish to receive emails, but in doing so you recognize you may not receive information required to provide service to your own customers.

New features may be introduced over time with or without notice. Unless expressly covered by a different agreement, this agreement includes those new features.

You may not reproduce, modify, duplicate, copy, delete, or resell any part of the system and/or software unless expressly provided for in a separate agreement.

You are responsible for all activity using the Service and or Software. Aztec is not responsible for the misuse of the Service and/or Software.

This agreement and the Privacy Policy are considered intellectual property of Aztec and are only to be shared with authorized customer representatives.

### Message Content

The Software and System include the ability to send messages by email and SMS ("Text Messaging") to users in all roles. The Software and System also include the ability to post notices associated with learning activities, testing activities, the organization or users. Postings can optionally be also place on social media sites including but not limited to Facebook and Twitter. The content of these messages is entirely the responsibility of the customer and Aztec cannot be held liable for any message content, the number of messages sent, the timing of the messages or metadata associated with the messages. Aztec, may when it deems it so required, remove or delete messages and/or content at its sole discretion that it judges violates this agreement, may be considered offensive, could be considered illegal, harms others or threatens to harm others. You agree that you will not:

1. Post, send message or cause the another party to receive content that could be considered unlawful, harms others, threatens to harm others, is vulgar, obscene, libelous, hateful, derogatory, defamatory, invasive of another's privacy, racially objectionable or promote cruelty to humans or animals.
2. Post, send messages or cause another party to receive content that the user does not have the legal right to transmit. This includes content that infringes upon any patent, copyright, trade secret or other intellectual property rights of another entity.
3. Post, send messages or cause another party to receive content in violation of local, state, federal, tribal or internal law, regulation or lawful order
4. Cause messages to be received by others that might be considered invasive or spam.
5. The customer is responsible for configuring the System allowing messages to only those that have authorized receipt of those messages. The customer is also responsible for ceasing to send messages to users that inform the customer they do not want to receive messages.
6. Create messages and postings that are not directly related to the educational content or progression of users in their role as an Aztec user.

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State of NH Contract 2018-164

Exhibit J- Software Agreement – Part 3

Date: 7/23/18

Contractor's initials: 

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Thus this expressly forbids use of the Aztec system to conduct marketing campaigns, sending unsolicited email, causing the launching of programs or that create more than one message from one from Aztec.

7. Post, send messages that are intended to interfere with the proper operation of a computer program, network or system. This includes but is not limited to viruses, worms, Trojan horses, synattacks
8. Post, send messages or use any component of the system in such a way that Aztec determined interferes with the intended operation of the Aztec system or software, its hosting platform or connected networks.
9. Use the system in any way that violates the terms of the billing agreement. This includes but not limited to start date and time, ending date and time, maximum number of user and content of the learning library.
10. Use the system to collect data on users for purposes other than directly related to providing learning services in conjunction with the Aztec System.

You should be aware that Aztec does not screen, review or otherwise edit learning content created by customers or users. Aztec makes no representation as the completeness, accuracy or value of content created by customer or users. Aztec shall have no responsibility for such created content. Likewise, users may be exposed to content they deem to be objectionable or indecent that was created by users. You, accept all responsibility for any such exposure as creation of such content is out of control of Aztec.

The customer is entirely responsible for back ups for any customer or user created content. Aztec reserves the right to replicate user provided content as needed for the operation of the system or software.

Permission to use one or more Aztec services or software does not license you or create any intellectual property rights to the underlying elements used to provide that service. All copyrights, trade secrets, patents, and other intellectual property remain the property of Aztec and its intellectual property licensees. You may not reuse, reverse engineer, replicate, or create derivative works based upon any part of the service or software.

### **Content**

You, the customer, can create new learning content from content provided by Aztec known as derivative content. You, the customer, are entirely responsible for the licensing and/or access rights for any content included in derivative learning material. This includes but not limited to tools, systems, components, images, video, sounds, icons, text and other media used to product the derivative learning material. You are entirely responsible for this content.

All learning content, screen designs, lessons, questions, certificates, images, sounds, text, animations, music, video problems, tests, assessments, reports and associated tools are Aztec property or are licensed by Aztec. None of these can be duplicated, sold, republished, screen scraped, posted, transmitted, captured without Aztec's express permission. All trademarks, domain names, and service marks remain the exclusive property of Aztec and its agents and explicit licensees.

The customer is granted a license only to use the Aztec System, using the credentials provided by Aztec for access to the system. The Software version is licensed for only one physical machine at a time per license. This license expressly prohibits any attempts to extract learning content, design information or user information for any purpose with the exception of export features explicitly supported by the Software itself.

### **Third Parties**

You may use Third Party content in the creation and presentation of new learning content, i.e. derivative content. Aztec in no way endorses, supports or is involved in the licensing, evaluation, quality control, legality, accuracy or support of any third party content even if the third party is listed on the Aztec Website. Any financial arrangements between you and the third party are entirely between you and the third party.

### **Indemnification**

You agree to defend, indemnify and hold harmless Aztec and its subsidiaries, agents, managers, and other affiliated companies, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from:

- (i) your use of and access to the Service and/or Software;
- (ii) your violation of any term of this Agreement, including without limitation, your breach of any of the representations and warranties above;
- (iii) your violation of any third-party right, including without limitation any right of privacy, publicity rights or Intellectual Property Rights;
- (iv) your violation of any law, rule or regulation of the United States or any other country;
- (v) any claim or damages that arise as a result of any of your derivative content;
- (vi) any other party's access and use of the Service with your unique username, password or other appropriate security code; and
- (vii) any dispute you have with one or more of our users or any Third Party

### **Disclaimers**

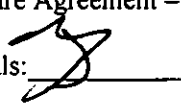
You expressly understand and agree that:

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State of NH Contract 2018-164

Exhibit J – Software Agreement – Part 3

Date: 1/23/18

Contractor's initials: 

**STATE OF NEW HAMPSHIRE**  
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1. The Aztec System is provided on an "as is" and "as available" basis
2. There is no warrantee of any kind implied or not, including fitness of use for a particular purpose. Furthermore there is no assurance of performance or suitability to the intended task.
3. There is no assurance the system is secure, error free or fault free or that such characteristics will be repaired.
4. Aztec is not responsible for any customer or user provided content.
5. That processing user and customer provided information is essential to the operation of the system and that it is essential to the proper operation of the System that this information be accurate and complete
6. Aztec is not responsible for any technical malfunction of computer systems, networks, facilities, power systems, environmental controls and any other third party provided service necessary to the operation of the System. This includes but not limited to performance, availability, reliability and quality of shared services such as mobile networks, the Internet or Intranets.

Aztec is not responsible for any loss or damage resulting from the use or administration of the Aztec Software and/or System, interactions between users of the system or interactions between customers and Aztec, and/or as a result of consumption or the learning, assessment, reporting or testing content of the Software and/or System.

Aztec reserves the right to change its name, be acquired by another entity, purchase new and/or additional domain names, sell its intellectual property, license its intellectual property or modify service and software copyrights, trademarks, service marks and patents as Aztec sees fit without notice. The Terms of this agreement remain in effect before, during and after any or all of these events.

The Aztec System (both Service and Software) is designed for use in the United States. It is entirely the responsibility of the customer if the Service is used in and/or from a different region. Such use may subject the customer and/or use to different legal requirements, which are entirely the responsibility of the customer.

### **Modification of Terms**

Aztec may update, modify and otherwise continually seek to improve the Service or Software and such changes often require an update or revision to these Terms. Accordingly, Aztec reserves the right to change or discontinue any aspect or feature of the Service, as well as modify, change and/or update these Terms, from time to time, as Aztec deems appropriate. Any updates to these Terms shall be posted on the Aztec Website, from time to time. You acknowledge your responsibility to review these Terms from time to time and to be aware of any such changes and, should you request, we will be happy to keep you informed if/when such changes take place. If you do not agree with any such changes, your use of the Service may be cancelled in accordance with the procedures for cancellation set forth herein.

Your continued use of the systems and/or software signifies your assent to the revised terms

The customer agrees to use Aztec services in accordance with all applicable guidelines, state and federal laws that apply to Aztec Software or the Aztec Service. This is your responsibility and obligation in all respects.

### **Termination, Cancellation and/or Suspension**

If at anytime you breach these Terms, Aztec may elect to suspend, terminate and/or cancel your use of the Software and/or Service and/or recover any damages from you arising from the event(s) giving rise to the suspension, termination or cancellation. We reserve the right to suspend your Service or Software at any time for any reason we may deem necessary to continue to provide our Service and/or Software in a way that may be hindered by your status as being our client, your financial status or the content of the messages or broadcasts originating from you.

Upon any such termination, cancellation and/or suspension, you are still responsible for any obligations then accrued. Your obligation to pay all amounts accrued and owed by you shall continue even after any suspension or cancellation of your access to the Service (in whole or in part). Upon termination, for any reason, you agree to immediately cease using the Service and Aztec shall have no obligation to you after any termination or cancellation of these Terms.

The provisions regarding ownership, payments, warranties and indemnifications will survive any suspension, termination or cancellation of your use of the Service or Website.

### **Service Termination by the User**

You are free to terminate or cancel your use of the Software and/or Service at any time, and for any reason. You, the customer, recognize that termination of the service will lead to permanent deletion of all system records in such a way that the records cannot be used to restart the service, be used in another service or be used by the software version. Such termination does not relieve the customer of any financial obligations as detailed in billing agreements.

### **Links to other Websites**

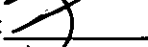
Websites designed and operate by Aztec Software ("Website"), the Software and/or the Service may contain links to third party websites. These links are provided solely as a convenience to you and not as an endorsement by Aztec of the content on such third-party websites. Aztec is not responsible for the content of linked third-party websites and does not make any representations regarding the content or accuracy of materials on such third-party websites. If you decide to access linked third-party websites, you do so at your own risk.

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State of NH Contract 2018-164

Exhibit J Software Agreement – Part 3

Date: 7/23/18

Contractor's Initials: 

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**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
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**SAAS CONTRACT 2018-164 – PART 3**  
**EXHIBIT J**  
**SOFTWARE AGREEMENT**

Aztec cannot ensure that you will be satisfied with any products or services that you purchase from a third party website that links to or from the Website, since these websites are owned and operated by independent third parties. Aztec does not endorse any of the products/services, nor has Aztec taken any steps to confirm the accuracy or reliability of any of the information contained in such third party websites. Aztec does not make any representations or warranties as to the security of any information (including, without limitation, credit card and other personal information) you might be requested to give any third party, and you hereby irrevocably waive any claim against us with respect to such websites. Aztec strongly encourages you to make whatever investigation you feel necessary or appropriate before proceeding with any online or off-line transaction with any of these third parties.

Aztec consents to links to the Website which conform to the following: the appearance, position, and other aspects of any link to the Website may neither create the false appearance that an entity or its activities or products are associated with or sponsored by Aztec nor be such as to damage or dilute the goodwill associated with the name and trademarks of Aztec or its affiliates. Aztec reserves the right to revoke this consent to link at any time in its sole discretion, without notice.

### **Security**

You are prohibited from violating or attempting to violate the security of the service and/or software including, without limitation: (a) accessing data not intended for you or logging into a server or account which you are not authorized to access; (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization; (c) attempting to interfere with service to any user of the service or software, host or network, including, without limitation, via means of submitting a virus to the service or software, overloading, "flooding", "spamming", "mailbombing" or "crashing"; (d) sending unsolicited e-mail, including promotions and/or advertising of products or services; or (e) forging any Aztec packet header or any part of the header information in any e-mail, instant message, text message or newsgroup posting. Violations of system or network security may result in civil or criminal liability.

Aztec may investigate violations of these Terms and Conditions, and may involve and cooperate with law enforcement authorities in prosecuting users of the Website who are involved in such violations. You should recognize that Aztec can be required to provide information relating to and about users and/or customers to law enforcement agencies upon their request and that the user and/or customer may not necessarily be informed of such information transfer.

### **Force Majeure**

Aztec shall not be liable for any failure or delay in performing its obligations hereunder, which such failure or delay is caused by fire, flood, earthquake, elements of nature or acts of God, acts of war, insurrection, terrorism, strike, failure or downtime of any telecommunications line and/or unavailability of any telecommunications facilities, power failure, governmental restrictions, any court order, compliance with any law, regulation, or order of any governmental authority, or any other cause beyond the reasonable control of Aztec. In addition, Aztec shall be so excused in the event it is unable to acquire from its usual sources, and on terms it deems to be reasonable, any material necessary for the performance of the Service.

### **Miscellaneous**

The failure of either party to exercise in any respect any right provided for herein will not be deemed a waiver of any further rights hereunder. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms will otherwise remain in full force and effect and enforceable.

No agency, partnership, joint venture, or employment is created as a result of these Terms and you do not have any authority of any kind to bind Aztec in any respect whatsoever. In any action or proceeding to enforce rights under these Terms, the prevailing party will be entitled to recover costs and attorneys' fees.

All notices required hereunder shall be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. Aztec may give notice to you by means of a general notice on the Website or Service, electronic mail to your e-mail address on record in Aztec account information, or by written communication sent by personal delivery, fax, overnight courier, or certified or registered mail to your address on record in Aztec account information.


Any claim or cause of action related to the Aztec Service regardless of category must be filed within one year of the first related event or any such claim or derivative claim can be forever barred from action.

These Terms shall be governed by and construed in accordance with the laws of the State of New Jersey notwithstanding its laws governing conflicts of laws. Except as hereinafter provided, any dispute arising under these Terms shall be settled and determined by binding arbitration in New Jersey in accordance with the provisions of the Federal Arbitration Act, 9. U.S.C. §§1-16, as amended (the "Federal Arbitration Act"), to the exclusion of state laws inconsistent therewith. The terms of the Commercial Arbitration Rules of the American Arbitration Association (the "Rules") then in effect shall apply except to the extent they conflict with the express provisions of this paragraph.

State of NH Contract 2018-164

Exhibit J – Software Agreement – Part 3

Date: 1/23/18

Contractor's initials: 

**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
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**SOFTWARE AGREEMENT**

A single independent arbitrator shall conduct the arbitration. The parties shall endeavor to select the independent arbitrator by mutual agreement. If such agreement cannot be reached within thirty (30) days after a dispute has arisen which is to be decided by arbitration, the selection of the arbitrator shall be made in accordance with the Rules as then in effect. The arbitrator shall be a member of a state bar engaged in the practice of law in the United States or a retired member of a state or the federal judiciary in the United States. The award of the arbitrator shall be based on the evidence admitted and the substantive law of the State of New Jersey (subject to any applicable preemption or supersedence by U.S. federal substantive law) and shall contain an award for each issue and counterclaim. The award shall be made within thirty (30) days following the close of the final hearing and the filing of any post-hearing briefs authorized by the arbitrator, and such award shall set forth in writing the factual findings and legal reasoning for such award. The arbitrator may, in his/her discretion, award to any party specific performance or injunctive relief (the foregoing is not intended to limit Aztec's access to the courts to the extent provided below). The arbitrator may not change, modify or alter any express condition, term or provision of these Terms, nor the extent the scope of their authority is expressly limited. Except as provided in the Federal Arbitration Act, the arbitration award will be final and binding upon the parties and no appeal of any kind may be taken. Judgment may be entered thereon in any court having jurisdiction thereof. Each party shall be entitled to inspect and obtain a copy of non-privileged relevant documents in the possession or control of the other party. All such discovery shall be in accordance with procedures approved by the arbitrator. Unless otherwise provided in the award, each party shall bear its own costs of discovery. The statute of limitations applicable under New Jersey law to the commencement of a lawsuit shall apply to the commencement of an arbitration hereunder.

Anything in the foregoing paragraph to the contrary notwithstanding, Aztec may seek injunctive relief in any court having jurisdiction over the parties to enjoin or prevent any action you take or threaten to take in violation of these Terms.

The terms and conditions of Service are only those stated herein, which shall constitute the complete agreement between the parties. No terms and conditions stated in or attached to your communications to Aztec are applicable to these Terms in any way and are not to be considered your exceptions to the provisions of these Terms.

The section titles do not convey any meaning to the content of this document.

The language of these Terms is English. If the document is translated, the English version shall prevail over any such interpretation.

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State of NH Contract 2018-164

Exhibit J – Software Agreement – Part 3

Date: 1/23/18

Contractor's initials:   *JS*

**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
**NH Adult Education Digital Technology Software**  
**SAAS CONTRACT 2018-164 – PART 3**  
**EXHIBIT K**  
**WARRANTY & WARRANTY SERVICE**

**1. WARRANTIES**

**1.1 System**

The Contractor warrants that the System will operate to conform to the Specifications, terms, and requirements of the Contract.

**1.2 Software**

The Contractor warrants that the Software, including but not limited to the individual modules or functions furnished under the Contract, is properly functioning within the System, compliant with the requirements of the Contract, and will operate in accordance with the Specifications and Terms of the Contract.

For any breach of the above Software warranty, the State's remedy, and the Contractor's entire liability, shall be:

- (a) the correction of program errors that cause breach of the warranty, or if the Contractor cannot substantially correct such breach in a commercially reasonable manner, the State may end its program license if any and recover the fees paid to the Contractor for the program license and any unused, prepaid technical support fees the State has paid for the program license; or
- (b) the re-performance of the deficient Services, or
- (c) if the Contractor cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to the Contractor for the deficient Services.

**1.3 Non-Infringement**

The Contractor 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.

**1.4 Viruses; Destructive Programming**

The Contractor warrants that the Software shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

**1.5 Compatibility**

The Contractor warrants that all System components, including but not limited to the components provided, including any replacement or upgraded System Software components provided by the Contractor to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.



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**EXHIBIT K**  
**WARRANTY & WARRANTY SERVICE**

**1.6 Services**

The Contractor warrants that all Services to be provided under the Contract will be provided expediently, in a professional manner, in accordance with industry standards and that Services will comply with performance standards, Specifications, and terms of the Contract.

**2. WARRANTY PERIOD**

The Warranty Period shall remain in effect until the conclusion or termination of this Contract and any extensions, except for the warranty for non-infringement, which shall remain in effect in indefinitely.

**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
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**SAAS CONTRACT 2018-164 – PART 3**  
**EXHIBIT L**  
**TRAINING SERVICES**

The Contractor shall provide the following Training Services.

Listed below in general terms are a variety of training methods Aztec will use in assisting designated staff with understanding and operating the learning system.

- **Standard On-Site Workshop:** The on-site training session includes product functionality and course curriculum, enrollment, and basic classroom application techniques. The workshop takes approximately three (3) hours per session for designated staff. Time and place would be determined by State training staff and Aztec's VP of Training and Support.
- **Webinar Workshops:** In addition to the standard on-site workshops, Aztec routinely provides weekly live online web-based training and refresher courses to its clients. This type of training is also designed to introduce new staff to our Aztec Learning System. One of our Field Service Representatives will take the attendees through a guided tour of how to get started, from setting up Administrators/Instructors to enrolling students, modifying learning plans, and running reports.
- **Systems Training:** For State and Local IT personnel a web-based training will include administrative functions and procedures in addition to product functionality and curriculum. State-level training can also be offered in-person in conjunction with the "Kick-off" meeting for the contract in Concord.
- These sessions will be facilitated by Aztec's V.P. of Training and Support and his staff of Field Service Representatives. All of Aztec's Administrator Guides and Student Guides in both hard copy and digital format will be provided free of charge to our clients.

**STATE OF NEW HAMPSHIRE**  
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**EXHIBIT M**  
**AGENCY RFP WITH ADDENDUMS, BY REFERENCE**

2018-123 Adult Education Digital Technology RFP-BAE-2018-123 issued on March 15, 2018 and all Addenda incorporated herein by reference.

**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
**NH Adult Education Digital Technology Software**  
**SAAS CONTRACT 2018-164 – PART 3**  
**EXHIBIT N**  
**VENDOR PROPOSAL, BY REFERENCE**


Aztec Software Proposal to BAE RFP 2018-123 Adult Education Digital Technology Software dated April 20, 2018 is hereby incorporated by reference as fully set forth herein.

**STATE OF NEW HAMPSHIRE**  
**Department of Education, Bureau of Adult Education**  
**NH Adult Education Digital Technology Software**  
**SAAS CONTRACT 2018-164 – PART 3**  
**EXHIBIT O**  
**CERTIFICATES AND ATTACHMENTS**


Attached are:

- A. Attachment 1 - Exhibit H Requirements
- B. Attachment 2 – Vendor Quote
- C. Contractor's Certificate of Good Standing
- D. Contractor's Certificate of Vote/Authority
- E. Contractor's Certificate of Insurance


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State of NH Contract 2018-164  
Exhibit O – Certificate and Attachments – Part 3  
Date: 7/23/18  
Contractor's Initials 


BUSINESS REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
General Requirements					
B1.1	Content is aligned to the College & Career Readiness Standards for Adult Education, the English Language Proficiency Standards and/or other standards, competencies or curriculum frameworks as found on OCTAE or NH DOE websites.	M	Yes	Standard	Instructional materials are aligned to the College & Readiness Standards for Adult Education, to the National Reporting System EFLs as well as CASAS, TABE, GED, HISET, TASC and Accuplacer. When learning objectives shift, updates are provided automatically within each learning series provided by the Aztec Continuum of Learning.
B1.2	The Solution has demonstrated effectiveness in increasing student performance as verified through 3rd party evaluation or research.	M	Yes	Standard	Aztec Software relies on the research of Malcolm Knowles, Dorothy McKeachie, and others to inform the instructional design process.
B1.3	The Solution is available through a web-based application.	M	Yes	Standard	The Aztec Learning solution is available in HTML-5, web-based application.
B1.4	The Solution is accessible on student hand-held devices such as Android or Apple phones or tablets.	M	Yes	Standard	The Aztec Learning solution is accessible on all hand-held devices such as Android or Apple phones or tablets, including Google Chromebooks, and desktop computers.
B1.5	The Solution offers at least three levels of users with permissions as outlined in Section D.2.1 Topic 7.	M	Yes	Standard	The Aztec Learning solution offers 9 different levels of users with permissions.

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81.6	The Solution offers options that can be used in a correctional facility.	P	Yes	Standard	The Aztec Learning solution is available in an offline delivery for correctional facilities through the Aztec Companion device. Please see Attachment X for greater details on the delivery solution.
<b>Instructional Requirements</b>					
82.1	The Solution is designed for adult learners and reflects adult learning theory.	M	Yes	Standard	The Aztec Learning solution is designed for adult learners and reflects adult learning theory.
82.2	Instructional content provides scaffolding text with audio and video presentation.	M	Yes	Standard	The Aztec Learning solution contains instructional content that provides scaffolding text with audio and video presentation for multiple learning modalities.
82.3	The Solution provides multiple modalities.	M	Yes	Standard	See above
82.4	The Solution provides immediate and meaningful feedback, hints, access to solution steps, recommendations for when to seek Instructors' help and encouragement for persistence?	M	Yes	Standard	The Aztec Learning solution provides immediate and meaningful feedback for learners, never missing teaching opportunities. The immediate feedback provides detailed responses to solution steps and/or recommendations where applicable.
82.5	The content is modular and provides flexibility for personalized learning.	M	Yes	Standard	The Aztec Learning solution provides flexibility for personalized learning through its modular format and multiple assessments that diagnose needs which result in targeted learning plans.


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B2.6	The Solution includes adaptive lessons and/or assessments so that instruction can be personalized.	M	Yes	Standard	The Aztec Learning solution includes multiple forms of assessments that diagnose and prescribe targeted learning to meet the individual student's greatest needs.
<b>Structural Requirements</b>					
B3.1	The Solution provides a student dashboard showing progress and identifying next steps for the student.	M	Yes	Standard	The Aztec Learning solution provides a student dashboard showing progress and identifies the student's learning plan, plus the ability to set daily/weekly goals for learning.
B3.2	The Solution provides an instructor dashboard for tracking and monitoring student progress and time-on-task.	M	Yes	Standard	The Aztec Learning solution provides an instructor dashboard showing student progress, data, scores, monitoring students/classes, and multiple customizable reports, including time on task.
B3.3	The Solution includes report tools that can be downloaded by program and class.	M	Yes	Standard	The Aztec Learning solution provides multiple reporting tools, including TAGS feature to organize student data for ease of use and reporting. These reports are available in printable PDFs or can be exported.
B3.4	The Solution provides help documentation for students and instructors.	M	Yes	Standard	The Aztec Learning solution provides multiple help documentation and site for students and instructors.

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83.5	Users are not required to enter personally identifying information except for a name, email address and center/program of attendance.	M	Yes	Standard	The Aztec Learning solution does not require users to enter any personally identifying information.
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APPLICATION REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
<b>GENERAL SPECIFICATIONS</b>					
A1.1	Ability to access data using open standards access protocol (please specify supported versions in the comments field).	M	Yes	Standard	Data can be accessed through an API.
A1.2	Data is available in commonly used format over which no entity has exclusive control, with the exception of National or International standards. Data is not subject to any copyright, patent, trademark or other trade secret regulation.	M	Yes	Standard	Student data is exportable into xls or pdf format.
A1.3	Web-based compatible and in conformance with the following W3C standards: HTML5, CSS 2.1, XML 1.1	M	Yes	Standard	Aztec Learning Solution is web-based compatible and in conformance with the following W3C standards: HTML5, CSS 2.1, XML 1.1
<b>APPLICATION SECURITY</b>					
A2.1	Verify the identity or authenticate all of the system client applications before allowing use of the system to prevent access to inappropriate or confidential data or services.	M	Yes	Standard	All connections require authentication
A2.2	Verify the identity and authenticate all of the system's human users before allowing them to use its capabilities to prevent access to inappropriate or confidential data or services.	M	Yes	Standard	All logons require authentication
A2.3	Enforce unique user names.	M	Yes	Standard	All usernames must be unique
A2.4	Enforce complex passwords for Administrator Accounts in accordance with DoIT's statewide User Account and Password Policy	M	Yes	Standard	All passwords have a minimum of 8 characters
A2.5	Enforce the use of complex passwords for general users using capital letters, numbers and special characters in accordance with DoIT's statewide User Account and Password Policy.	M	Yes	Standard	Aztec requires 8 characters and is case sensitive
A2.6	Encrypt passwords in transmission and at rest within the database.	M	Yes	Standard	Passwords are always encrypted
A2.7	Establish ability to expire passwords after a definite period of time in accordance with DoIT's statewide User Account and Password Policy	M	Yes	Standard	There is a backoffice tool that allows Aztec to set password expirations for an entire organization.
A2.8	Provide the ability to limit the number of people that can grant or change authorizations	M	Yes	Standard	This function is managed by roles


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Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
A2.9	Establish ability to enforce session timeouts during periods of inactivity.	M	Yes	Standard	Sessions are automatically signed out after 10 minutes of inactivity.
A2.10	The application shall not store authentication credentials or sensitive data in its code.	M	Yes	Standard	No credentials are stored
A2.11	Log all attempted accesses that fail identification, authentication and authorization requirements.	M	Yes	Standard	All authentication requests are logged
A2.12	The application shall log all activities to a central server to prevent parties to application transactions from denying that they have taken place.	M	Yes	Standard	All logs are stored on the server
A2.13	All logs must be kept for 90 days	M	Yes	Standard	Logs are stored for 90 days
A2.14	The application must allow a human user to explicitly terminate a session. No remnants of the prior session should then remain.	M	Yes	Standard	Log off feature exists for administrators
A2.15	Do not use Software and System Services for anything other than they are designed for.	M	Yes	Standard	The application is not used for anything other than it is designed for.
A2.16	The application Data shall be protected from unauthorized use when at rest	M	Yes	Standard	The data is protected from unauthorized use when at rest.
A2.17	The application shall keep any sensitive Data or communications private from unauthorized individuals and programs.	M	Yes	Standard	The application will keep any sensitive data or communications private from unauthorized individuals or programs.
A2.18	Subsequent application enhancements or upgrades shall not remove or degrade security requirements	M	Yes	Standard	Enhancements and/or upgrades will not remove or degrade security requirements.
A2.19	Utilize change management documentation and procedures	M	Yes	Standard	Aztec utilizes a change management documentation and procedures log.

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TESTING					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
APPLICATION SECURITY TESTING					
T1.1	All components of the Software shall be reviewed and tested to ensure they protect the State's web site and its related Data assets.	M	Yes	Standard	All systems are tested prior to release
T1.2	The Vendor shall be responsible for providing documentation of security testing, as appropriate. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability.	M	Yes	Standard	Documentation of testing process can be provided upon request
T1.3	Provide evidence that supports the fact that Identification and Authentication testing has been recently accomplished; supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users	M	Yes	Standard	Aztec uses tools like denyhost to prevent unauthorized machine access.
T1.4	Test for Access Control; supports the management of permissions for logging onto a computer or network	M	Yes	Standard	System Built In controls on SE Linux
T1.5	Test for encryption; supports the encoding of data for security purposes, and for the ability to access the data in a decrypted format from required tools.	M	Yes	Standard	Encrypted connections are used for all customer facing access and internal segments. No files are transmitted between host and client
T1.6	Test the Intrusion Detection; supports the detection of illegal entrance into a computer system	M	Yes	Standard	All servers are managed as chef process and reset to initial state every 4 hrs.
T1.7	Test the Verification feature; supports the confirmation of authority to enter a computer system, application or network	M	Yes	Standard	Secure Authentication is required for system access
T1.8	Test the User Management feature; supports the administration of computer, application and network accounts within an organization.	M	Yes	Standard	User management is internally integrated



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T2.2	The Vendor must perform application stress testing and tuning as more fully described in Appendix G-2.	M	Yes	Standard	Stress testing is reviewed on a regular basis
T2.3	The Vendor must provide documented procedure for how to sync Production with a specific testing environment.	M	Yes	Standard	Aztec can move a snapshot on demand to testing environment
T2.4	The vendor must define and test disaster recovery procedures.	M	Yes	Standard	Disaster recovery is tested on a regular basis

3. TESTING

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# HOSTING-CLOUD REQUIREMENTS

State Requirements						Vendor
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments	
<b>OPERATIONS</b>						
H1.1	Vendor shall provide an ANSI/TIA-942 Tier 3 Data Center or equivalent. A tier 3 data center requires 1) Multiple independent distribution paths serving the IT equipment, 2) All IT equipment must be dual-powered and fully compatible with the topology of a site's architecture and 3) Concurrently maintainable site infrastructure with expected availability of 99.982%	M	Yes	Standard	Aztec is hosted on Digital Ocean and is colocated in a T-4 Data Center in NYC. <a href="https://www.digitalocean.com/help/policy/">https://www.digitalocean.com/help/policy/</a>	
H1.2	Vendor shall maintain a secure hosting environment providing all necessary software, and Internet bandwidth to manage the application and support users with permission based logins.	M	Yes	Standard	<a href="https://www.digitalocean.com/help/policy/">https://www.digitalocean.com/help/policy/</a>	
H1.3	The Data Center must be physically secured – restricted access to the site to personnel with controls such as biometric, badge, and others security solutions. Policies for granting access must be in place and followed. Access shall only be granted to those with a need to perform tasks in the Data Center.	M	Yes	Standard	<a href="https://www.digitalocean.com/help/policy/">https://www.digitalocean.com/help/policy/</a>	
H1.4	Vendor shall install and update all server patches, updates, and other utilities within 60 days of release from the manufacturer.	M	Yes	Standard		
H1.5	Vendor shall monitor System, security, and application logs.	M	Yes	Standard	Regularly	
H1.6	Vendor shall manage the sharing of data resources.	M	Yes	Standard	Managed Daily	
H1.7	Vendor shall manage daily backups, off-site data storage, and restore operations.	M	Yes	Standard	Daily Backups are completed	
H1.8	The Vendor shall monitor physical hardware.	M	Yes	Standard	Aztec uses a virtualized environment and there is no access to the physical equipment.	
H1.9	The Vendor shall report any breach in security in conformance with State of NH RSA 359-C:20. Any person engaged in trade or commerce that is subject to RSA 358-A:3, I shall also notify the regulator which has primary regulatory authority over such trade or commerce. All other persons shall notify the New Hampshire attorney general's office.	M	Yes	Standard	Yes	
<b>DISASTER RECOVERY</b>						
H2.1	Vendor shall have documented disaster recovery plans that address the recovery of lost State data as well as their own. Systems shall be architected to meet the defined recovery needs.	M	Yes	Standard	All systems are designed to recover from physical and digital disasters	
H2.2	The disaster recovery plan shall identify appropriate methods for procuring additional hardware in the event of a component failure. In most instances, systems shall offer a level of redundancy so the loss of a drive or power supply will not be sufficient to terminate services however, these failed components will have to be replaced.	M	Yes	Standard	Aztec uses a virtualized environment which replicated in any of 11 datacenters worldwide.	
H2.3	Vendor shall adhere to a defined and documented back-up schedule and procedure.	M	Yes	Standard	Procedures in place	

7/23/18

H2.4	Back-up copies of data are made for the purpose of facilitating a restore of the data in the event of data loss or system failure.	M	Yes	Standard	Procedures in place
H2.5	Scheduled backups of all servers must be completed regularly. The minimum acceptable frequency is differential backup daily, and complete backup weekly.	M	Yes	Standard	Procedures in place
H2.6	Tapes or other back-up media tapes must be securely transferred from the site to another secure location to avoid complete data loss with the loss of a facility.	M	Yes	Standard	Procedures in place
H2.7	Data recovery – In the event that recovery back to the last backup is not sufficient to recover State Data, the Vendor shall employ the use of database logs in addition to backup media in the restoration of the database(s) to afford a much closer to real-time recovery. To do this, logs must be moved off the volume containing the database with a frequency to match the business needs.	M	Yes	Standard	Procedures in place
<b>HOSTING SECURITY</b>					
H3.1	The Vendor shall employ security measures ensure that the State's application and data is protected.	M	Yes	Standard	Procedures in place
H3.2	If State data is hosted on multiple servers, data exchanges between and among servers must be encrypted.	M	Yes	Standard	Aztec uses SSL TLS for encrypted traffic
H3.3	All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a whole, shall have aggressive intrusion-detection and firewall protection.	M	Yes	Standard	Virus Scanners on all servers, encrypt all traffic, scrub user data.
H3.4	All components of the infrastructure shall be reviewed and tested to ensure they protect the State's hardware, software, and its related data assets. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide confidentiality, integrity and availability.	M	Yes	Standard	System is virtualized and no physical access is available
H3.5	The Vendor shall ensure its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.	M	Yes	Standard	We shall
H3.6	The Vendor shall authorize the State to perform scheduled and random security audits, including vulnerability assessments, of the Vendor' hosting infrastructure and/or the application upon request.	M	Yes	Standard	Upon request Aztec will work with State to perform requested tests.
H3.7	All servers and devices must have event logging enabled. Logs must be protected with access limited to only authorized administrators. Logs shall include System, Application, Web and Database logs.	M	Yes	Standard	Aztec uses papertrail to store all logs
H3.8	Operating Systems (OS) and Databases (DB) shall be built and hardend in accordance with guidelines set forth by CIS, NIST or NSA	M	No	Custom	Aztec can provide NIST level security if needed. Costs to be determined based on requierments
H3.9	The Vendor shall notify the State's Project Manager of any security breaches within two (2) hours of the time that the Vendor learns of their occurrence.	M	Yes	Standard	Procedure in Place



7/23/18

H3.10	The Vendor shall be solely liable for costs associated with any breach of State data housed at their location(s) including but not limited to notification and any damages assessed by the courts.	M	Yes	Standard	Not Applicable as this is a web hosted application which does not require and downloads to state equipment.
<b>SERVICE LEVEL AGREEMENT</b>					
H4.1	The Vendor's System support and maintenance shall commence upon the Effective Date and extend through the end of the Contract term, and any extensions thereof.	M	Yes	Standard	Standard Operating Procedure
H4.2	The vendor shall maintain Software in accordance with the specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M	Yes	Standard	Standard Operating Procedure
H4.3	The vendor shall repair or replace the software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	Yes	Standard	Standard Operating Procedure
H4.4	All software components of the Vendor hosting infrastructure shall be fully supported by their respective manufacturers at all times. All critical patches for operating systems, databases, web services, etc, shall be applied within sixty (60) days of release by their respective manufacturers.		Yes	Standard	Standard Operating Procedure
H4.5	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 8:30am to 5:00pm- Monday through Friday EST.	M	Yes	Standard	Standard Operating Procedure
H4.6	The Vendor shall conform to the specific deficiency class as described: o Class A Deficiency - Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service. o Class B Deficiency - Software - Important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the Service. o Class C Deficiency - Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service.	M	Yes	Standard	Procedures in place



7/23/18



H4.7	As part of the maintenance agreement, ongoing support issues shall be responded to according to the following: a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request; or the Vendor shall provide support with remote diagnostic Services, within four (4) business hours of a request; b. Class B & C Deficiencies - The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within four (4) hours of notification of planned corrective action; The Vendor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract;	M	Yes	Standard	Procedures in place
H4.8	The hosting server for the State shall be available twenty-four (24) hours a day, 7 days a week except for during scheduled maintenance.	M	Yes	Standard	Standard Operating Procedure
H4.9	A regularly scheduled maintenance window shall be identified (such as weekly, monthly, or quarterly) at which time all relevant server patches and application upgrades shall be applied.	M	Yes	Standard	Standard Operating Procedure
H4.10	If The Vendor is unable to meet the uptime requirement, The Vendor shall credit State's account in an amount based upon the following formula: (Total Contract Item Price/365) x Number of Days Contract Item Not Provided. The State must request this credit in writing.	M	Yes	Standard	Yes
H4.11	The Vendor shall use a change management policy for notification and tracking of change requests as well as critical outages.	M	Yes	Standard	Standard Operating Procedure
H4.12	A critical outage will be designated when a business function cannot be met by a nonperforming application and there is no work around to the problem.	M	Yes	Standard	Yes
H4.13	The Vendor shall maintain a record of the activities related to repair or maintenance activities performed for the State and shall report quarterly on the following: Server up-time; All change requests implemented, including operating system patches; All critical outages reported including actual issue and resolution; Number of deficiencies reported by class with initial response time as well as time to close.	M	Yes	Standard	Available upon request
H4.14	The Vendor will give two-business days prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.	M	Yes	Standard	Standard Operating Procedure
H4.15	The Vendor must operate hosting Services on a network offering adequate performance to meet the business requirements for the State application. For the purpose of this RFP, adequate performance is defined as 99.9% uptime, exclusive of the regularly scheduled maintenance window.	M	Yes	Standard	Aztec is hosted on Digital Ocean and is colocated in a T-4 Data Center in NYC. <a href="https://www.digitalocean.com/help/policy/">https://www.digitalocean.com/help/policy/</a>

7/23/18


SUPPORT & MAINTENANCE REQUIREMENTS					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
SUPPORT & MAINTENANCE REQUIREMENTS					
SL1	Repair Software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	Yes	Standard	Aztec Software is committed to participating in an initial kick-off meeting as a regular part of our implementation to initiate the Project.
SL2	The Vendor shall make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.	M	Yes	Standard	Aztec Software will make available to the State the latest program updates, general maintenance releases, selected functionality releases, patches, and Documentation that are generally offered to its customers, at no additional cost.
SL3	For all maintenance Services calls, The Vendor shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information; 6) Resolved by; 7) Identifying number i.e. work order number, 8) Issue identified by;	P	Yes	Standard	All service calls are tracked in Aztec's CRM System
SL4	The Vendor must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.	P	Yes	Standard	All service calls are tracked in Aztec's CRM System


  
 2/23/8

Attachment 1: Project Requirements

PROJECT MANAGEMENT					
State Requirements			Vendor		
Req #	Requirement Description	Criticality	Vendor Response	Delivery Method	Comments
PROJECT MANAGEMENT					
P1.1	Vendor shall participate in an initial kick-off meeting to initiate the Project.	M	Yes	Standard	Aztec will assign a Field Service Representative who will be responsible for successful rollout and participate in the initial kick-off meeting as Standard procedure for Implementation.
P1.2	Vendor shall provide Project Staff as specified in the RFP.	M	Yes	Standard	Aztec will provide a Project Staff as specified, including Client Relations and Field Service teams.
P1.3	Vendor shall submit a finalized Work Plan within ten (10) days after Contract award and approval by Governor and Council. The Work Plan shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, critical events, task dependencies, and payment Schedule. The plan shall be updated no less than quarterly.	M	Yes	Standard	Yes
P1.4	Vendor shall provide detailed quarterly status reports on the progress of the Project, which will include expenses incurred year to date.	M	Yes	Standard	Aztec uses a CRM system to manage engagements and progress reports are available upon request
P1.5	All user, technical, and System Documentation as well as Project Schedules, plans, status reports, and correspondence must be maintained as project documentation. (Define how- WORD format- on-Line, in a common library or on paper)	M	Yes	Standard	Aztec uses a CRM system to manage engagements all documents are stored and available upon request.

6. PROJECT MANAGEMENT

 7/23/18



## QUOTE

51 COMMERCE STREET, SPRINGFIELD NJ, 07081

Quote Number: QUO-04555-W1B0G1

Phone: 973.258.0011 Fax: 973.258.0010

Date: 06/25/18

SALES@AZTECSOFTWARE.COM

Expiration Date: 08/09/18

To: New Hampshire Department of Education

From: Tom Benz

ATTN: Sarah Bennett

21 S. Fruit St.

Concord NH, 03301

Aztec Software

### Details

QTY	Description	Unit Price	Total
35	Kaplan HISET® Prep Solution - Year 1	\$285.00	\$9,975.00
35	Kaplan HISET® Prep Solution - Year 2	\$285.00	\$9,975.00
35	Kaplan HISET® Prep Solution - Year 3	\$285.00	\$9,975.00

Subtotal: \$29,925.00

Process and Handling:

Total Tax:

Total: \$29,925.00

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Title \_\_\_\_\_

☐ EMail my Invoice

☐ Fax my Invoice

☐ Mail my Invoice

This quote is valid for a period of 45 days

#### Quote Recap & Notes

This quote is for a three-year contract period here it will be paid annually over the length of the contract. All updates that are introduced by Aztec to this software will be provided to all paid customers through their annual contract. This quote provides access for up to 35 concurrent licenses of Aztec's Kaplan HISET series with unlimited enrollment opportunities. All pricing of Internet products is based upon an ANNUAL fee and the renewal will be at the current list price. This agreement will be paid annually over the length of the contract.

Any additional taxes required will be added to your invoice. Credit Card Payment Option: There is a 2.5% credit card processing fee.

To expedite a purchase, a signed quote and an attached purchase order is required, you may send both via fax (973-258-0010) or email them to sales@aztecsoftware.com.

Thank you for your interest in Aztec Software. If you need further assistance please do not hesitate to contact our office.

3  
7/23/18

# State of New Hampshire

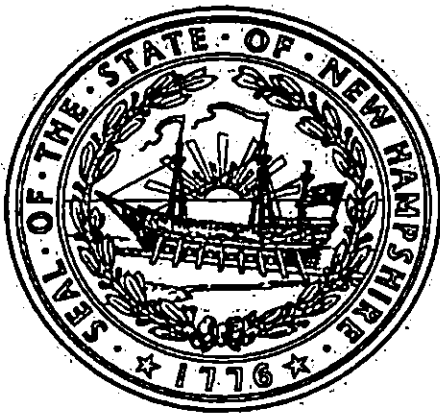
## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that AZTEC SOFTWARE ASSOCIATES, INC is a New Jersey Profit Corporation registered to transact business in New Hampshire on July 25, 2017. 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: 775552

Certificate Number: 0004114892



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 29th day of June A.D. 2018.

A handwritten signature in black ink, appearing to read "Wm Gardner".

William M. Gardner  
Secretary of State

Aztec Software Associates, Inc.

Corporate Resolution

I, Michael Kheyfets, hereby certify that I am duly elected Clerk/Secretary of Aztec Software Associates, Inc. I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on 7/23, 2018 at which a quorum of the Directors/shareholders were present and voting.

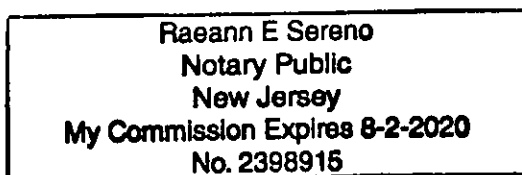
**VOTED:** That Jonathan Blitt, CEO, is duly authorized to enter a contract on behalf of Aztec Software Associates, Inc. with the Department of Education of the State of New Hampshire and further is authorized to execute any documents which may in his/her judgment be desirable or necessary to affect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the 7/23, 2018. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that they have full authority to bind the corporation to the specific contract indicated.

DATED: 7.23.18

ATTEST: 

(Name & Title)



Raeann Sereno

Date: 7-23-18



AZTEC-1

OP ID: SM

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

08/29/2018

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> G&S Financial Services LLC 290 Lafayette Avenue Hawthorne, NJ 07506 David Smolenski	<b>CONTACT NAME:</b>		
	<b>PHONE</b> (A/C No. Ext):	<b>FAX</b> (A/C No.):	
<b>INSURED</b> Aztec Software Associates Inc. 51 Commerce Street Springfield, NJ 07081	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A: CNA</b>		
	<b>INSURER B:</b>		
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		
	<b>INSURER F:</b>		

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	Y/N	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> <b>CLAIMS-MADE</b> <input checked="" type="checkbox"/> <b>OCCUR</b> <input checked="" type="checkbox"/> <b>Prof. Tech E&amp;O</b>	Y		[REDACTED]	01/11/2018	01/11/2019	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000						
A	<input checked="" type="checkbox"/> <b>Prof. Tech E&amp;O</b>	Y		[REDACTED]	01/11/2018	01/11/2019	MED EXP (Any one person) \$ 10,000
	PERSONAL & ADV INJURY \$ 1,000,000						
A	<input checked="" type="checkbox"/> <b>Prof. Tech E&amp;O</b>	Y		[REDACTED]	01/11/2018	01/11/2019	GENERAL AGGREGATE \$ 2,000,000
	PRODUCTS - COMP/OP AGG \$ 2,000,000						
A	<input checked="" type="checkbox"/> <b>Prof. Tech E&amp;O</b>	Y		[REDACTED]	01/11/2018	01/11/2019	E&O Limit \$ 1,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> <b>ANY AUTO</b> <input type="checkbox"/> <b>ALL OWNED AUTOS</b> <input checked="" type="checkbox"/> <b>HIRED AUTOS</b> <input type="checkbox"/> <b>SCHEDULED AUTOS</b> <input checked="" type="checkbox"/> <b>NON-OWNED AUTOS</b>	Y		[REDACTED]	01/11/2018	01/11/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	BODILY INJURY (Per person) \$						
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> <b>EXCESS LIAB</b> <input checked="" type="checkbox"/> <b>RETENTION \$ 10000</b>	Y		[REDACTED]	01/11/2018	01/11/2019	BODILY INJURY (Per accident) \$
	PROPERTY DAMAGE (PER ACCIDENT) \$						
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> <b>EXCESS LIAB</b> <input checked="" type="checkbox"/> <b>RETENTION \$ 10000</b>	Y		[REDACTED]	01/11/2018	01/11/2019	EACH OCCURRENCE \$ 1,000,000
	AGGREGATE \$ 1,000,000						
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	[REDACTED]	01/11/2018	01/11/2019	WC STATUTORY LIMITS \$
	OTH-ER \$						
A	<input checked="" type="checkbox"/> <b>Contents</b>			[REDACTED]	01/11/2018	01/11/2019	E.L. EACH ACCIDENT \$
	E.L. DISEASE - EA EMPLOYEE \$						
A	<input checked="" type="checkbox"/> <b>Contents</b>			[REDACTED]	01/11/2018	01/11/2019	E.L. DISEASE - POLICY LIMIT \$

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

State of New Hampshire, Department of Education, and Bureau of Adult Education are named as Additional Insured's  
RFP BAE 2018-123 - Contract Number

**CERTIFICATE HOLDER****CANCELLATION**

State of New Hampshire Department of Education 101 Pleasant Street Concord, NH 03301	NEWDE01
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
AUTHORIZED REPRESENTATIVE David Smolenski	

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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/08/2018

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 have ADDITIONAL INSURED provisions or 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> Lockton Companies for CoAdvantage 444 West 47th Street #900 Kansas City, MO 64112	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C, No, Ext):</b> (886) 854-5423	<b>FAX (A/C, No):</b>
<b>INSURED</b> CoAdvantage Corporation A/E: Aztec Software Associates, Inc. 3350 Buschwood Park Drive #200 Tampa, FL 33618	<b>E-MAIL ADDRESS:</b> coi@coadvantage.com	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A:</b> American Zurich Insurance Company	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
<b>INSURER E:</b>		
<b>INSURER F:</b>		

**COVERAGES** **CERTIFICATE NUMBER:** 18FL090916748 **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>COMMERCIAL GENERAL LIABILITY</b>						<b>EACH OCCURRENCE</b> \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						<b>DAMAGE TO RENTED PREMISES (Ea occurrence)</b> \$
							<b>MED EXP (Any one person)</b> \$
							<b>PERSONAL &amp; ADV INJURY</b> \$
	<b>GEN'L AGGREGATE LIMIT APPLIES PER:</b>						<b>GENERAL AGGREGATE</b> \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						<b>PRODUCTS - COMP/OP AGG</b> \$
	<b>OTHER:</b>						\$
	<b>AUTOMOBILE LIABILITY</b>						<b>COMBINED SINGLE LIMIT (Ea accident)</b> \$
	<input type="checkbox"/> ANY AUTO						<b>BODILY INJURY (Per person)</b> \$
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY						<b>BODILY INJURY (Per accident)</b> \$
	<input type="checkbox"/> HIRED AUTOS ONLY						<b>PROPERTY DAMAGE (Per accident)</b> \$
	<b>UMBRELLA LIAB</b>						<b>EACH OCCURRENCE</b> \$
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						<b>AGGREGATE</b> \$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						\$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
<b>A</b>	<b>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)</b>	<input type="checkbox"/> Y <input type="checkbox"/> N	N/A		04/01/2018	04/01/2019	<b>E.L. EACH ACCIDENT</b> \$ 1,000,000
	<b>If yes, describe under DESCRIPTION OF OPERATIONS below</b>						<b>E.L. DISEASE - EA EMPLOYEE</b> \$ 1,000,000
							<b>E.L. DISEASE - POLICY LIMIT</b> \$ 1,000,000
				<b>Location Coverage Period:</b>	04/01/2018	04/01/2019	<b>Client#</b> 21325-NH

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

Coverage is provided for only those co-employees of, but not subcontractors to:  
Aztec Software Associates, Inc.  
11 Morgan Drive  
Hooksett, NH 03106

**CERTIFICATE HOLDER** **CANCELLATION**

New Hampshire Dept. of Education  
101 Pleasant Street  
Concord, NH 03301

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Joseph M. Amelle*

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