



Victoria F. Sheehan  
Commissioner

THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.  
Assistant Commissioner

Bureau of Traffic  
October 29, 2015

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

**REQUESTED ACTION**

Authorize the Department of Transportation to enter into an Agreement with Midwestern Software Solutions (MS2), LLC (Vendor #266799), Ann Arbor, MI, for an amount not to exceed \$349,328, for the procurement of computer software and services to provide and install a new Traffic Data Management System for the period of Governor and Council approval through June 30, 2017, with the option to renew for two-three year periods to be effective upon Governor and Council approval. 100% Federal Funds.

Funding is available as follows:

04-096-096-962515-2944	<u>FY 2016</u>	<u>FY 2017</u>
State Planning & Research (SPR) Planning		
038-509038 Technology Software	\$299,328	\$50,000

**EXPLANATION**

The Department of Transportation (DOT), Bureau of Traffic, seeks to procure services to provide and install a new Traffic Data Management System. The Department's existing software system is outdated and currently interacts poorly, or not at all, with other Department information systems, often requiring manual intervention to complete Federally mandated reporting requirements, specifically Highway Performance Monitoring System (HPMS) and Traffic Monitoring Analysis Systems (TMAS) reporting, as required per 23 USC 315, 23 CFR 1.5, and 23 CFR 420.

The new Traffic Data Management System will allow the Department to replace older computer systems, used in Federal reporting and in-house support of Department projects. The replacement of the older systems with newer technology will result in: time savings spread across multiple work groups within DOT; increased efficiencies; and will provide web-based tools which will enable the public to access traffic count information.

A State Planning & Research (SPR) Budget appropriation in the amount of \$349,328 has been approved to fund this project. The vendor selection process for this contract was initiated by a solicitation for information technology services through a Request for Proposals (RFP), which was posted on the State Administrative Services website from January 12, 2015 to March 17, 2015. Answers to vendor's questions regarding clarification of the solicitation were posted to the Administrative Services website on February 4, 2015.

As a result of the solicitation, four firms submitted proposals: Midwestern Software Solutions (MS2), Ann Arbor, MI; Traffic and Parking Control Co. (TAPCO), Inc., Brown Deer, WI; Transmetric, Austin TX; and Trichord, Leesburg, VA.

The selection process for this contract consisted of review and ranking of solicited written technical proposals and cost proposals by a selection panel comprised of five members representing the Department of Transportation and the Department of Information Technology. The selection panel included: Traffic Operations Engineer (NHDOT Bureau of Traffic); IT project Manager (Department of Information Technology); Business Systems Analyst (Department of Information Technology); Traffic Analysis Engineer (NHDOT Bureau of Traffic); and the GIS Engineer (NHDOT Bureau of Planning & Community Assistance).

The selection panel members reviewed the proposals individually and met on Wednesday, May 6, 2015 to recommend a vendor. The Committee by consensus rated each firm based on the Proposed Software Solution, Proposed Software Solution Functionality, Vendor Technical Service and Project Manager Experience, Vendor Company and Staffing Qualifications, and Solution Cost. Having assessed all of the aforementioned factors, the selection panel scored and ranked Midwestern Software Solutions (MS2), LLC the highest of the four firms (see attachment). The Scoring Summary is below:

<b>Firm</b>	<b>Score as rated by Selection Committee 200 Possible Points</b>	<b>Overall Rank</b>
MS2	175.9	1
TAPCO	149.5	2
Transmetric	144.9	3
Trichord	119.0	4

MS2, LLC was selected and is highly regarded in the field of Traffic Data Management Systems. Their software has recently been implemented at the Vermont Agency of Transportation and they have similar system implementations for State transportation agencies in Arizona, Illinois, Massachusetts, and Texas, as well as numerous metropolitan planning organizations, counties and municipalities. The selection panel's ranking was submitted to the Assistant Commissioner for consideration and approval.

MS2, LLC has agreed to furnish the required implementation and maintenance services in a two (2) year agreement for a total amount not to exceed \$349,328. The contract has a completion date of June 30, 2017, with a State option to extend annually for two 3-year extensions, up to, but not beyond June 30, 2023, for ongoing software support, maintenance, and hosting. The hourly rates, software, and annual software maintenance and technical support expenses are commensurate with the complexity and the scope of engineering and technical services to be furnished.

The agreement has been approved by the Attorney General as to form and execution. The Department of Information Technology (DoIT) has reviewed and approved the agreement. The DOT has certified that the necessary funds are available. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,



Victoria F. Sheehan  
Commissioner

Attachment

2015-091 Traffic Data Management System

15\_0901\_RFP\_2015-091\_FinalScoring.xlsx

Company	Company Address	Software Functionality 20 Pts Max	Software Solution 70 Pts Max	Technical, Service and PM Exp and Approach 25 Pts Max	Company Qualifications 5 Pts Max	Staffing Qualifications 5 Pts Max	Solution Cost	Solution Cost Points 75 Pts Max	TOTAL 200 Pts Max
TAPCO	5100 W. Brown Deer Road, Brown Deer, WI 53223	14.0	43.6	19.3	3.9	3.8	\$ 605,069	64.9	149.5
Transmetric	8613 Cross Park Dr. Austin, TX 78754	15.6	59.3	18.8	4.1	4.1	\$ 910,000	43.1	144.9
Tricord	12888 James Monroe Highway, Leesburg, VA 20176	9.5	20.0	11.2	1.4	2.0	\$ 523,207	75.0	119.0
MS2	3815 Plaza Drive, Ann Arbor, MI 48103	17.8	66.7	21.1	4.5	4.4	\$ 639,428	61.4	175.9
Max Points									175.9



**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*

October 6, 2015

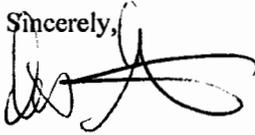
David M. Rodrigue  
Assistant Director of Operations  
State of New Hampshire  
Department of Transportation  
John O. Morton Bldg., 7 Hazen Drive  
Concord, NH 03302-0483

Dear Assistant Director Rodrigue:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with Midwestern Software Solutions (MS2), LLC, as described below and referenced as DoIT No. 2015-091.

The purpose of this contract is to procure computer software and services to provide and install a new Traffic Data Management System for the Department of Transportation. The Department's existing software system is outdated and currently interacts poorly, or not at all, with other Department information systems, often requiring manual intervention to complete federally mandated reporting requirements, specifically Highway Performance Monitoring Systems and Traffic Monitoring Analysis Systems. The cost of this Contract is not to exceed \$349,328. The contract term is from Governor and Executive Council Approval through June 30, 2017 with the option to renew for two three-year periods.

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

Sincerely,  
  
Denis Goulet

DG/dcp  
DOT 2015-091

cc: Gail Hambleton, DOIT Lead at DOT  
Dane Prescott, DOIT at DOT

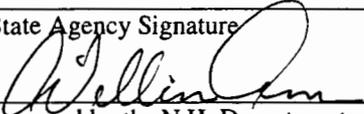
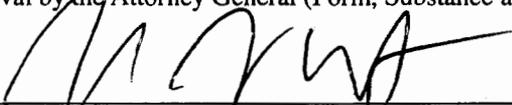
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire Department of Transportation Division of Operations		1.2 State Agency Address 7 Hazen Drive Concord, NH 03302-0483	
1.3 Contractor Name Midwestern Software Solutions, LLC		1.4 Contractor Address 3815 Plaza Drive Ann Arbor, MI 48103-1655	
1.5 Contractor Phone Number 734-995-0200	1.6 Account Number 04-096-096-962515-2944-038-509038	1.7 Completion Date 6/30/2017	1.8 Price Limitation \$349,328
1.9 Contracting Officer for State Agency Patrick K. McKenna Deputy Commissioner		1.10 State Agency Telephone Number 603-271-3734	
1.11 Contractor Signature <div style="text-align: center; margin-top: 10px;">  </div>		1.12 Name and Title of Contractor Signatory Ben Chen, Principal	
1.13 Acknowledgement: State of <del>MI</del> <b>MICHIGAN</b> , County of <del>WASHTENAW</del> On <u>Oct. 7, 2015</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <div style="text-align: center; margin-top: 10px;">  </div>		NOTARY PUBLIC, STATE OF MI COUNTY OF WASHTENAW MY COMMISSION EXPIRES Dec 15, 2016 ACTING IN COUNTY OF	
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature <div style="text-align: center; margin-top: 10px;">  </div>		1.15 Name and Title of State Agency Signatory William Cass, ASST. Commissioner	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 11/3/15			
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 all 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 TRANSPORTATION  
TRAFFIC DATA MANAGEMENT SYSTEM  
NHDOT – RFP 2015-091  
PART 1

**APPENDIX F: PRICING WORKSHEETS**

A Vendor's Cost Proposal must be based on the worksheets formatted as described in this appendix.

**F-1 Activities/Deliverables/Milestones Pricing Worksheet – Deliverables List**

The Vendor must include, within the Not-to-Exceed for IT service activities, tasks and preparation of required Deliverables, pricing for the Deliverables required based on the proposed approach, and methodology and tools. The following format must be used to provide this information.

Table F-1 currently provides an example of the activities or deliverables that might be expected to be provided in this project. The Vendor must include actual activities and deliverables proposed for this project, with proposed delivery dates and payment amounts. Vendor should give consideration to Appendix C Table C-3 Deliverables and define activities/deliverables by Project stages.

**Table F-1: Activities/Deliverables/Milestones Pricing Worksheet**

Activity, Deliverable or Milestone	Proposed Date	Pricing/Payment
1. Project Action Plan / Business Process Review / Requirements Validation	Completed by 9/30/2015	\$43,080
2. TDMS License and System Configuration	Completed by 11/30/2015	\$158,760
3. Data Migration	Completed by 2/28/2016	\$34,656
4. System Customizations	Completed by 1/31/2016	\$35,136
5. User Training	Completed by 6/30/2016	\$27,696
	<b>TOTAL</b>	<b>\$299,328</b>

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
TRAFFIC DATA MANAGEMENT SYSTEM  
NHDOT – RFP 2015-091  
PART 1**

**F-2 Proposed Vendor Staff, Resource Hours and Rates Worksheet**

Use the Proposed Vendor Staff Position, Resource Hours and Rates Worksheet to indicate the individuals that will be assigned to the Project, hours and applicable rates. Names must be provided for individuals designated for key roles, but titles are sufficient for others. Information is required by phase.

**Table F-2: Proposed Vendor Staff, Resource Hours and Rates Worksheet**

Position Title	Name	Initiation	Implementation	Hourly Rate	Hours X Rate
Project Manager	Ben Chen	72 hours	122 hours	\$204	\$39,168
Software Architect	Steve Wiggins	48 hours	108 hours	\$180	\$28,080
Sr. Software Engineer	William Tomiko Steve Willaert	112 hours	248 hours	\$135	\$48,600
Software Engineer	Charles Huber Brian Rodgers	16 hours	224 hours	\$102	\$24,480
TOTALS		248 hours	700 hours		\$140,328

**F-3 Future Vendor Rates Worksheet**

The State may request additional Services from the selected Vendor and requires rates in the event that additional Service is required. The following format must be used to provide this information. "SFY" refers to State Fiscal Year. The New Hampshire State Fiscal Year runs from July 1 through June 30 of the following calendar year. Positions not identified in the Proposed Position Worksheet may be included in the Future Vendor Rates Worksheet.

**Table F-3: Future Vendor Rates Worksheet**

Position Title	SFY 2017	SFY 2018	SFY 2019	SFY 2020
Project Manager	\$216	\$222	\$229	\$236
Software Architect	\$191	\$197	\$203	\$209
Sr. Software Engineer	\$143	\$147	\$151	\$156
Software Engineer	\$108	\$111	\$114	\$117

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
TRAFFIC DATA MANAGEMENT SYSTEM  
NHDOT – RFP 2015-091  
PART 1

**F-4 Software Licensing, Maintenance, and Support Pricing Worksheet**

**Table F-4: Software Licensing, Maintenance, and Support Pricing Worksheet**

Software Name (and size)	Initial Cost	Maintenance Support and Upgrades					
		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
TDMS Enterprise License	\$150,000	\$0	\$0	\$0	\$0	\$0	\$0
<b>TOTAL</b>	\$150,000	\$0	\$0	\$0	\$0	\$0	\$0

**F-5 Web Site Hosting, Maintenance, and Support Pricing Worksheet**

(IF WEB IMPLICATIONS)

**Table F-5: Web Site Hosting, Maintenance, and Support Pricing Worksheet**

HOSTED SERVICES	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	TOTAL
Web Site Hosting Fee							
Technical Support and updates							
Maintenance and Updates							
<b>GRAND TOTAL</b>	\$50,000	\$52,500	\$55,100	\$57,900	\$60,800	\$63,800	\$340,100

**F-6 Equipment Procurement Pricing Worksheet (If applicable)**

**Table F-6: Equipment Procurement Pricing Worksheet**

Table F-6 Detailed Hardware Deliverables		
Description	Owned/ Maintained By	Quantity
N/A		

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
TRAFFIC DATA MANAGEMENT SYSTEM  
NHDOT – RFP 2015-091  
PART 1

**Hardware Specifications (Provide Details for Equipment Listed in Table F-6 Above)**


STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
TRAFFIC DATA MANAGEMENT SYSTEM  
CONTRACT 2015-091  
CONTRACT AGREEMENT -PART 2

**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>Best and Final Offer (BAFO)</b>	For negotiated procurements, a Vendor's final offer following the conclusion of discussions.
<b>CCP</b>	Change Control Procedures
<b>CR</b>	Change Request
<b>COTS</b>	Commercial Off-The-Shelf Software
<b>CM</b>	Configuration Management
<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 Control</b>	Formal process for initiating changes to the proposed solution or process once development has begun.
<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 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,

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	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>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>COTS</b>	Commercial off the Shelf
<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>DBA</b>	Database Administrator
<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</b> – <i>Software</i> - 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</b> – <i>Software</i> - 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</b> – <i>Software</i> - 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>

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<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</b>	An agency of the State
<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>	Guarantees the unaltered state of a file
<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 encoding 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 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>GAAP</b>	Generally Accepted Accounting Principles
<b>Governor and Executive Council</b>	The New Hampshire Governor and Executive Council.
<b>Harvest</b>	Software to archive and/or control versions of software
<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 the application is protected from buffer overflow, cross-site scripting, SQL injection, and canonicalization
<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

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<b>Key Project Staff</b>	Personnel identified by the State and by the contracted Vendor as essential to work on the Project.
<b>Licensee</b>	The State of New Hampshire
<b>MS2</b>	Midwestern Software Solutions, LLC
<b>NHDOT</b>	New Hampshire Department of Transportation
<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-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, 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>	Operational means that 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>PCDS</b>	Pedestrian Count Database System (Part of MS2’s TDMS)
<b>PMDS</b>	Project Management Database System (Part of MS2’s TDMS)
<b>PMMS</b>	Pavement Marking Management System (Part of MS2’s TDMS)
<b>PMS</b>	Pavement Management System (Part of MS2’s TDMS)
<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

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	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 Proposal or Statement of Work
<b>PTOE</b>	Professional Traffic Operations Engineer
<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>ROS</b>	Route Optimization System (Part of MS2's TDMS)
<b>RSMS</b>	Road Sign Management System (Part of MS2's TDMS)
<b>RTTV</b>	Real Time Traffic Video (Part of MS2's TDMS)
<b>SaaS- Software as a Service</b>	Occurs where the COTS application is hosted but the State does not own the license or the code. The vendor allows the use of the software as a part of their service.
<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>Service Level Agreement (SLA)</b>	A signed agreement between the Vendor and the State specifying the level of Service that is expected of, and provided by, the Vendor during the term of the Contract.
<b>Services</b>	The work or labor to be performed by the Vendor on the Project as described in the Contract.
<b>Software</b>	All custom Software and COTS Software provided by the Vendor under the Contract
<b>Software Deliverables</b>	COTS 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 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 Specifications that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The

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	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 Transportation 7 Hazen Drive Concord, NH 03302-0483 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>	Any information contained within State systems in electronic or paper format.
<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 Project Leader</b>	State's representative with regard to Project oversight
<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>TCDS</b>	Traffic Count Database System (Part of MS2's TDMS)
<b>TCLS</b>	Traffic Count Location System (Part of MS2's TDMS)
<b>TDMS</b>	Transportation Data Management System (MS2)
<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.

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<b>Term</b>	Period of the Contract from the Effective Date through termination.
<b>TFS</b>	Microsoft Team Foundation Server tool used by MS2 to track software development issues.
<b>TMAS</b>	Traffic Management Analysis System
<b>TMC</b>	Turning Movement Count System (Part of MS2's TDMS)
<b>TMG</b>	Traffic Monitoring Guide
<b>Transition Services</b>	Services and support provided when the contracted vendor is supporting System changes.
<b>TSMS</b>	Traffic Signal Management System (Part of MS2's TDMS)
<b>TTDS</b>	Travel Time Database System (Part of MS2's TDMS)
<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>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>Warranty Period</b>	A period of coverage during which the Contracted Vendor is responsible for providing a guarantee for products and Services delivered as defined in the Contract.
<b>Warranty Releases</b>	Code releases that are done during the Warranty Period.
<b>Warranty Services</b>	The Services to be provided by the Vendor during the Warranty Period.
<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>WOTS</b>	Work Order Tracking System (Part of MS2's TDMS)
<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 the Department of Transportation ("State"), and Midwestern Software Solutions, LLC (MS2), having its principal place of business at 3815 Plaza Drive, Ann Arbor, MI 48103-1655.

The State has appropriated funds to replace existing outdated Traffic Data Management systems to meet changing business needs, update to newer information technologies, and comply with Federal Highway reporting requirements.

**RECITALS**

The State desires to have MS2 provide a Commercial-off-the-shelf Software System with customizations and associated Services for the Department of Transportation;

MS2 wishes to provide a Commercial-off-the-Shelf Software System with customizations and associated Services for the State.

The parties therefore agree as follows:

**1. CONTRACT DOCUMENTS**

**1.1 Contract Documents**

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

- A. Part 1 – State Terms and Conditions contained in the Form P-37
- B. Part 2 – The Contract Agreement
- C. Part 3 – Consolidated 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- Requirement Responses
  - Exhibit I- Work Plan
  - Exhibit J- Software License and related Terms
  - Exhibit K- Warranty and Warranty Services
  - Exhibit L- Training Services
  - Exhibit M- Agency RFP with Addendums, by reference
  - Exhibit N- The 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:

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- a. State of New Hampshire, Department of Transportation, Contract 2015-091.
- b. RFP 2015-091 Traffic Data Management System, dated January 12, 2015, with addendum(s) incorporated; then
- c. The Vendor's Proposal, dated March 17, 2015.

### 1.3 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, 2017. The Term may be extended up to six (6) years, ("Extended Term") at the sole option of the State, subject to the parties' prior written agreement on applicable fees for each extended term, up to but not beyond June 30, 2023.

MS2 shall commence work upon issuance of a Notice to Proceed by the State.

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

Time is of the essence in the performance of MS2's obligations under the Contract.

## 2. COMPENSATION

### 2.1 Contract Price

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

### 2.2 Firm Fixed Price

The payment by the State of the contract price shall be the only and the complete reimbursement to MS2 for all expenses, of whatever nature incurred by MS2 in the performance hereof, and shall be the only and the complete compensation to MS2 for the services. The State shall have no liability to MS2 other than the Contract Price.

The State reserves the right to offset from any amounts otherwise payable to MS2 under this Agreement those liquidated amounts required or permitted by N.H. RSA80:7 through RSA 80:7-c or any other provision of law.

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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 General Provisions Page 1, block 1.8.

### 3. CONTRACT MANAGEMENT

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

#### 3.1 The Vendor's Contract Manager

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

Ben Chen  
Principal  
3815 Plaza Drive  
Ann Arbor, MI 48103-1655  
Tel: 734-995-0200  
Email: bc@ms2soft.com

#### 3.2 The Vendor's Project Manager

##### 3.2.1 Contract Project Manager

The Contracted Vendor shall assign a Project Manager who meets the requirements of the Contract, including but not limited to, the requirements set forth in the RFP. The Contracted Vendor'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 Contracted Vendor Project Manager's resume, qualifications, references, and background checks, and an interview. The State may require removal or reassignment of the Contracted Vendor's Project Manager who, in the sole judgment of the State, is found unacceptable or is not performing to the State's satisfaction.

3.2.2 The Contracted Vendor 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 Contracted Vendor's representative for all administrative and management matters. The Contracted Vendor's Project Manager shall perform the duties required under the Contract, including, but not limited to, those set forth in Contract Exhibit I, Section 2. The Contracted Vendor'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 Contracted Vendor's Project Manager must work diligently and use his/ her best efforts on the Project.

3.2.3 The Contracted Vendor shall not change its assignment of the Contracted Vendor Project Manager without providing the State written justification and obtaining the

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prior written approval of the State. State approvals for replacement of the Contracted Vendor's Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than the Contracted Vendor Project Manager being replaced; meet the requirements of the Contract, (including but not limited to, the requirements set forth in RFP); and be subject to reference and background checks described above in the Contract Agreement Part 2, Section 3.2.1: *Contract Project Manager*, and in Contract Agreement Part 2, Section 3.6: *Reference and Background Checks*, below. The Contracted Vendor shall assign a replacement of the Contracted Vendor Project Manager within ten (10) business days of the departure of the prior Contracted Vendor Project Manager, and the Contracted Vendor shall continue during the ten (10) business day period to provide competent Project management Services through the assignment of a qualified interim Contracted Vendor Project Manager.

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

3.2.5 The Contracted Vendor Project Manager is:

Ben Chen  
Principal  
3815 Plaza Drive  
Ann Arbor, MI 48103-1655  
Tel: 734-995-0200  
Email: bc@ms2soft.com

### 3.3 The Contracted Vendor Key Project Staff

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3.3.1 The Contracted Vendor 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.1: *System Requirements and Deliverables-Vendor Response Checklist*. The State may conduct reference and background checks on the Contracted Vendor Key Project Staff. The State reserves the right to require removal or reassignment of the Contracted Vendor's Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with the Contract Agreement Section 4.10: *Background Checks*.

3.3.2 The Contracted Vendor shall not change any of the Contracted Vendor 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 Contracted Vendor Key Project Staff will not be unreasonably withheld. The replacement of the Contracted Vendor Key Project Staff shall have comparable or greater skills than the

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Contracted Vendor 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-Part 2, Section 3.6: *Reference and Background Checks*,

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

3.3.3.1 The Contracted Vendor Key Project Staff shall consist of the following individuals in the roles identified below:

**The Contracted Vendor's Key Project Staff:**

<u>Key Member(s)</u>	<u>Title</u>
Steve Wiggins	Software Architect
Steven M. Willaert	Senior Software Engineer
William J. Tomiko	Senior Software Engineer
Chris M. Chanko	Senior Software Engineer
Mike R. Cool, PE	Traffic Engineer
Robert Finger	Software Engineer
Brian E. Rogers	Software Engineer
Charles Huber	Software Engineer
David J. Bow	System Administrator

### 3.4 State Contract Manager

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

Robert Bollinger, PE, PTOE  
Traffic Operations Engineer  
NHDOT - Bureau of Traffic  
18 Smokey Bear Blvd.  
Concord, NH 03302-0483  
Tel: (603) 271-2291  
Email: RBollinger@dot.state.nh.us

### 3.5 State Project Manager

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

- a. Leading the Project;
- b. Engaging and managing the Contracted Vendor;
- c. Managing significant issues and risks.
- d. Reviewing and accepting Contract Deliverables;
- e. Invoice sign-offs;

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- f. Review and approval of change proposals; and
- g. Managing stakeholders' concerns.

The State Project Manager is:

Robert Bollinger, PE, PTOE  
Traffic Operations Engineer  
NHDOT – Bureau of Traffic  
18 Smokey Bear Blvd.  
Concord, NH 03302-0483  
Tel: (603) 271-2291  
Email: RBollinger@dot.state.nh.us

### 3.6 Reference and Background Checks

The State may, at its sole expense, conduct reference and background screening of the Contracted Vendor Project Manager and the Contracted Vendor Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Contract Agreement, Part 2-Section 11: *Use of State's Information, Confidentiality*.

## 4. DELIVERABLES

### 4.1 Vendor Responsibilities

The Contracted Vendor 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 Contracted Vendor may subcontract Services subject to the provisions of the Contract. The Contracted Vendor must submit all information and documentation relating to the Subcontractor, including terms and conditions consistent with this Contract. The State will consider the Contracted Vendor 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.

### 4.2 Deliverables and Services

The Contracted Vendor 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*.

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

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**4.3 Non-Software and Written Deliverables Review and Acceptance**

After receiving written Certification from the Contracted Vendor 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 specifications outlined in the contract. The State will notify the Contracted Vendor in writing of its Acceptance or rejection of the Deliverable within five (5) business days of the State's receipt of the Contracted Vendor's written Certification. If the State rejects the Deliverable, the State shall notify the Contracted Vendor of the nature and class of the Deficiency and the Contracted Vendor shall correct the Deficiency within the period identified in the Work Plan. If no period for the Contracted Vendor's correction of the Deliverable is identified, the Contracted Vendor 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 Contracted Vendor of its Acceptance or rejection thereof, with the option to extend the Review Period up to five (5) additional business days. If the Contracted Vendor fails to correct the Deficiency within the allotted period of time, the State may, at its option, continue reviewing the Deliverable and require the Contracted Vendor to continue until the Deficiency is corrected, or immediately terminate the Contract, declare the Contracted Vendor in default, and pursue its remedies at law and in equity.

**4.4 System/Software Testing 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*.

**4.5 Security**

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

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

All components of the Software shall be reviewed and tested to ensure they protect the State's hardware and software and its related Data assets. See *Contract Agreement -Part 3 - Exhibit F: Testing* for detailed information on requirements for Security testing.

**5. SOFTWARE**

**5.1 COTS Software and Documentation**

The Contracted Vendor shall provide the State with Software Licenses and Documentation set forth in the Contract, and particularly described in Exhibit J: *Software License and Related Terms*.

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**5.2 COTS Software Support and Maintenance**

The Contracted Vendor shall provide the State with Software support and Maintenance Services set forth in the Contract, and particularly described in Exhibit J: *Software License and Related Terms*.

**5.3 Restrictions**

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

- a. Remove or modify any program markings or any notice of the Contracted Vendor's proprietary rights;
- b. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; or
- c. Cause or permit reverse engineering, disassembly or recompilation of the programs.

**5.4 Title**

The Contracted Vendor must hold the right to allow the State to use the Software or hold all title, right, and interest in the Software and its associated Documentation

**6. WARRANTY**

The Contracted Vendor shall provide the Warranty and Warranty Services set forth in the Contract, and particularly described in Exhibit K: *Warranty and Warranty Services*.

**7. SERVICES**

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

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**7.5 Maintenance and Support Services**

The Contracted Vendor 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*.

**8. WORK PLAN DELIVERABLE**

The Contracted Vendor 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 Contracted Vendor shall update the Work Plan as necessary, but no less than every month, to accurately reflect the status of the Project, including without limitation, the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment Schedule. Any such updates to the Work Plan must be approved by the 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 Contracted Vendor from liability to the State for damages resulting from the Contracted Vendor'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 Contracted Vendor must immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inactions of the Contracted Vendor 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 Contracted Vendor 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 Contracted Vendor'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 Contracted Vendor's receipt of a Change Order, the Contracted Vendor shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan.

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The Contracted Vendor 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 Contracted Vendor'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 Contracted Vendor to the State, and the State acceptance of the Contracted Vendor's estimate for a State requested change, will be acknowledged and responded to, either 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**

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 (Custom Code) 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, modifications, reports, and Documentation developed under the Contract.

In no event shall the Contracted 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 Contracted 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

### **10.1 State's Data**

All rights, title and interest in State Data shall remain with the State.

### **10.2 Vendor's Materials**

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

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

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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.

### 10.3 State Website Copyright

#### WWW Copyright and Intellectual Property Rights

All right, title and interest in the State WWW site (www.nh.gov), including copyright to all Data and information, shall remain with the State. The State shall also retain all right, title and interest in any user interfaces and computer instructions embedded within the WWW pages. All WWW pages and any other Data or information shall, where applicable, display the State's copyright.

### 10.4 Software License

The Contracted Vendor hereby grants to the State a worldwide, irrevocable, non-exclusive, non-transferable, limited right enterprise license to possess, install, and access the TDMS software application. Further the Contracted Vendor assigns to the State license to use and have modified by the Contracted Vendor this intellectual property for its own purposes, but not to resell, sublicense, or otherwise distribute that property.

### 10.5 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 Contracted Vendor 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 Contracted Vendor 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 Contracted Vendor's performance under the Contract.

### 11.2 State Confidential Information

The Contracted Vendor 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 Contracted Vendor 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

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

Any disclosure of the State Confidential Information shall require the prior written approval of the State. The Contracted Vendor shall immediately notify the State if any request, subpoena or other legal process is served upon the Contracted Vendor regarding the State Confidential Information, and the Contracted Vendor 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 Contracted Vendor 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 Vendor Confidential Information

Insofar as the Contracted Vendor seeks to maintain the confidentiality of its confidential or proprietary information, the Contracted Vendor must clearly identify in writing all information it claims to be confidential or proprietary. Notwithstanding the foregoing, the State acknowledges that the Contracted Vendor considers the Software and Documentation to be Confidential Information. The Contracted Vendor 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 Contracted Vendor as confidential, the State shall notify the Contracted Vendor and specify the date the State will be releasing the requested information. At the request of the State, the Contracted Vendor shall cooperate and assist the State with the collection and review of the Contracted Vendor's information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be the Contracted Vendor's sole responsibility and at the Contracted Vendor's sole expense. If the Contracted Vendor 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 Contracted Vendor, without any liability to the Contracted Vendor.

### 11.4 Survival

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

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**12. LIMITATION OF LIABILITY**

**12.1 State**

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to the Contracted Vendor shall not exceed the total Contract price set forth in Contract Agreement, Section 1.8 of the *Contract Agreement -Part 1-General Provisions*.

Notwithstanding the foregoing and any provision of this Contract to the contrary, in no event does the State waive its sovereign immunity or any applicable defenses or immunities.

**12.2 The Contracted Vendor**

Subject to applicable laws and regulations, in no event shall the Contracted Vendor be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and the Contracted Vendor's liability to the State shall not exceed the total Contract price set forth in Contract Agreement, Section 1.8 of the *Contract Agreement -Part 1-General Provisions*.

Notwithstanding the foregoing, the limitation of liability in this SOW Section 12.2 shall not apply to the Contracted Vendor's indemnification obligations set forth in the *Contract Agreement Part 1-Section 13: Indemnification* and confidentiality obligations in Contract Agreement-Part 2- 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 Contract Agreement-Part 2-Section 12: *Limitation of Liability* shall survive termination or Contract conclusion.~~

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### 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 Contracted Vendor 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 Contracted Vendor written notice of default and require it to be remedied within, in the absence of a 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 Contracted Vendor fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving the Contracted Vendor 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 Contracted Vendor 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 Contracted Vendor during the period from the date of such notice until such time as the State determines that the Contracted Vendor has cured the Event of Default shall never be paid to the Contracted Vendor.
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- 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 Contracted Vendor 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.

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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.

13.1.3 Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive termination or Contract Conclusion.

**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 Contracted Vendor. In the event of a termination for convenience, the State shall pay the Contracted Vendor 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.

13.2.2 During the thirty (30) day period, the Contracted Vendor 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 Contracted Vendor 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 Contracted Vendor, the State shall be entitled to pursue the same remedies against the Contracted Vendor as it could pursue in the event of a default of the Contract by the Contracted Vendor.

**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 Contracted Vendor to deliver to the State any property, including without limitation, Software and Written Deliverables, for such part of the Contract as has been terminated.

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

#### 14. CHANGE OF OWNERSHIP

In the event that the Contracted Vendor should change ownership for any reason whatsoever, the State shall have the option of continuing under the Contract with the Contracted Vendor, its successors or assigns for the full remaining term of the Contract; continuing under the Contract with the Contracted Vendor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminate the Contract without liability to the Contracted Vendor, its successors or assigns.

#### 15. ASSIGNMENT, DELEGATION AND SUBCONTRACTS

15.1 The Contracted Vendor 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 Contracted Vendor 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

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written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract, or other transfer shall neither relieve the Contracted Vendor of any of its obligations under the Contract nor affect any remedies available to the State against the Contracted Vendor that may arise from any event of default of the provisions of the contract. The State shall consider the Contracted Vendor 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 Contracted Vendor from assigning the Contract to the successor of all or substantially all of the assets or business of the Contracted Vendor provided that the successor fully assumes in writing all obligations and responsibilities under the Contract. In the event that the Contracted Vendor should change ownership, as permitted under this Contract Agreement Part 2, Section 14: *Change of Ownership*, the State shall have the option to continue under the Contract with the Contracted Vendor, its successors or assigns for the full remaining term of the Contract; continue under the Contract with the Contracted Vendor, its successors or assigns for such period of time as determined necessary by the State; or immediately terminating the Contract without liability to the Contracted Vendor, 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**

LEVEL	CONTRACTOR	STATE	CUMULATIVE ALLOTTED TIME
Primary	Ben Chen Principal	Robert Bollinger State Project Manager	5 Business Days
First	Ben Chen Principal	William Lambert Principal Engineer	10 Business Days
Second	Ben Chen Principal	William Cass Assistant Commissioner	15 Business Days

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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. ESCROW OF CODE

The Contracted Vendor will participate in a source and configuration code escrow agreement, with a State approved escrow agent. The escrow agreement requires the Contracted Vendor to put the Contracted Vendor Software source and configuration code in escrow. The source code shall be released to the State if one of the following events has occurred:

- a. the Vendor has made an assignment for the benefit of creditors;
- b. the Vendor institutes or becomes subject to a liquidation or bankruptcy proceeding of any kind;
- c. a receiver or similar officer has been appointed to take charge of all or part of the Vendor's assets; or
- d. the Vendor or its Subcontractor terminates its maintenance and operations support Services for the State for the Software or has ceased supporting and maintaining the Software for the State, whether due to its ceasing to conduct business generally or otherwise.

## 18. GENERAL PROVISIONS

### 18.1 Travel Expenses

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

The Vendor must assume all travel and related expenses by "fully loading" the proposed labor rates to include, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses.

### 18.2 Shipping and Delivery Fee Exemption

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

### 18.3 Project Workspace and Office Equipment

The State agency will work with the Contracted Vendor to determine the requirements for providing all necessary workspace and office equipment, including desktop computers for the Contracted Vendor's staff.

### 18.4 Access/Cooperation

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

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

### 18.5 Required Work Procedures

All work done must conform to standards and procedures established by the Department of Information Technology and the State.

### 18.6 Computer Use

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

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

### 18.7 Email Use

Mail and other electronic communication messaging systems are State of New Hampshire property and are to be used for business purposes only. Email is defined as "internal Email systems" or "State-funded Email systems". The Contracted Vendor understands and agrees that use of email shall follow State standard policy (available upon request).

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**18.8 Internet/Intranet Use**

The Internet/Intranet is to be used for access to and distribution of information in direct support of the business of the State of New Hampshire according to State standard policy (available upon request).

**18.9 Regulatory Government Approvals**

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

**18.10 Force Majeure**

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

**18.11 Insurance**

**18.11.1 The Contracted Vendor Insurance Requirement**

See Contract Agreement Part 1-Form P-37 Section 14.

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

**18.12 Exhibits**

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

**18.13 Venue and Jurisdiction**

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

**18.14 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 *Contract Agreement Exhibit D Section 3: Records Retention and Access Requirements*, *Contract Agreement Exhibit D Section 4: Accounting Requirements*, and Contract Agreement Part 2-Section 11: *Use of State's Information, Confidentiality* and Contract Agreement Part 1- Section 13: *Indemnification* which shall all survive the termination of the Contract.

STATE OF NEW HAMPSHIRE  
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CONTRACT 2015-091- PART 3  
EXHIBIT A  
CONTRACT DELIVERABLES

**1. DELIVERABLES, MILESTONES AND ACTIVITIES**

MS2 shall provide the State with Project Development Systems which will meet and perform in accordance with the Specifications and Deliverables that are in accordance with the time frames in the Work Plan.

Prior to the commencement of work on Non-Software and Written Deliverables, MS2 shall provide to the State a template, table of contents, or agenda for Review and prior approval by the State.

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.

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

**2.1 Implementation Schedule – Activities / Deliverables / Milestones**

Task Number	Activity, Deliverable, or Milestone	Deliverable Type	Projected Delivery Date
1	Project Action Plan / Business Process Review / Requirements Validation	Written	9/30/2015
2	TDMS License	Software	11/30/2015
3	System Configuration	Software	11/30/2015
4	System Customizations	Software	1/31/2016
5	Data Migration	Non-Software	2/28/2016
6	User Training	Non-Software	6/30/2016
7	User Acceptance Testing	Non-Software	6/30/2016
8	Completion of Warranty	Non-Software	FY17
9	Software Maintenance, Support, and Hosting (FY17)	Non-Software	7/1/2016 - 6/30/2017

**3. TRAINING DELIVERABLES**

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

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CONTRACT DELIVERABLES

**4. SOFTWARE LICENSES**

Software Licenses for are set forth in Contract Exhibit J: *Software License* and associated pricing is established in Contract Exhibit B: *Price and Payment Schedule*.

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EXHIBIT B  
PRICE AND PAYMENT SCHEDULE

**1. DELIVERABLE PAYMENT SCHEDULE**

**1.1 Firm Fixed Price**

This is a Firm Fixed Price (FFP) Contract totaling \$349,328 for the period between the Effective Date through June 30, 2017. MS2 shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow MS2 to invoice the State for the following activities, Deliverables, or milestones appearing in the price and payment tables below.

**Table 1 – Software and Services**

Task Number	Activity, Deliverable, or Milestone	Payment Amount
1	Project Action Plan / Business Process Review / Requirements Validation	\$38,772
2	TDMS License	\$135,000
3	System Configuration	\$7,884
4	System Customizations	\$31,622
5	Data Migration	\$31,191
6	User Training	\$24,926
7	User Acceptance Testing	\$0
8	Completion of Warranty Period	\$29,933
9	Software Maintenance, Support, and Hosting (FY17)	\$50,000
	<b>TOTAL PROJECT COST</b>	<b>\$349,328</b>

**Table 2 – Licensing**

SW Name and Size	Initial Cost	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
TDMS Enterprise License	\$150,000	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$150,000	\$0	\$0	\$0	\$0	\$0	\$0

Note - TDMS Enterprise License is a one-time cost and is reflected as Task 2 in Table 1.

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PRICE AND PAYMENT SCHEDULE

**Table 3 – Hosting, Maintenance and Support Pricing**

Hosted Services	Year 1	Year 2*	Year 3*	Year 4*	Year 5*	Year 6*
Hosting Fee						
Tech Support and Updates						
Maintenance and Updates						
<b>Total</b>	<b>\$50,000</b>	<b>\$52,500</b>	<b>\$55,100</b>	<b>\$57,900</b>	<b>\$60,800</b>	<b>\$63,800</b>

Note – Years 2 through 6 of Table 3 are listed for information purposes and are not in the initial Contract. They will be included in the extension years if extended term is approved by Governor and Executive Council.

**Table 4 Contract - Summary of Costs**

Reference Number	Description	Payment Amount
Table 1	Software Services	\$149,328
Table 2	Licensing Costs	\$150,000
Table 3	Hosting, Maintenance and Support Pricing	\$50,000
	<b>TOTAL PROJECT COST</b>	<b>\$349,328</b>

**Table 5 – Hourly Rates**

Position Title	SFY 2018	SFY 2019	SFY 2020	SFY 2021
Project Manager	\$216	\$222	\$229	\$236
Software Architect	\$191	\$197	\$203	\$209
Sr. Software Engineer	\$143	\$147	\$151	\$156
Software Engineer	\$108	\$111	\$114	\$117

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PRICE AND PAYMENT SCHEDULE

**2. TOTAL 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 \$349,328 ("Total Contract Price"). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to MS2 for all fees and expenses, of whatever nature, incurred by MS2 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**

MS2 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. MS2 shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices must be in a format as determined by the State and contain detailed information, including without limitation: itemization of each Deliverable and identification of the Deliverable for which payment is sought, and the Acceptance date triggering such payment; date of delivery and/or installation; monthly maintenance charges; any other Project costs or retention amounts if applicable.

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

Invoices shall be sent to:

Robert Bollinger, PE, PTOE  
Traffic Operations Engineer  
NHDOT – Bureau of Traffic  
18 Smokey Bear Blvd.  
Concord, NH 03302-0483  
Tel: (603) 271-2291  
Email: RBollinger@dot.state.nh.us

**4. PAYMENT ADDRESS**

All payments shall be sent to the following address:

MS2, LLC.  
3815 Plaza Drive  
Ann Arbor, MI 48103-1655

**5. OVERPAYMENTS TO MS2**

MS2 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 MS2's invoices with appropriate information attached.

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PRICE AND PAYMENT SCHEDULE

**7. PROJECT HOLDBACK**

The State shall withhold ten percent (10%) of the price for each Deliverable as set forth in the Payment Table above, until successful conclusion of each Warranty Period.

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EXHIBIT C  
SPECIAL PROVISIONS

**1. Form P-37 Section 17. NOTICE**- Replace notification to the addressed parties on Contract Agreement Part 1- Section 17 at the addresses given in blocks 1.2 and 1.4 of the Form P-37, to notify the parties below:

**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 following addresses.

TO MS2:  
Ben Chen  
Principal  
3815 Plaza Drive  
Ann Arbor, MI 48103-1655  
Tel: 734-995-0200

TO STATE:  
Department of Transportation  
Bureau of Traffic  
Attn: Robert Bollinger  
18 Smokey Bear Blvd.  
Concord, NH 03302-0483  
Tel: 603-271-2291

**2. Form P-37 Section 14. INSURANCE**

Both parties agree to amend the Contract Agreement Part 1 - Section 14 in order to show the amount of insurance is in agreement with MS2's coverage currently in force for comprehensive general liability in the amount of \$1,000,000 for each occurrence and the excess/umbrella liability in the amount of \$2,000,000 for each occurrence.

**3. EXTENSION**

This agreement has the option for a potential extension up to six (6) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council.

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EXHIBIT D  
ADMINISTRATIVE SERVICES

**1. STATE MEETINGS AND REPORTS**

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

MS2 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 MS2 Key Project Staff and State Project leaders from both the Department of Transportation 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 MS2 Project Teams 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 MS2 Project Manager and the State Project Manager. These meetings will be conducted at least monthly and address overall Project status and any additional topics needed to remain on schedule and within budget. A status and error report from MS2 shall serve as the basis for discussion.
- d. **The Work Plan:** must be reviewed at each Status Meeting and updated, at minimum, on a monthly 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 MS2 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 MS2 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 MS2's responsibility.~~

The MS2 Project Manager or MS2 Key Project Staff shall submit monthly 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 MS2 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. MS2 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 four (4) week period;
5. Future activities; and
6. Issues and concerns requiring resolution.
7. Report and remedies in case of falling behind Schedule

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EXHIBIT D  
ADMINISTRATIVE SERVICES

As reasonably requested by the State, MS2 shall provide the State with information or reports regarding the Project. MS2 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. STATE-OWNED DOCUMENTS AND DATA

MS2 shall provide the State access to all documents, State Data, materials, reports, and other work in progress relating to the Contract ("State Owned Documents"). Upon expiration or termination of the Contract with the State, MS2 shall turn over all State-owned documents, material, reports, and work in progress relating to the Contract to the State at no additional cost to the State. State-owned Documents must be provided in both printed and electronic format.

## 3. RECORDS RETENTION AND ACCESS REQUIREMENTS

MS2 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*.

MS2 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. MS2 and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and federal officials so authorized by law, rule, regulation or Contract, as applicable. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. MS2 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 MS2'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.

## 4. ACCOUNTING REQUIREMENTS

MS2 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 MS2 shall maintain records pertaining to the Services and all other costs and expenditures.

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EXHIBIT D  
ADMINISTRATIVE SERVICES

**5.WORK HOURS**

MS2 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.

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EXHIBIT E  
IMPLEMENTATION SERVICES

MS2 shall provide the State with the following services set forth in Contract Exhibit A.

**1. IMPLEMENTATION STRATEGY**

**1.1 Key Components**

- A. MS2 shall employ an Implementation strategy with a timeline set forth in accordance with the Work Plan:
  - B. MS2 and the State shall adopt a change management approach to identify and plan key strategies and communication initiatives.
  - C. The MS2 team will provide training templates as defined in the Training Plan, which will be customized to address the State's specific requirements.
  - D. 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.
  - E. MS2 shall utilize an approach that fosters and requires the participation of State resources, uses their business expertise to assist with the configuration of the applications, and prepares the State to assume responsibility for and ownership of the new system.
  - F. MS2 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.
- 
- G. MS2 shall adopt an Implementation time-line aligned with the State's required time-line.

**1.2 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.

**1.2.1 Implementation**

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 State's schedule.

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EXHIBIT E  
IMPLEMENTATION SERVICES

Implementation shall be piloted in one area/office to refine the training and Implementation approach, or the State shall choose a one-time statewide Implementation.

### 1.2.2 Change Management and Training

MS2'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.

## 2. IMPLEMENTATION METHODOLOGY

The MS2 team shall provide the consulting services for the Contract. Its approach includes but is not limited to the following:

### 2.1 Hosted Server Access

a. Definition of "Hosted Server Access" - MS2 will:

- 1) Make available the Hosted Server for customer access 24 hours per day, 7 days per week ("24x7") with the following exclusions:
  - a) Scheduled maintenance (at least once weekly – timing to be coordinated with the State);
  - b) Scheduled periods when backup of Hosted Server takes place – timing to be coordinated with the State;
  - c) Emergency (non-scheduled) outages,
  - d) Scheduled outages for application of patches or other modifications requested by the State;
  - e) Perform one (1) daily backup of development and test instances of MS2 programs and State test data present on the Hosted Server, and
  - f) Upon completion or termination of the Hosted Server Access, create a copy of State development and test instances, using a medium agreed upon in advance, to facilitate transition of such information to other computer hardware ("Decommission Backup"). Transition and migration services are not provided as part of the Services but may be acquired separately from MS2.

b. Conditions and assumptions related to Hosted Server Access:

- 1) State use of Hosted Server is limited to production, development, test, and demonstration activities related to MS2 programs, and the State will not use the instance(s) for any other purpose not expressly stated herein.
- 2) Multiple customers may share the same computer server; the State instances shall be separated from other instances located on the same server using password protection.
- 3) The State acknowledges that MS2 may use server and network equipment owned by MS2 or third-party hosting provider.
- 4) The allocation of server resources is at MS2's discretion.

### 2.2 Network Services

a. Conditions and assumptions related to Network Services:

- 1) Costs for equipment, labor and services to maintain Internet connectivity from within MS2 facilities are MS2's responsibility. The State is responsible for any equipment, labor, and/or

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EXHIBIT E  
IMPLEMENTATION SERVICES**

services necessary to set-up and maintain Internet connectivity at the State and/or other third party sites. If the State requests special network equipment and configurations at an MS2 facility, the State shall be charged on a time and materials basis in accordance with time & materials rates specified in the ordering document and exhibit ("T&M Rates") for acquiring and setting up such special network arrangements.

- 2) If the State has been provided with a "loaner" communication equipment, the State shall maintain the equipment in a secure location, in the condition it was received, and shall not permit any use of the equipment other an (a) in connection with the Services, and (b) for access to the Hosted Servers or to third-party servers agreed upon by MS2 and the State. The State shall return the communication equipment to MS2 upon termination of the Network Services. Charges for Network Services will continue until the State returns all communications equipment in operational condition or reimburses MS2 for any loaner equipment that is not returned.
- 3) At the State's option, authorized third parties (e.g., software implementers, network providers) may be given limited access by MS2 to certain levels of the State's system through the VPN or through a separate network connection that meets MS2's Specifications.
- 4) The State is responsible for ensuring that its network and system complies with Specifications that MS2 provides and, if the State is providing its own hosted servers, that all components of the MS2's software environment are accessible through the VPN.
- 5) MS2 is not responsible for network connection issues, problems or conditions arising from or related to circumstances outside the control of MS2 such as bandwidth issues outside of MS2's network, excessive latency, network outages, and/or any other conditions arising on the State internal network or, more generally, outside of MS2's firewall or for any issues that are the responsibility of the State Internet Service Provider.

Upon termination, the State must return to MS2 all equipment provided or owned by MS2.

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EXHIBIT E-1  
SECURITY AND INFRASTRUCTURE**

**1. SECURITY**

MS2 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. MS2 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.

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EXHIBIT F  
TESTING SERVICES**

MS2 shall provide the following Products and Services described in this Exhibit F, including but not limited to:

**1. TESTING AND ACCEPTANCE**

MS2 shall bear all responsibilities for the full suite of Test Planning and preparation throughout the Project. MS2 will also provide training as necessary to the State staff responsible for test activities. MS2 shall be responsible for all aspects of testing contained in the Acceptance Test Plan including support, at no additional cost, during User Acceptance Test conducted by the State and the testing of the training materials.

The Test Plan methodology shall reflect the needs of the Project and be included in the finalized Work Plan. A separate Test Plan and set of test materials will be prepared for each Software function or module.

All Testing and Acceptance (both business and technically oriented testing) shall apply to testing the System as a whole, (e.g., software modules or functions, and Implementation(s)). This shall include planning, test scenario and script development, Data and System preparation for testing, and execution of Unit Tests, System Integration Tests, Conversion Tests, Installation tests, Regression tests, Performance Tuning and Stress tests, Security Review and tests, and support of the State during User Acceptance Test and Implementation.

In addition, MS2 shall provide a mechanism for reporting actual test results vs. expected results and for the resolution and tracking of all errors and problems identified during test execution. MS2 shall also correct Deficiencies and support required re-testing.

**1.1 Test Planning and Preparation**

MS2 shall provide the State with an overall Test Plan that will guide all testing. The MS2 provided, State approved, Test Plan will include, at a minimum, identification, preparation, and Documentation of planned testing, a requirements traceability matrix, test variants, test scenarios, test cases, test scripts, test Data, test phases, unit tests, expected results, and a tracking method for reporting actual versus expected results as well as all errors and problems identified during test execution.

As identified in the Acceptance Test Plan, and documented in accordance with the Work Plan and the Contract, State testing will commence upon MS2's Project Manager's Certification, in writing, that MS2's own staff has successfully executed all prerequisite MS2 testing, along with reporting the actual testing results, prior to the start of any testing executed by State staff. The State will be presented with a State approved Acceptance Test Plan, test scenarios, test cases, test scripts, test data, and expected results.

The State will commence its testing within five (5) business days of receiving Certification from MS2 that the State's personnel have been trained and the System is installed, configured, complete, and ready for State testing. The testing will be conducted by the State in an environment independent from MS2's development environment. MS2 must assist the State with testing in accordance with the Test Plan and the Work Plan, utilizing test and live Data to validate reports, and conduct stress and performance testing, at no additional cost.

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TESTING SERVICES

Testing 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.

Vendor must demonstrate that their testing methodology can be integrated with the State standard methodology.

**1.2 Unit Testing**

In Unit Testing, MS2 shall test the application components on an individual basis to verify that the inputs, outputs, and processing logic of each application component functions without errors. Unit testing is performed in either the development environment or a testing environment.

The goal is to find errors in the smallest unit of software before logically linking it into larger units. If successful, subsequent testing should only reveal errors related to the integration between application modules.

The MS2 developer, who is responsible for a specific unit of work, will be responsible for conducting the unit testing of their modules.

<b>Activity</b>	Develop the scripts needed to unit test individual application modules, interface(s) and conversion components.
<b>Description</b>	
<b>MS2 Team Responsibilities</b>	For application modules, conversions and interfaces the MS2 team will identify applicable test scripts and installation instructions, adapt them to the Project specifics, test the process, and compare with the documented expected results.
<b>Unit-Tested Modules</b>	Unit-Tested Modules that have been tested to verify that the inputs, outputs, and processing logic of each application module functions without errors. Individual detailed test scripts and installation guides list all the required actions and data to conduct the test, the process for test execution, and the expected results.

**1.3 System Integration Testing**

The new System is tested in integration with other application systems (legacy and service providers) in a production-like environment. System Integration Testing validates the integration between the individual unit application modules and verifies that the new System meets defined requirements and supports execution of interfaces and business processes. The System Integration Test is performed in a test environment.

Thorough end-to-end testing shall be performed by the MS2 team(s) to confirm that the Application integrates with any interfaces. The test emphasizes end-to-end business processes and the flow of information across applications. It includes all key business processes and interfaces being implemented, confirms data transfers with external parties, and includes the transmission or printing of all electronic and paper documents.

<b>Activity Description</b>	Systems Integration Testing validates the integration between the target application modules and other systems, and verifies that the new System meets defined interface requirements and supports execution of business processes. This test emphasizes end-to-end business processes and the flow of information across the application. It includes all key business processes and interfaces being
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TESTING SERVICES

	implemented, confirms data transfers with external parties, and includes the transmission or printing of all electronic and paper documents.
	<ul style="list-style-type: none"> <li>• Take the lead in developing the Systems Integration Test Specifications.</li> <li>• Work jointly with the State to develop and load the data profiles to support the test Specifications.</li> <li>• Work jointly with the State to validate components of the test scripts.</li> </ul>
	<ul style="list-style-type: none"> <li>• Work jointly with MS2 to develop the Systems Integration Test Specifications.</li> <li>• Work jointly with MS2 to develop and load the data profiles to support the test Specifications.</li> <li>• Work jointly with MS2 to validate components of the test scripts, modifications, fixes and other System interactions with the MS2 supplied Software Solution.</li> </ul>
Work Product Description	<ul style="list-style-type: none"> <li>• The Integration-Tested System indicates that all interfaces between the application and the legacy and third-party systems, interfaces, and applications are functioning properly.</li> </ul>

#### 1.4 Conversion Validation Testing

In Conversion Validation Testing, target application functions are validated.

Activity Description	The conversion validation test should replicate the entire flow of the converted data through the Software Solution. As the Software Solution is interfaced to legacy or third-party applications/interfaces, testing verifies that the resulting flow of the converted data through these interface points performs correctly.
MS2 Team Responsibilities	For conversions and interfaces, the MS2 team will execute the applicable validation tests and compare execution results with the documented expected results.
State Responsibilities	Extract and cleanse, if necessary, the legacy data to be converted in the data conversions.
Work Product Description	Validation-Tested Conversion Programs. These programs include conversion programs that have been tested to verify that the resulting converted legacy data performs correctly in the entire suite of the Application.

#### 1.5 Installation Testing

In Installation Testing the application components are installed in the System Test environment to test the installation routines and are refined for the eventual production environment. This activity serves as a dry run of the installation steps in preparation for configuring the production system.

#### 1.6 User Acceptance Testing (UAT)

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.

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The Vendor's Project Manager must certify in writing, that the Vendor's own staff has successfully executed all prerequisite Vendor testing, along with reporting the actual testing results prior to the start of any testing executed by State staff.

The State shall be presented with all testing results, as well as written Certification that MS2 has successfully completed the prerequisite tests, meeting the defined Acceptance Criteria, and performance standards. The State shall commence testing within five (5) business days of receiving Certification, in writing, from MS2 that the system is installed, configured, complete and ready for State testing. The State shall conduct the UAT utilizing scripts developed as identified in the Acceptance Test Plan to validate the functionality of the System and the interfaces, and verify Implementation readiness. UAT is performed in a copy of the production environment and can serve as a performance and stress test of the System. The User Acceptance Test may cover any aspect of the new System, including administrative procedures (such as backup and recovery).

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.

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>MS2 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 MS2 in determining the required actions for problem resolution.</li> <li>• Provide Acceptance of the validated Systems.</li> </ul>
<b>Work Product</b>	The Deliverable for User Acceptance Tests is the User Acceptance Test Results.

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Description	These results provide evidence that the new System meets the User Acceptance criteria defined in the Work Plan.
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## 1.7 Performance Tuning and Stress Testing

MS2 shall develop and document hardware and Software configuration and tuning of the *Traffic Data Management System (TDMS)* infrastructure as well as assist and direct the State's System Administrators and Database Administrators in configuring and tuning the infrastructure to support the software throughout the Project

### 1.7.1 Scope

The scope of performance testing shall measure the system level metrics critical for the development of the applications infrastructure and operation of the applications in the production environment. It will include the measurement of response rates of the application for end-user transactions and resource utilization (of various servers and network) under various load conditions. These response rates shall become the basis for changes and retesting until optimum system performance is achieved.

The application transactions shall be identified with specific roles and selected transactions shall be recorded for the performance measurements. These will be compared to baselines to determine if object and/or system performance increases as changes are made.

Performance testing shall consider the full scope of the application infrastructure with emphasis on the most heavily used or shared transactions. Performance testing of the application will profile the identified user transactions and assist in the identifying performance gaps to improve the most critical parts of the applications.

Performance testing and tuning shall occur in the final production environment and shall use a copy of the final production database to provide the best results.

MS2 must lead this effort. Responsibilities include identifying appropriate tunable parameters and their default and recommended settings, developing scripts which accurately reflect business load and coordinating reporting of results.

### 1.7.2 Test types

Performance testing shall use two different types of tests to determine the stability of the application. They are baseline tests and load tests

**a. Baseline Tests:** Baseline tests shall collect performance data and load analysis by running scripts where the output is broken down into business transactions or functions. The test is like a single user executing a defined business transaction. During baseline testing, each individual script is run to establish a baseline for transaction response time, throughput and other user-based metrics. Usually each business transaction is executed multiple times during a single test run to obtain an average for the user-based metrics required for the performance testing evaluations. It must be noted that changes made to the code after baseline testing is completed will skew the results collected to date. All effort will be made to provide a code test base that is tested in the environment

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for problems prior to the establishment of the baseline, which are used in future testing and tuning efforts. Any changes introduced into the environment after performance testing has started can compromise the accuracy of the results and will force a decision to be made whether baseline results need to be recreated.

**b. Load Tests:** Load testing will determine if the behavior of a system can be sustained over a long period of time while running under expected conditions. Load tests help to verify the ability of the application environment under different load conditions based on work load distribution. System response time and utilization is measured and recorded.

### **1.7.3 Tuning**

Tuning will occur during both the development of the application and load testing. Tuning is the process whereby the application performance is maximized. This can be the result of making code more efficient during development as well as making tuning parameter changes to the environment.

For infrastructure tuning, parameters will be identified for all components prior to undertaking the load testing efforts. This should include a list of the variables, their definitions, the default settings, range of acceptable settings and the settings as testing begins. This will permit the team to identify the areas of most potential gain and a starting point. Tuning is a process which is repeated until the team feels that the systems are running at or near optimum performance.

### **1.7.4 Implementing Performance and Stress Test**

Performance and Stress test Tools must be provided by the vendor for this effort. Consideration must be given to licensing with respect to continued use for regression testing. If the vendor is familiar with open source low/no cost tools for this purpose those tools should be identified.

### **1.7.5 Scheduling Performance and Stress Testing**

MS2 shall perform Test Planning. The steps for planning include identification of application functionality as well as what percentage of normal daily use is represented by each function. This information will become the foundation for scripting so that tests closely represent what loads in production will look like.

MS2 shall provide definition and expectations from testing. This definition should include who is in charge of testing and coordinating results, anticipated run times, logs required for tracking, their locations and which technician is responsible to track and provide them following each test to the team.

Initial test runs shall be completed to establish that the tests and data sets can be run to completion without errors. The ratio of types of transactions which makeup the test shall be reviewed prior to the beginning of testing and then again once testing has begun to make sure that testing accurately reflects the system performing in production.

Initial tests shall be used to establish a baseline from which all subsequent tests will be compared. Tests will be considered for baseline status once two of them have been run within 2% of each other in key and overall performance areas. No changes to the test scripts or data sets (with the exception of restores after each test) can be done to the test environment once tuning has begun so as to not

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damage the comparison to baseline results. The systems must be restarted prior to each test run to assure all cache is cleaned out. All effort will be made to run these tests at a time when system and network infrastructure utilization doesn't impact the results.

Post-test reporting and result assessment will be scheduled following each test. The team will compare these results to the baseline and a determination must be made to make additional changes to the parameter being tuned or return to the prior configuration and select another parameter to tune while keeping in mind that significant changes to any one parameter may require the retesting of some others. Careful work on identifying dependencies up front should minimize this impact.

If defects are identified in the application during testing they will be recorded; however, changes to the application code should be avoided if possible so as not to affect baseline comparisons. If a change to the application is required new baselines will be established (and possibly the execution of prior tests to validate changes with the new application) before testing can continue.

When performing capacity testing against a GUI the focus will be on the ability of the interface to respond to user input.

During stress/load testing the tester will attempt to stress or load an aspect of the system to the point of failure, the goal being to determine weak points in the system architecture. The tester will identify peak load conditions at which the program will fail to handle required processing loads within required time spans.

During Performance testing the tester will design test case scenarios to determine if the system meets the stated performance criteria (i.e. A Login request shall be responded to in 1 second or less under a typical daily load of 1000 requests per minute.). In both cases the tester will determine the capacity of the system under a known set of conditions.

### 1.8 Regression Testing

As a result, of the user testing activities, problems will be identified that require correction. The State will notify the Vendor of the nature of the testing failures in writing. The Vendor will be required to perform additional testing activities in response to State and/or user problems identified from the testing results. Regression testing means selective re-testing to detect faults introduced during the modification effort, both to verify that the modifications have not caused unintended adverse effects, and to verify that the modified and related (possibly affected) System components still meet their specified requirements:

- a.) For each minor failure of an Acceptance Test, the Acceptance Period shall be extended by corresponding time defined in the Test Plan.
- b.) MS2 shall notify the State no later than five (5) business days from the MS2's receipt of written notice of the test failure when MS2 expects the corrections to be completed and ready for retesting by the State. MS2 will have up to five (5) business days to make corrections to the problem unless specifically extended in writing by the State.

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- c.) When a programming change is made in response to a problem identified during user testing, a regression Test Plan should be developed by MS2 based on the understanding of the program and the change being made to the program. The Test Plan has two objectives:
1. validate that the change/update has been properly incorporated into the program; and
  2. validate that there has been no unintended change to the other portions of the program.
- d.) MS2 will be expected to:
1. Create a set of test conditions, test cases, and test data that will validate that the change has been incorporated correctly;
  2. Create a set of test conditions, test cases, and test data that will validate that the unchanged portions of the program still operate correctly; and
  3. Manage the entire cyclic process.
- e.) MS2 will be expected to execute the regression test, provide actual testing results, and certify its completion in writing to the State prior to passing the modified Software application to the users for retesting.

In designing and conducting such regression testing, MS2 will be required to assess the risks inherent to the modification being implemented and weigh those risks against the time and effort required for conducting the regression tests. In other words, MS2 will be expected to design and conduct regression tests that will identify any unintended consequences of the modification while taking into account Schedule and economic considerations.

### 1.9 Security Review and Testing

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

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

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. Tests shall, at a minimum, cover each of the service components. Test procedures may include Penetration Tests (pen test) or code analysis and Review.

Service Component	Defines the set of capabilities that:
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 entrance into a

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	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.

In their proposal, the Vendors must acknowledge their responsibilities for security testing. 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. Tests shall, at a minimum, cover each of the service components. Test procedures may include 3<sup>rd</sup> party Penetration Tests (pen test) or code analysis and review.

MS2 May be required to provide 3<sup>rd</sup> party testing. Prior to the System being moved into production MS2 shall provide results of all security testing to the Department of Information Technology for review and Acceptance. All Software and hardware shall be free of malicious code (malware).

**1.10 Successful UAT Completion**

Upon successful completion of UAT, the State will issue a Letter of UAT Acceptance. Upon issuance of the Letter of UAT Acceptance by the State, the respective Warranty Period shall commence as set forth in Contract Exhibit K: *Warranty and Warranty Services*.

**1.11 System Acceptance**

Upon completion of the Warranty Period, the State shall issue a Letter of Final System Acceptance.

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MAINTENANCE AND SUPPORT SERVICES

**1. SYSTEM MAINTENANCE**

*MS2 shall maintain and support the System in all material respects as described in the applicable program Documentation after User Acceptance and successful completion of the Warranty Period.*

**1.1 MS2's Responsibility**

MS2 shall maintain the Application System in accordance with the Contract. MS2 will not be responsible for maintenance or support for Software developed or modified by the State.

**2. SYSTEM SUPPORT**

**2.1 MS2's Responsibility**

MS2 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.

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:

**a. Class A Deficiencies (Telephone Support)**

For all Class A Deficiencies, MS2 shall provide, to the State, on-call telephone assistance, with issue tracking available to the State, nine (9) hours per day (8AM – 5PM EST) and five (5) days a week (Monday – Friday) during normal NHDOT business hours with an e-mail / telephone response within two (2) hours of request;

**b. Class A Deficiencies (Remote Support)**

For all Class A Deficiencies, MS2 shall provide support with remote diagnostic services, within four (4) business hours of a request; and

**c. Class B & C Deficiencies** –The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within twenty-four (24) hours of notification of planned corrective action;

**3. SUPPORT OBLIGATIONS AND TERM**

- 3.1 MS2 shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications and terms and requirements of the Contract;
- 3.2 MS2 shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;
- 3.3 For all maintenance Services calls, MS2 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 Solution information, 6) Resolved by, 7) Identifying number i.e. work order number, 8) Issue identified by; and

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- 3.4 MS2 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.
- 3.5 If MS2 fails to correct a Deficiency within the allotted period of time stated above, MS2 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, as well as to return MS2's product and receive a refund for all amounts paid to MS2, including but not limited to, applicable license fees, within ninety (90) days of notification to MS2 of the State's refund request
- 3.6 If MS2 fails to correct a Deficiency within the allotted period of time Stated above, MS2 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.

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EXHIBIT H  
REQUIREMENT RESPONSES

**Section 1: Business Requirements**

Begins on the following page.

**NOTE:**

MS2's Proposal exceeds the 90% requirement for the requirements and deliverables in RFP Appendix C: *System Requirements*.

MS2's response to each of the system requirements identified in RFP Table C-2 General System Requirements – Vendor Response Checklist are below.

Y = requirement is included in MS2's proposed solution without modification

M = requirement is included in MS2's proposed solution with modification

N = requirement is not included in MS2's proposed solution

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BUSINESS REQUIREMENTS						
Req#	Requirement Description	Priority	Vendor Response	Delivery Method	Comments	
<b>SOFTWARE REQUIREMENTS</b>						
B1.1	The software must accommodate concurrent use of the system, including both read/write users and an unlimited number of read-only public access users.	M	Y			
B1.2	The system must provide for multiple levels of users including systems administration, data management, data uploading, data reading, and general read-only user.	M	Y			
B1.3	For all users except for read-only users, access to the system must require standard user name and password as per standards established by the New Hampshire Department of Information Technology.	M	Y			
<b>FUNCTIONAL REQUIREMENTS - GENERAL</b>						
B2.1	The Proposed Solution must include a Data Migration Plan for importing traffic data, both current and historical, into the new system. This Plan will include:	M	Y			
B2.2	Station location information for approximately 7500 ATR, WTM, and coverage count sites.	M	Y			
B2.3	Station location information for approximately 1200 Turning Movement Counts	M	Y			
B2.4	Station location information for approximately 300 manual classification counts	M	Y			

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B2.5	Annual Average Daily Traffic (AADT) volumes going back to 1970 for approximately 7500 ATR sites	M	Y		
B2.6	The last twenty years' worth of individual hourly ATR counts, both short term and continuous, volume and classification.	M	Y		
B2.7	The last ten years' worth of WIM data.	M	Y		
B2.8	Manual classification data in 15 minute intervals from year 2000	M	Y		
B2.9	Manual Turning Movement data in 15 minute intervals from year 2000	M	Y		
B2.10	The Proposed Solution must have data archiving capabilities.	M	Y		
B2.11	The Proposed Solution must provide tools to analyze, query, access, and utilize traffic data for NHDOT's internal customers as well as external customers and display the information using GIS.	M	Y		
B2.12	The Proposed Solution must include an automated traffic database for processing and reporting traffic data with a web based application that can provide tools for compiling daily, monthly, and year-end processes. See Appendix J - J1, J2, J3, J4, J5	M	Y		
B2.13	The Proposed Solution must be able to import the current GIS layer of traffic counter locations maintained by NHDOT Bureau of Traffic and must allow NHDOT to edit the counter locations in GIS.	M	Y		
B2.14	The Proposed Solution must be able to read data from the NH Linear Reference System file (ESRD) and allow user(s) to update this data.	M	Y		

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<b>FUNCTIONAL SPECIFICATIONS - DATA PROCESSING</b>				
B2.15	The Proposed Solution must be able to output data items to be reported for HPMS submittal (as described in the current version of the HPMS Field Manual section 2.4, Table 2.1, Items 1 to 20, Items 29 to 69) See Appendix J - J6, J7, J8	O	Y	
B3.1	The Department collects traffic data --volume, class, speed, and weight data using a variety of devices. The Proposed Solution at a minimum must be able to read data files in the raw format from each of the Vendors listed below (B3.2 to B3.7):			
B3.2	PEEK ADR, SABRE ATR, Peek Traffic Corp., 2906 Corporate Way, Palmetto, FL, 34221. Phone 800 245 7660	M	Y	
B3.3	Diamond Phoenix, Unicorn ATR, Diamond Traffic Products, 76433 Alder Street PO Box 14555, Oakridge, OR, 97463. Phone 541 782 3903	M	Y	
B3.4	Jamar Trax ATR, Jamar Technologies Inc., 1500C Industry Rd., Hatfield, PA, 19440. Phone 215 361 2244	M	Y	
B3.5	ECM-Hestia WIM, Electronique Control Measure Inc., 464 Commercial Dr., Buda, TX 78610. Phone 512 295 9752	M	Y	
B3.6	Wavetronix Smart Sensor, Wavetronix, 78 E 1700 S, Provo, UT 84606. Phone 801 734 7200	M	Y	
B3.7	Metrocount Traffic Recorders, Metrocount USA 11820 West Market Place Suite M, Fulton, MD 20759. Phone 301 734 6101	M	Y	

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B3.8	The Department collects intersection turning movement and manual classification data using a variety of devices. The Proposed Solution at a minimum must be able to read data files in the raw format from each of the Vendors listed below (B3.9 & B3.10):	M	Y		
B3.9	Miovision Scout Video Collection Unit, Miovision Technologies, 148 Manitou Dr., #101, Kitchener, ON N2C 1L3. Phone 519 513 2407	M	Y		
B3.10	Jamar TDC Ultra, Jamar Technologies Inc., 1500C Industry Rd., Hatfield, PA, 19440. Phone 215 361 2244	M	Y		
B3.11	The Proposed Solution at a minimum must be able to read the reports created from the devices listed in B3.9 and B3.10, store and display the reports using GIS at intersections.	M	Y		
B3.12	The Proposed Solution must process and store continuous count data and coverage count data including volume, classification, weigh-in-motion, speed and length data.	M	Y		
B3.13	The Proposed Solution must provide quality control and quality checking of data and must validate field-collected traffic data, notify the user of data validation errors and allow the user to correct the errors.	M	Y		
B3.14	The Proposed Solution must include procedures for manually adding, deleting, and editing data for individual counts and traffic count locations (stations). See Appendix J - J9, J10, J11, J12	M	Y		
B3.15	NH DOT shares data with other DOTs. The Proposed Solution must be able to read raw data files from other DOTs.	M	Y		

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									Custom readers for NHDOT formats
B3.16	The Proposed Solution must be able to read traffic data including volumes, speed, classification and files from other NHDOT Bureaus (ie. Bureau of Turnpikes and Traffic Management Center)		M		M				
B3.17	NHDOT collects directional traffic data for count stations (volumes, class, speed). The Proposed Solution must be able to combine the two directional files into one combined file for the count stations.		M		M		Y		
B3.18	NHDOT collects vehicle class or speed for count locations. The Proposed Solution must be able to convert class or speed data into volume data.		M		M		Y		
B3.19	The Proposed Solution must be able to split a single file with directional data into two files, one for each direction.		M		M		Y		
B3.20	The Proposed Solution must calculate Seasonal Adjustment Factors, Axle Correction Factors, and Growth Factors in accordance with the current edition of FHWA Traffic Monitoring Guide (TMG) and Highway Performance Monitoring System (HPMS) Field Manual. See Appendix J - J13, J13-1, J14, J15, J16		M		M		Y		
B3.21	New Hampshire has five growth regions. The coverage counts are factored using Growth Factors for the respective region and by functional class of the highway. The Proposed Solution must develop Growth Factors by functional class of the highway for these five growth regions. See Appendix J - J17		M		M		Y		
B3.22	The Proposed Solution must calculate Average Daily Traffic (ADT), Average Weekday Traffic (AWDT), and Annual Average Daily Traffic (AADT).		M		M		Y		

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B3.23	The Proposed Solution must calculate the 200 High Hours, the Design Hour Volume (DHV defined as the 30 <sup>th</sup> High Hour Volume), the Directional Design Hour Volume (DDHV), and the K-Factor (30 <sup>th</sup> High Hour Volume as percent of AADT) for all continuous count stations. See Appendix J - J18, J19	M	Y		
B3.24	The Proposed Solution must calculate the DHV (K-Factor) and DDHV for all coverage count stations.	M	Y		
B3.25	The Proposed Solution must produce monthly and annual reports for all continuous count stations in the format specified by NHDOT. See Appendix J - J20, J21, J22, J23, J24, J25, J26, J27	M	Y		
B3.26	The Proposed Solution must produce the vehicle classification by functional system report for the yearly submission to HPMS from continuous classification, weigh-in-motion, and short-term classification count stations. See Appendix J - J28	M	Y		
B3.27	The Proposed Solution must calculate single unit Truck and Bus AADT per HPMS Field Manual.	M	Y		
B3.28	The Proposed Solution must calculate percent peak single unit Trucks and Buses per HPMS Field Manual.	M	Y		
B3.29	The Proposed Solution must calculate combination truck AADT per HPMS Field Manual.	M	Y		
B3.30	The Proposed Solution must calculate percent peak combination trucks per HPMS Field Manual.	M	Y		

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B3.31	The Proposed Solution should calculate 20 Year Forecast AADT's per HPMS Field Manual.	M	Y		
B3.32	The Proposed Solution must output AADT, single unit Truck and Bus AADT, percent peak single unit Trucks and Buses, combination Truck AADT, percent peak combination Trucks, and 20 Year Forecast AADT to enable electronic transfer of data to HPMS submittal software. HPMS Field Manual Section 2.4, Table 2.1, Items 21 to 28. See Appendix J - I29	M	Y		
B3.33	The Proposed Solution must provide database management tools for the storage, modification, importing and extraction of traffic data.	M	Y		
B3.34	The Proposed Solution must provide export capabilities to support the current version of FHWA TMAS system including Station Card (S-Card), Volume Card (V-Card), Classification Card (C-Card), and Weight Card (W-Card).	M	Y		
B3.35	The Proposed Solution must conform to the current edition of FHWA TMG requirements, American Association of State Highway Officials (AASHTO) guidelines for Traffic Data Programs, and FHWA Highway Performance Monitoring System (HPMS).	M	Y		
B3.36	NHDOT collects short-term counts in a cooperative effort with the nine Regional Planning Commissions (RPCs) on a three-year cycle. The Proposed Solution must include a scheduler to facilitate assignment of count locations to each RPC each year as well as a scheduling function for the assignment of counts to be performed by NHDOT personnel.	M	Y		

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B3.37	The Proposed Solution must provide an access point to allow NHDOT staff to upload traffic data files for processing.	M	Y	
B3.38	The Proposed Solution must include Vendor provided training and maintenance support services to NHDOT staff.	M	Y	
<b>FUNCTIONAL SPECIFICATIONS - DATA REPORTING</b>				
B4.1	The Proposed Solution must provide standard reports to replicate information currently provided in reports as listed below (sample reports are shown in Appendix J):			
B4.2	200 High Hour Report. See Appendix J - J30	M	Y	
B4.3	200 High Hour Graph. See Appendix J - J31	M	Y	
B4.4	<i>Seasonal Factors</i>			
B4.5	Seasonal Factors Report. See Appendix J - J32	M	Y	
B4.6	Seasonal Factors Graph. See Appendix J - J33, J34	M	Y	
B4.7	Seasonal Factors Edit Form. See Appendix J - J35	M	Y	
B4.8	Axle Correction Factors. See Appendix J - J36	M	Y	
B4.9	Axle Correction Edit Form. See Appendix J - J37	M	Y	
B4.10	AADTs.	M	Y	
B4.11	Continuous Count Station AADT Report. See Appendix J - J38	M	Y	
B4.12	Permanent Station AADT Edit Form. See Appendix J - J39	M	Y	
B4.13	AADTs Compare Report. See Appendix J - J40	M	Y	
B4.14	AADTs Calculations Report. See Appendix J - J41	M	Y	

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B4.15	AADTs Edit Form. See Appendix J - J42	M	Y	
B4.16	<i>Interstates</i>			
B4.17	Interstate Form. See Appendix J - J43	M	Y	
B4.18	Interstate Schematic Form (Typical). See Appendix J - J 44, J45	M	Y	
B4.19	<i>HPMS</i>			
B4.20	HPMS Growth Factors Detail Report. See Appendix J - J46	M	Y	
B4.21	HPMS Growth Factors Summary Report. See Appendix J - J47	M	Y	
B4.22	Preliminary HPMS Growth Factors Edit Form. See Appendix J - J48	M	Y	
B4.23	Average Growth Factors Edit Form. See Appendix J - J49	M	Y	
B4.24	HPMS 20 Year Growth AADTs Report. See Appendix J - J50	M	Y	
B4.25	HPMS Submission Data. See Appendix J - J51	M	Y	
B4.26	<i>FHWA Reports</i>	M	Y	
B4.27	The Proposed Solution must include report functions to create monthly reports required to meet the FHWA current edition of TMG/TMAS data reporting requirements, including station, volume, classification, speed, weight and per vehicle reports. The reports will be generated by direction as applicable. See Appendix J - J52, J53, J54, J55, J56, J57	M	Y	
B4.28	<i>Custom Reports</i>			

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B4.29	The Proposed Solution should allow NHDOT to create custom reports. Examples - 24 hour daily volumes are computed using AADT's for segments of highways with factors from a nearby CTC or a group of CTC's, historic comparison of Design Hour Volume as percent of AADT, various factors to a adjust peak hour and average daily data to peak month. See Appendix J - J58, J59, J60, J61	M	Y		
B4.30	<i>Ad Hoc Reports</i>				
B4.31	The Proposed Solution must include Ad Hoc reporting functions so that data can be extracted directly from the database and exported to a format convenient to use in Excel and Access.	M	Y		
B4.32	<i>NHDOT website</i>				
B4.33	The Proposed Solution must include report functions to create reports that are currently displayed on the NHDOT website in PDF format and to allow the ability to download these reports for all users - internal and external. A list of the reports currently available on the NHDOT website is listed below (sample reports are shown in Appendix K): See Appendix K - K1, K2	M	Y		
B4.34	Traffic Volume Reports - Listed by County and Town. See Appendix K - K3, K3-1, K4	M	Y		
B4.35	Traffic Volume Reports - Listed by Route. See Appendix K - K5, K5-1, K6	M	Y		
B4.36	Traffic Volume Reports - 200 High Hour Reports. See Appendix K - K7, K8	M	Y		
B4.37	Automatic Traffic Recorder Reports. See Appendix K - K9, K9-1, K10, K10-1, K10-2, K10-3	M	Y		

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B4.38	Traffic Detail Sheets. See Appendix K - K11, K11-1, K12, K13	M	Y		
B4.39	The Proposed Solution must allow the user to download the files in either PDF or Excel format.	M	Y		
B4.40	Report run times in the Proposed Solution should not exceed 5 minutes	M	Y		

**APPLICATION REQUIREMENTS**

Req#	Requirement Description	Priority	Vendor (or Sub)	Vendor Method	Comments
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**TECHNICAL**

A1.1	The Proposed Solution must define compliance with Open Standards as specified in RSA 21-R:10 and 21-R:13, including but not limited to Open Data Formats.	M	Y		
A1.2	The Proposed Solution must conform with W3C standards	M	Y		
A1.3	XHTML 1.0	M	Y		
A1.4	CSS 2.1	M	Y		
A1.5	XML 1.0 (fourth edition)	M	Y		
A1.6	The Proposed Solution must be able to interface to Oracle databases and MS SQL Server databases	M	Y		

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A1.7	The Proposed Solution must use Graphical User Interface Technologies	M	Y		
A1.8	The Proposed Solution must be web-based compatible (Internet Explorer preferred)	M	Y		
A1.9	The Proposed Solution must support - Microsoft Win7, Office Professional Version 2010, and Internet Explorer	M	Y		
A1.10	The Proposed Solution must use a version control system for code management	M	Y		
A1.11	The Proposed Solution must not require JAVA	M	Y		
<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	Y		
A2.2	Verify the identity or authenticate all of the system's users before allowing them to use its capabilities to prevent access to inappropriate or confidential data or services. .	M	Y		
A2.3	Enforce unique user names.	M	Y		
A2.4	Enforce complex passwords for Administrator Accounts of ten characters or more in accordance with DoIT's statewide <i>User Account and Password Policy</i>	M	M		
A2.5	Enforce the use of complex passwords for general users using capital letters, numbers and special characters	M	M		
A2.6	Encrypt passwords in transmission and at rest within the database.	M	M		
A2.7	Expire passwords after 90 days	M	M		

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A2.8	Authenticate users and client applications to prevent access to inappropriate or confidential data or services.	M	Y		
A2.9	Provide ability to limit the number of people that can grant or change authorizations	M	Y		
A2.10	Establish ability to enforce session timeouts during periods of inactivity.	M	Y		
A2.11	Ensure application has been tested and hardened to prevent critical application security flaws. ( At a minimum, the application shall be tested against all flaws outlined in the Open Web Application Security Project (OWASP) Top Ten ( <a href="http://www.owasp.org/index.php/OWASP_Top_Ten_Project">http://www.owasp.org/index.php/OWASP_Top_Ten_Project</a> ))	M	M		
A2.12	The application shall not store authentication credentials or sensitive Data in its code.	M	Y		
A2.13	Audit all attempted accesses that fail identification, authentication and authorization requirements	M	Y		
A2.14	The application shall log all activities to a central server to prevent parties to application transactions from denying that they have taken place. The logs must be kept for three (3) years.	M	Y		
A2.15	The application must allow a user to explicitly terminate a session. No remnants of the prior session should then remain.	M	Y		
A2.16	Use only the Software and System Services designed for use	M	Y		
A2.17	The application Data shall be protected from unauthorized use when at rest	M	Y		

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Req#	State-Requirements Requirement Description	Conflicts	Vendor Response	Vendor Method	Comments
<b>TESTING</b>					
<b>APPLICATION SECURITY TESTING</b>					
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	Y		
T1.2	The Vendor shall be responsible for 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	Y		

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T1.3	Test for 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	M	Y		
T1.4	Test for Access Control; supports the management of permissions for logging onto a computer or network	M	Y		
T1.5	Test for encryption; supports the encoding of data for security purposes	M	Y		
T1.6	Test the Intrusion Detection; supports the detection of illegal entrance into a computer system	M	Y		
T1.7	Test the Verification feature; supports the confirmation of authority to enter a computer system, application or network	M	Y		
T1.8	Test the Digital Signature; guarantees the unaltered state of a file	M	Y		
T1.9	Test the User Management feature; supports the administration of computer, application and network accounts within an organization.	M	Y		
T1.10	Test Role/Privilege Management; supports the granting of abilities to users or groups of users of a computer, application or network	M	Y		
T1.11	Test Audit Trail Capture and Analysis; supports the identification and monitoring of activities within an application or system	M	Y		
T1.12	Test 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.	M	Y		

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T1.13	Prior to the System being moved into production, the Vendor shall provide results of all security testing to the Department of Information Technology for review and acceptance.	M	Y		
<b>STANDARD TESTING</b>					
T2.1	The Vendor must perform application testing using an industry standard and State approved testing methodology.	M	Y		
T2.2	All testing results must be shared with the State.	M	Y		
T2.3	The Vendor must perform application stress testing and tuning.	M	Y		
<b>TESTING Procedures (Under Construction)</b>					
T3	Testing 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. Vendor must demonstrate that their testing methodology can be integrated with the State standard methodology.	M	Y		
T3.1	Unit Testing	M	Y		
T3.1	Application components are tested on an individual basis to verify that the inputs, outputs, and processing logic of each application component functions without errors. Unit Testing is performed in either the development environment or a testing environment. The goal is to find errors in the smallest unit of Software. If successful, subsequent integration testing should only reveal errors related to the integration between application components.	M	Y		
T3.2	System Integration Testing	M	Y		

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T3.2.1	The Systems Integration Test is performed in a test environment. Validates the integration between the individual unit application components and verifies that the new System meets defined requirements and supports execution of interfaces and business processes.	M	Y		
T3.2.2	Emphasizes end-to-end business processes, and the flow of information across applications. It includes all key business processes and interfaces' being implemented, confirms data transfers with external parties, and includes the transmission or printing of all electronic and paper documents.	M	Y		
T3.2.3	The State will conduct System Integration Testing, utilizing scripts developed, as identified in the Test Plan, to validate the functionality of the System and its modifications, fixes and other System interactions with the Vendor supplied interfaces. The State will also use System Integration Testing to validate Software Solution.	M	Y		
T3.3	Conversion/Migration Validation Testing				
	The Conversion/Migration Validation Testing should replicate the entire flow of the converted data through the Software Solution. As the Software Solution is interfaced to legacy or third-party applications, the testing verifies that the resulting converted legacy data performs correctly.	M	Y		
T3.4	Installation Testing				

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	Application components are installed in the System test environment to test the installation routines and are refined for the eventual production environment. This activity serves as a dry run of the installation steps in preparation for configuring the production System.	M	Y		
T3.5	User Acceptance Testing (UAT)	M	Y		
	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.	M	Y		
	The Vendor's Project Manager must certify in writing, that the Vendor's own staff has successfully executed all prerequisite Vendor testing, along with reporting the actual testing results prior to the start of any testing executed by State staff.	M	Y		
	The State will be presented with a State approved Test Plan, test scenarios, test cases, test scripts, test data, and expected results, as well as written Certification of the Vendor's having completed the prerequisite tests, prior to the State staff involvement in any testing activities	M	Y		
	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.	M	Y		

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<b>HOSTING-CLOUD REQUIREMENTS</b>						
Req.	State Requirements Requirement Description	Criticallity	Vendor Respons	Vendor Date of Method	Comments	
<b>OPERATIONS</b>						
H1.1	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 as described in Section H-25.10.1: Warranty Period.	M	Y			
H1.1.1	Vendor shall maintain a secure hosting environment providing all necessary hardware, software, and Internet bandwidth to manage the application and support users with permission based logins.	M	Y			
H1.1.2	State access will be via Internet Explorer	M	Y			
H1.1.3	At the State's option, authorized third parties may be given limited access by the Vendor to certain levels of the State's system through the VPN or through a separate network connection that meets the Vendor's specifications.	M	Y			
H1.1.4	At a minimum, the System should support this client configuration; Pentium 4, 630/3.0GHz; PC, Microsoft Win7 Professional Version 2010, Internet Explorer 8, and 128 bit encryption.	M	M		IE 9 and above	
H1.1.5	The State will be responsible for equipment, labor, and /or services necessary to set-up and maintain the internet connectivity at the State and/or other third party sites.	M	Y			

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H1.6	Vendor will not be responsible for network connection issues, problems or conditions arising from or related to circumstances outside the control of the Vendor, ex: bandwidth, network outages and /or any other conditions arising on the State's internal network or, more generally, outside the Vendor's firewall or any issues that are the responsibility of the State Internet Service Provider.	M	Y		
H1.7	Vendor shall provide a secure Class A Data Center providing equipment (including dedicated servers), an on-site 24/7 system operator, managed firewall services, and managed backup Services.	M	Y		
H1.8	Data Center Air Conditioning - used to control temperature and humidity in the Data Center. Temperature ranges shall be between 68 and 75 °F.	M	Y		
H1.9	Data Center Humidity shall be non-condensing and be maintained between 40-55% with a maximum dew point of 62 °F.	M	Y		
H1.10	Data Center Backup Power - uninterruptible power supplies shall be sized to sustain computer systems and associated components for, at a minimum, the amount of time it takes for a backup generator to take over providing power. Where possible, servers shall contain redundant power supplies connected to commercial power via separate feeds.	M	Y		

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H1.11	Data Center Generator – shall be sufficient to sustain computer systems and associated components for, at a minimum, the amount of time it takes for commercial power to return. Fuel tanks shall be large enough to support the generator at -full load for a period not less than 1 ½ days of operation.	M	Y		
H1.12	Data Center Floor – A raised floor is required for more uniform air circulation in the form of a plenum for cold air as well as to provide space for power cabling and wetness monitoring.	M	Y		
H1.13	Data Center Fire Protection System – fire detectors in conjunction with suppression gaseous systems must be installed to reduce the risk of loss due to fire.	M	Y		
H1.14	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	Y		
H1.15	Vendor must monitor the application and all servers.	M	Y		
H1.16	Vendor shall manage the databases and services on all servers located at the Vendor's facility.	M	Y		
H1.17	Vendor shall install and update all server patches, updates, and other utilities within 60 days of release from the manufacturer.	M	Y		
H1.18	Vendor shall monitor System, security, and application logs.	M	Y		
H1.19	Vendor shall manage the sharing of data resources.	M	Y		

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H1.20	Vendor shall manage daily backups, off-site data storage, and restore operations.	M	Y		
H1.21	The Vendor shall monitor physical hardware.	M	Y		
H1.22	The Vendor shall immediately report any breach in security to the State of New Hampshire.	M	Y		
<b>DISASTER RECOVERY</b>					
H2.1	Vendor shall conform to adequate disaster recovery procedures as defined by the State of New Hampshire.	M	Y		
H2.2	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	Y		
H2.3	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	Y		
H2.4	Vendor shall adhere to a defined and documented back-up schedule and procedure.	M	Y		
H2.5	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	Y		
H2.6	Scheduled backups of all servers must be completed regularly. At a minimum, Bluehost servers shall be backed up nightly, with one daily, one weekly, and one monthly backup stored in a secure location to assure data recovery in the event of a disaster.	M	Y		

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H2.7	The minimum acceptable frequency is differential backup daily, and complete backup weekly.	M	Y		
H2.8	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	Y		
H2.9	If State data is personally identifiable, data must be encrypted in the operation environment and on backup tapes.	M	Y		
H2.10	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	Y		
<b>NETWORK ARCHITECTURE</b>					
H3.1	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	Y		
H3.2	The Vendor shall provide network redundancy deemed adequate by the State by assuring redundant connections provided by multiple Internet Vendors, so that a failure of one Internet connection will not interrupt access to the State application.	M	Y		

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H3.3	Where redundant connections are not provided, then the Internet Vendor who provides the Internet service to the Vendor must have their service supplied by a provider(s) that has multiple feeds to ensure that a failure in one of the larger carriers will not cause a failure of the State's Service.	M	Y		
H3.4	The Vendor' network architecture must include redundancy of routers and switches in the Data Center.	M	Y		
<b>HOSTING SECURITY</b>					
H4.1	The Vendor shall employ security measures ensure that the State's application and data is protected.	M	Y		
H4.2	If State data is hosted on multiple servers, data exchanges between and among servers must be encrypted.	M	Y		
H4.3	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	Y		
H4.4	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	Y		

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H4.5	In the development or maintenance of any code, the Vendor shall ensure that the Software is independently verified and validated using a methodology determined appropriate by the State. All software and hardware shall be free of malicious code.	M	Y		
H4.6	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	Y		
H4.7	The Vendor shall ensure its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the Vendor' hosting infrastructure and/or the application.	M	Y		
H4.8	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	Y		
H4.9	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	Y		
H4.10	The Vendor shall provide fire detection and suppression system, physical security of and infrastructure security of the proposed hosting facility. The environmental support equipment of the Vendor website hosting facility: power conditioning; HVAC; UPS; generator must be acceptable to the State.	M	Y		

**SERVICE LEVEL AGREEMENT**

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H5.1	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	Y		
H5.2	Maintain the hardware and Software in accordance with the Specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M	Y		
H5.3	Repair or replace the hardware or Software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	Y		
H5.4	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 8:00am to 5:00pm- Monday thru Friday ET;	M	Y		

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H5.5	<p>The Vendor response time for support shall conform to the specific deficiency class as described below:</p> <ul style="list-style-type: none"> <li>o <u>Class A Deficiency - Software</u> - Critical, does not allow System to operate, no work around, demands immediate action; <u>Written Documentation</u> - missing significant portions of information or unintelligible to State; <u>Non Software</u> - Services were inadequate and require re-performance of the Service.</li> <li>o <u>Class B Deficiency - Software</u> - important, does not stop operation and/or there is a work around and user can perform tasks; <u>Written Documentation</u> - portions of information are missing but not enough to make the document unintelligible; <u>Non Software</u> - Services were deficient, require reworking, but do not require re-performance of the Service.</li> <li>o <u>Class C Deficiency - Software</u> - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; <u>Written Documentation</u> - minimal changes required and of minor editing nature; <u>Non Software</u> - Services require only minor reworking and do not require re-performance of the Service.</li> </ul>	M	Y		
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H5.6	<p>As part of the Software maintenance agreement, ongoing software maintenance and support issues, shall be responded to according to the following:</p> <p>a. <u>Class A Deficiencies</u> - 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 on-site or with remote diagnostic Services, within four (4) business hours of a request;</p> <p>b. <u>Class B &amp; C Deficiencies</u> -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;</p>	M	Y		
H5.7	<p>The hosting server for the State shall be available twenty-four (24) hours a day, 7 days a week except for during scheduled maintenance.</p>	M	Y		
H5.8	<p>The Vendor will guide the State with possible solutions to resolve issues to maintain a fully functioning, hosted System.</p>	M	Y		
H5.9	<p>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.</p>	M	Y		
H5.10	<p>The Vendor response time for support shall conform to the specific deficiency class as described in H5.6</p>	M	Y		

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H5.12	The Vendor will give two-business day's prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.	M	Y		
H5.13	The Vendor shall guarantee 99.9% uptime, exclusive of the regularly scheduled maintenance window	M	Y		
H5.14	If The Vendor is unable to meet the 99.9% 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	Y		
H5.15	The Vendor shall use a change management policy for notification and tracking of change requests as well as critical outages.	M	Y		
H5.16	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	Y		
H5.17	All hardware and 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.	M	Y		

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H5.18	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	Y		
H5.19	The Vendor shall provide the State with a personal secure FTP site to be used the State for uploading and downloading files.	M	Y		
<b>SUPPORT &amp; MAINTENANCE REQUIREMENTS</b>					
<b>State Requirements</b>					
Req#	Requirement Description	Details	Vendor Response	Vendor Daily/Weekly/Monthly	Comments
<b>SUPPORT &amp; MAINTENANCE REQUIREMENTS</b>					
S1.1	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	Y		
S1.2	Maintain the hardware and Software in accordance with the Specifications, terms, and requirements of the Contract, including providing, upgrades and fixes as required.	M	Y		
S1.3	Repair or replace the hardware or Software, or any portion thereof, so that the System operates in accordance with the Specifications, terms, and requirements of the Contract.	M	Y		

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S1.4	The State shall have unlimited access, via phone or Email, to the Vendor technical support staff between the hours of 8:00am to 5:00pm- Monday thru Friday ET;	M	Y		
S1.5	The Vendor response time for support shall conform to the specific deficiency class as described in H-25.11.2 Vendor Responsibility	M	Y		
S1.6	The Vendor will guide the State with possible solutions to resolve issues to maintain a fully functioning, hosted System.	M	Y		
S1.7	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	Y		
S1.8	The Vendor shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;	M	Y		
S1.9	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;	M	Y		

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S1.10	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.	M	Y		
<b>WARRANTY SERVICES</b>					
S2.1	Maintain the System Software in accordance with the Specifications and Terms of the Contract;	M	Y		
S2.2	Repair or replace the System Software or any portion thereof so that the System operates in accordance with the Specifications, terms and requirements of the Contract;	M	Y		
S2.3	Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, during normal State work hours M-F 8AM - 5PM ET, with an email / telephone response within two (2) hours of request, with assistance response dependent upon issue severity;	M	Y		
S2.4	On-site additional Services within four (4) business hours of a request;	M	N		
S2.5	Maintain a record of the activities related to warranty repair or maintenance activities performed for the State;	M	Y		

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S2.6	For all Warranty Service calls, 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.	M	Y		
S2.7	The Vendor must work with the State to identify and troubleshoot potentially large-scale Software 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; and	M	Y		
S2.8	All Deficiencies found during the Warranty Period and all Deficiencies found with the Warranty Releases shall be corrected by the Vendor no later than 5 business days, unless specifically extended in writing by the State, and at no additional cost to the State.	M	Y		
<b>PROJECT MANAGEMENT</b>					
Req.	State Requirements	Requirement Description	Difficulty	Vendor Response	Vendor Delivery Method Comment
<b>PROJECT MANAGEMENT</b>					
P1.1		Vendor shall participate in an initial kick-off meeting to initiate the Project.	M	Y	
P1.2		Vendor shall provide Project Staff as specified in the RFP.	M	Y	

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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 monthly.	M	Y		
P1.4	Vendor shall provide detailed monthly status reports on the progress of the Project, which will include expenses incurred year to date.	M	Y		
P1.5	Vendor shall provide all user, technical, and System Documentation as well as Project Schedules, plans, status reports, and correspondence.	M	Y		

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MS2's Project Manager and the State Project manager shall finalize the Work Plan within thirty (30) days 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 MS2's plan to implement the Application Software. Continued development and management of the Work Plan is a joint effort on the part of MS2 and State Project Managers.

The preliminary Work Plan created by MS2 and the State is set forth at the end of this Exhibit.

In conjunction with MS2's Project Management methodology, which shall be used to manage the Project's life cycle, the MS2 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 MS2 team members), refine the Project's scope, and establish the Project's Schedule.

## 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.
- MS2 shall provide a separate escrow agreement for the application.
- MS2 shall maintain an accounting system in accordance with Generally Accepted Accounting Principles (GAAP).

### B. Logistics

- The MS2 Team may perform work at a facility other than that furnished by the State at their own expense.
- The MS2 Team shall honor all holidays observed by MS2 or the State, although with permission, may choose to work on holidays and weekends.

### C. 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.
- MS2 assumes that an Alternate Project Manager may be appointed from time to time to handle reasonable and ordinary absences of the Project Manager.

### D. Technical Environment and Management

- The State is responsible for providing the Internet access for all State users.
- MS2 team shall implement their most current release of all applications.

### E. Conversions

- The MS2 Team's proposal is based on the assumption that the State's technical team is capable of implementing, with assistance from the MS2 technical team, a subset of the conversions. The MS2 Team shall lead the State with the mapping of the legacy Data to the MS2 applications.

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- Additionally, the MS2 Team shall:
  1. Provide the State with MS2 application data requirements and examples, of data mappings, conversion scripts, and data loaders. The MS2 Team shall identify the APIs the State should use in the design and development of the conversion.
  2. Provide guidance and assistance with the use of the data loaders and conversion scripts provided.
  3. Lead the review of functional and technical Specifications.
  4. Assist with the resolution of problems and issues associated with the development and Implementation of the conversions.

**F. Project Schedule**

- Deployment is planned to be phased in over a 36 month period.

**G. Reporting**

- MS2 shall conduct monthly status meetings, and provide reports that include, but are not limited to, minutes, action items, test results and Documentation.

**H. User Training and Change Management**

- The MS2 Team shall lead the development of the end-user training plan.
- A train the trainer approach may be used for some aspects of end-user training.
- The State shall schedule and track attendance on all end-user training classes.

**I. Performance and Security Testing**

- The MS2 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 MS2 on performance testing as set forth in Contract Exhibit F – *Testing Services*.

**2. ROLES AND RESPONSIBILITIES**

**A. MS2 Team Roles and Responsibilities**

**1) MS2 Team Project Executive**

The MS2 Team's Project Executives (MS2 and Subcontractor Project Executives) shall be responsible for advising on and monitoring the quality of the Implementation throughout the Project life cycle. The Project Executive shall advise the MS2 Team Project Manager and the State's Project leadership on the best practices for implementing the MS2 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) MS2 Team Project Manager**

The MS2 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 MS2 Implementation Team. The MS2 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 MS2 Team consultants to tasks in the Implementation Project according to the scheduled staffing requirements;

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- Define roles and responsibilities of all MS2 Team members;
- Provide monthly update progress reports to the State Project Manager;
- Notify the State Project Manager of requirements for State resources in order to provide sufficient lead time for resources to be made available;
- 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;
- 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.

**3) MS2 Team Analysis**

The MS2 Team shall conduct analysis of requirements, validate the MS2 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) MS2 Team Tasks**

The MS2 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
- Development and execution of unit test scripts;
- 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 MS2 Project Manager. The role of the State Project Manager is to manage State resources, 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 MS2 team;
- Assist the MS2 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 MS2 Project Manager of any urgent issues if and when they arise; and
- Assist the MS2 team staff to obtain requested information if and when required to perform certain Project tasks.

**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;
- Assist in validating and documenting user requirements, as needed;
- Assist in mapping business requirements;
- Assist in constructing test scripts and data;
- Assist in system, integration, and Acceptance Testing;
- Assist in performing conversion and integration testing and data verification;
- Attend Project meetings when requested; and
- Assist in training end users in the use of the MS2 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 MS2 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;
- Work in partnership with the MS2 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

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it will be expected that MS2 will lead the overall effort with support and assistance from the State;  
and

- Represent the technical efforts of the State at monthly Project meetings.

**4) State Application DBA (DoIT)**

The role of the State Application DBA(s) is to work closely with the MS2 Team throughout the duration of the Project.

**5) State Network Administrator (DoIT)**

The State Network Administrator will provide technical support regarding networking requirements administration. The responsibilities will include:

- Assess the ability of the State’s overall network architecture and capacity to adequately support implemented applications;
- Establish connections among the database and application servers; and
- Establish connections among the desktop devices and the Application and database servers.

**6) State Testing Administrator**

The State’s Testing Administrator will coordinate the State’s testing efforts. Responsibilities include:

- Coordinating the development of system, integration, performance, and Acceptance Test plans;
- Coordinating system, integration, performance, and Acceptance Tests;
- Chairing test review meetings;
- Coordinating the State’s team and external third parties involvement in testing;
- Ensuring that proposed process changes are considered by process owners;
- Establish priorities of Deficiencies requiring resolution; and
- Tracking Deficiencies through resolution.

**3. CONVERSIONS**

The following Table 4.1 identifies the conversions within the scope of this Contract.

**Table 4.1: Planned Conversions**

Conversion	Components, If applicable	Lead Responsibility	Description
EDMS		Shared	NHDOT Traffic Data Management System

**A. Conversion Testing Responsibilities**

- The MS2 Team and the State, based on their assigned conversion responsibilities, as set forth in Contract Exhibit F: *Testing Services* shall identify applicable test scripts and installation instructions, adapt them to the Project specifics, test the business process, and compare with the documented expected results.
- The MS2 Team and the State, based on their assigned conversion responsibilities, shall execute the applicable test scripts that complete the conversion and compare execution results with the documented expected results.
- The State is responsible for documenting the technical Specifications of all programs that extract and format Data from the legacy systems for use by the conversion processes.

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- The MS2 Team and the State, based on their assigned conversion responsibilities, shall develop and unit test their assigned conversions.
- The State and the MS2 Teams shall jointly conduct System and Integration Testing, verifying and validating the accuracy and completeness of the conversions.
- The State and the MS2 Teams shall jointly verify and validate the accuracy and completeness of the conversions for Acceptance Testing and production.

**4. INTERFACES**

Interfaces shall be implemented in cooperation with the State. The following Table 5.1 identifies the interfaces within the scope of this Contract and their relative assignment.

**Table 5.1: In-Scope Interfaces**

Interface	Components, if applicable	Responsible Party	Description
HPMS		Shared	NHDOT HPMS System
Turnpike Traffic Data		Shared	NHDOT Turnpike Traffic Data Collection
LRS		Shared	NHDOT GIS

**A. Interface Responsibilities**

- The MS2 Team shall provide the State MS2 Application Data requirements and examples, of data mappings and interfaces implemented on other Projects. The MS2 Team shall identify the APIs the State should use in the design and development of the interface.
- The MS2 Team shall lead the State with the mapping of legacy data to the MS2 Applications.
- The MS2 Team shall lead the review of functional and technical interface Specifications.
- The MS2 Team shall assist the State with the resolution of problems and issues associated with the development and Implementation of the interfaces.
- The MS2 Team shall document the functional and technical Specifications for the interfaces.
- The MS2 Team shall create the initial Test Plan and related scripts to Unit Test the interface. The State shall validate and accept.
- The MS2 Team shall develop and Unit Test the interface.
- The State and the MS2 Team shall jointly verify and validate the accuracy and completeness of the interface.
- The State shall document the technical changes needed to legacy systems to accommodate the interface.
- The State shall develop and test all legacy application changes needed to accommodate the interface.
- The State and the MS2 Teams shall jointly construct test scripts and create any data needed to support testing the interfaces.
- The State is responsible for all data extracts and related formatting needed from legacy systems to support the interfaces.
- The State is responsible for documenting the procedures required to run the interfaces in production.
- The State is responsible for the scheduling of interface operation in production.

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## 5. PRELIMINARY WORK PLAN

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

### **Task 1 – Project Plan / Business Process Review and Requirements Confirmation**

The development of a Project Action Plan will be initiated by a kick-off meeting immediately following the contract authorization. The MS2 team will meet with the NHDOT Staff associated with the project. The meeting shall include (but not limited to) the following:

- Introduce key staff members from MS2 team and NHDOT to describe their respective roles in the project.
- Finalize the proposed project goals, data specifications, project schedule, and final deliverables.
- Document the full extent of data types and needs to incorporate into the program including Geographic Information System (GIS) layers and databases/spreadsheets.
- Document the variety/type of anticipated program users.
- Discuss the format and date to do a "Work Flow /Requirements Review."
- Utilizing the standard TDMS, discuss, brainstorm, and document the anticipated customizations potentially required for the project.
- Identify key timeline requirements for the project.
- Summarize the kick-off meeting with a technical memorandum.

Following the project kick-off meeting, MS2 team will conduct a "Work Flow/Requirements Review" that will document NHDOT's current traffic monitoring work flow including count factoring, programming, and reporting processes. This review will take into account NHDOT's current short term, permanent, and special request count programs, and identify any critical work flow impacts/changes (e.g., additional personnel requirements, changes to existing personnel's duties, etc.) that will occur by implementing the MS2 solution. In addition, this review will also identify possible needs for incorporating local agencies' data, as well as the impacts/requirements to consultants submitting data to NHDOT as part of its data collection program.

Historical count data will need to be evaluated as part of this review, taking into consideration types of data, amount of data (e.g., number of years), and data format. A discussion with representatives of these particular agencies will occur. The review will identify how the new TDMS system will change/alter NHDOT's current data processing work flow, i.e., new data factoring process, programming, reporting, etc. Reconciling traffic count data to other NHDOT data sets. This review will analyze NHDOT's current reconciliation process and provide a plan for how count data from the TDMS will be reconciled/connected in the future to NHDOT's existing databases. The focus of the Task will include the following:

- Document the findings of this review and include the recommended MS2 software modules and needed customizations required (including level of effort/time required to complete) that should be utilized to complete State of New Hampshire Department of Transportation's Traffic Data Management System
- This document will also include customization needs based on the information listed in the RFP:
  - General Functionality Requirements
  - Reporting and File Creation Requirements
  - Data Conversion Requirements
  - Security Requirements
  - System Requirements
  - Training Requirements
  - Testing Requirements
- The document will include the strategy for the integration of the TDMS data with other State of New Hampshire Department of Transportation data repositories and applications.
- In addition, a statement outlining the timeline for deliverables and system implementation will be included.

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- Once the document is complete, reviewed, and approved by State of New Hampshire Department of Transportation, it will then be used as a guideline for the TDMS system implementation.

**Deliverables:**

- Onsite Kick-Off meeting
- Meeting Agenda and Meeting Minutes
- Onsite Staff Interviews for various groups
- Draft "Work Flow / Requirements Review" Report
- Onsite Draft Report Review Meeting
- Final "Work Flow / Requirements Review" Report

**Task 2 – TDMS License and System Configuration**

Following the acceptance of the Project Action Plan and using the standard TDMS, MS2 will begin a complete system configuration. The full system will incorporate the data from all the various sources as defined by NHDOT, functionality to import all ongoing traffic data collection activities, and the necessary customizations to meet all of NHDOT's needs and requirements.

The TDMS has a seamlessly integrated GIS-enabled mapping component. MS2 uses an innovative hybrid mapping solution integrating Google Maps with ESRI's ArcGIS Server. This hybrid solution takes the widely-utilized Google Maps interface and combines it with the powerful GIS analytic capabilities of ArcGIS Server. The result is a mapping solution that displays an agency's GIS data layers on the Google Maps interface.

MS2 will incorporate existing GIS layers, as desired by NHDOT, into the TDMS mapping component.

**Deliverables:**

- Fully-functional TDMS
- TDMS Enterprise License

**Task 3 – Data Migration**

All historic data will be gathered from NHDOT. MS2 staff will perform the data loading and cleanup process to populate the TDMS. The data categories include the following:

- Station Inventory: Location, type, and status information for all monitoring stations
- Work Status: Used to track the schedule, assignment, and status of work; how it is tracked is based on the count program, area, and type of data being collected.
- Raw Data: Store raw data as processed from the Vendor files based on the count program and data type.
- Data Status: Tracks the status of screening, processing, analysis, and acceptance of data in the system.
- Statistics: Statistics generated from raw data are managed separately, are formatted based on the count program and type of statistic.
- Spatial Data: Data used to map locations and to attach statistics data for reporting.
- Published Data: A combination of inventory, raw, statistics, and spatial data that have been accepted and are made available to the public.

MS2 utilizes both automated and manual testing in our data validation process. When practical automated unit tests are created at the class and method level. These tests are used to ensure that the logic in the code is both correct and remains correct through the work flow. Once a component or module has been implemented with data loaded, manual testing can begin. This typically involves a user following a script to ensure that the primary workflow of a module is correct. Additionally, as part of the agile process, MS2

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expects actual end users to interact with the modules early in the implementation cycle, mainly to ensure that the interface and workflows match their expectations.

Deliverables:

- Station Location Data for Continuous Counts, W/M, Short Counts, and Turning Movement Count Sites
- All Historic Annual Traffic Statistics
- All Raw Traffic Data

#### **Task 4 – System Customizations**

System customizations will be made to meet all NHDOT traffic data management needs. The customizations may include:

- Additional data attributes
- Count location ID convention
- Customized user interface
- Additional data uploading routines
- Additional automated polling application for traffic detection devices
- Additional data validation routines (e.g., trending and abnormalities)
- Special data queries, analysis, graphs, and reports

A 4-step system development process (brainstorming-prototype-feedback-refinement) will be used to ensure the customizations meet the requirements specified by State of New Hampshire Department of Transportation.

Deliverable:

- Customized TDMS

#### **Task 5 – User Training**

MS2 understands that the best way to ensure a successful project is to make sure that NHDOT staff can effectively use and manage the system. Hands-on training will be provided so the staff becomes familiar with all the tools and functionality within the system. As a combined presentation/demonstration and hands-on/question and answer session, on-site training will be conducted to enable staff to learn the use of the system.

MS2 proposes two on-site training workshops. The workshop will be 2-day to fully cover all functionality of the system. Training materials will be prepared ahead of time and be distributed to users before the training. The training will be conducted at an NHDOT facility using the agency's computer systems to ensure that the training occurs in the actual environment in which the staff will use the system.

MS2 will provide online User Guides. The documents will provide the staff with all information required to operate the system after the completion of the project.

MS2 is prepared to provide additional training through interactive webinars or on-site workshops as needed to ensure the staff can properly use the system to meet all of their traffic data storage, analysis, and management needs.

Deliverables:

- One (1) initial on-site training workshop (2-day)
- One (1) follow-up on-site training workshop (2-day)
- Unlimited training webinars as requested
- Training Manual
- Online User's Guide

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WORK PLAN

**Task 6 – System Hosting and Support**

MS2 will continue supporting the system for NHDOT throughout the length of the contract. Support includes, but is not limited to, the following:

- Host the TDMS on the MS2 servers
- Perform system maintenance as necessary
- Perform routine backups of the system
- Provide technical support to system users as requested

MS2 provides unlimited user support to NHDOT via telephone and email. System issues and bug fixes are tracked and prioritized



. A notification system has been developed by MS2 staff to provide notification of any failure that would prevent access to MS2 applications. Notification is sent instantly to multiple staff members via email and text messaging to cell phones. This allows rapid response times to minimize down time. All key MS2 staff have access to servers from offsite locations to manage those servers and systems as needed.

Deliverable:

- Ongoing system and user support.

The overall project schedule is as follows:

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WORK PLAN

Task	Year 1												Future Years					
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6
Task 1. Project Action Plan / Business Process Review	■	■	■															
Task 2. TDMS Configuration				■	■	■												
Task 3. Data Migration				■	■			■										
Task 4. System Customization					■	■	■											
Task 5. User Training									■			■						
Task 6. System Hosting and Support				■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

STATE OF NEW HAMPSHIRE  
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EXHIBIT J  
SOFTWARE LICENSE

**1. LICENSE GRANT**

Subject to the payment of applicable license fees set forth in Contract Exhibit B: *Price and Payment Schedule*, MS2 hereby grants to the State a worldwide, perpetual, irrevocable, non-exclusive, non-transferable, limited license to use the Software and its associated Documentation, subject to the terms of the Contract. The State may allow its agents and Contractors to access and use the Software, and in such event, the State shall first obtain written agreement from such agents and Contractors that each shall abide by the terms and conditions set forth herein.

**2. SOFTWARE AND DOCUMENTATION COPIES**

MS2 shall provide the State with a sufficient number of hard copy versions of the Software's associated Documentation and one (1) electronic version in Microsoft WORD and PDF format. The State shall have the right to copy the Software and its associated Documentation for its internal business needs. The State agrees to include copyright and proprietary notices provided to the State by the Vendor on such copies.

**3. RESTRICTIONS**

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

- a. Remove or modify any program markings or any notice of MS2's proprietary rights;
- b. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; or
- c. Cause or permit reverse engineering, disassembly or recompilation of the programs.

**4. TITLE**

Title, right, and interest (including all ownership and intellectual property rights) in the Software, and its associated Documentation, shall remain with MS2.

**5. VIRUSES**

MS2 shall provide Software that shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the Software in accordance with the Specifications.

As a part of its internal development process, MS2 will use reasonable efforts to test the Software for viruses. MS2 shall also maintain a master copy of the appropriate versions of the Software, free of viruses. If the State believes a virus may be present in the Software, then upon its request, MS2 shall provide a master copy for comparison with and correction of the State's copy of the Software.

**6. AUDIT**

Upon forty-five (45) days written notice, MS2 may audit the State's use of the programs at MS2's sole expense. The State agrees to cooperate with MS2's audit and provide reasonable assistance and access to information. The State agrees that MS2 shall not be responsible for any of the State's reasonable costs incurred in cooperating with the audit. Notwithstanding the foregoing, MS2's audit rights are subject to applicable State and federal laws and regulations.

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**7. SOFTWARE NON-INFRINGEMENT**

MS2 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.

The warranty of non-infringement shall be an on-going and perpetual obligation that shall survive termination of the Contract. In the event that someone makes a claim against the State that any Material infringe their intellectual property rights, MS2 shall defend and indemnify the State against the claim provided that the State:

- a. Promptly notifies MS2 in writing, not later than 30 days after the State receives actual written notice of such claim;
- b. Gives MS2 control of the defense and any settlement negotiations; and
- c. Gives MS2 the information, authority, and assistance reasonably needed to defend against or settle the claim.

Notwithstanding the foregoing, the State's counsel may participate in any claim to the extent the State seeks to assert any immunities or defenses applicable to the State.

If MS2 believes or it is determined that any of the Material may have violated someone else's intellectual property rights, MS2 may choose to either modify the Material to be non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, MS2 may end the license, and require return of the applicable Material and refund all fees the State has paid MS2 under the Contract. MS2 will not indemnify the State if the State alters the Material without MS2's consent or uses it outside the scope of use identified in MS2's user Documentation or if the State uses a version of the Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was provided to the State at no additional cost. MS2 will not indemnify the State to the extent that an infringement claim is based upon any information design, Specification, instruction, Software, data, or material not furnished by MS2. MS2 will not indemnify the State to the extent that an infringement claim is based upon the combination of any Material with any products or services not provided by MS2 without MS2's consent.

**8. SOFTWARE ESCROW**

8.1 MS2 represents and warrants that the currently existing source code for the Software licensed to the State under the Contract, as well as the Documentation for such Software, and developer comments to the source code for the Software (the "Deposit Materials") will be deposited in an escrow account maintained by an outside agent ("Escrow Agent") as required by this Contract. Future Deposit Materials for major version releases (e.g., X.y.z) of the Software not otherwise delivered to the State Licensee as source code shall be deposited in the escrow account on an annual basis. The State shall pay to the Escrow Agent all escrow fees that become due under the Escrow Agreement to maintain the Software in escrow.

8.2 MS2 agrees that, upon execution of this Contract, the State shall be added to the Escrow Agreement as a beneficiary. The Escrow Agent shall notify the State that it has been added as a

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subscriber within a commercially reasonable time. Thereafter, upon the request of the State, to be made no more frequently than annually, MS2 shall provide the State with written verification that the Software has been deposited with the Escrow Agent.

**8.3** The Escrow Agent shall make and release a copy of the applicable Deposit Materials to the State upon the occurrence of any of the following events ("Release Events"):

- (a) MS2 has made an assignment for the benefit of creditors;
- (b) MS2 institutes or becomes subject to a liquidation or bankruptcy proceeding of any kind;
- (c) A receiver or similar officer has been appointed to take charge of all or part of MS2's assets;
- (d) MS2 terminates its maintenance and operations support services for the State for the Software or has ceased supporting and maintaining the Software for the State whether due to its ceasing to conduct business generally or otherwise, except in cases where the termination or cessation is a result of the non-payment or other fault of the State;
- (e) MS2 defaults under the Contract; or
- (f) MS2 ceases its on-going business operations or that portion of its business operations relating to the licensing and maintenance of the Software.

**8.4** In the event that Deposit Materials are released from escrow to the State, MS2 hereby grants the State the right to use, copy, modify, display, distribute, and prepare derivative works of the Deposit Materials, and to authorize others to do the same on behalf of the State (Contractors, agents, etc.), solely for the purpose of completing the performance of MS2's obligations under the Contract, including, but not limited to, providing maintenance and support for the Software and subject to the rights granted in this Contract.

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EXHIBIT K  
WARRANTY AND WARRANTY SERVICES

**1. WARRANTIES**

**1.1 Services**

MS2 warrants that the System will operate to conform to the Specifications, terms, and requirements of the Contract.

**1.2 Software**

The Vendor shall warrant that the Software is properly functioning within the System, compliant with the requirements of the Contract, and will operate in accordance with the Specifications. Software shall be archived and or version controlled through the use of Harvest Software

**1.3 Non-Infringement**

MS2 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**

MS2 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**

MS2 warrants that all System components, including but not limited to the components provided, including any replacement or upgraded System Software components provided by MS2 to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

**1.6 Services**

MS2 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.

**1.7 Personnel**

MS2 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.

**1.8 Breach of Data**

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WARRANTY AND WARRANTY SERVICES

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.

**2. WARRANTY SERVICES**

MS2 agrees to maintain, repair, and correct Deficiencies with regards to the Business Requirements in the System Software, including but not limited to the individual modules or functions, during the Warranty Period, at no additional cost to the State, in accordance with the Specifications, Terms and requirements of the Contract, including, without limitation, correcting all errors, and Defects and Deficiencies; eliminating viruses or destructive programming; and replacing incorrect, Defective or Deficient Software and Documentation.

Warranty Services shall include, without limitation, the following:

- a. Maintain the System Software in accordance with the Specifications and Terms of the Contract;
- b. Repair or replace the System Software or any portion thereof so that the System operates in accordance with the Specifications, terms and requirements of the Contract;
- c. MS2 shall have available to the State on-call telephone assistance, with issue tracking available to the State, nine (9) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request, with assistance response dependent upon issue severity;
- d. Maintain a record of the activities related to warranty repair or maintenance activities performed for the State;
- e. For all Warranty Service calls, MS2 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.
- f. MS2 must work with the State to identify and troubleshoot potentially large-scale Software 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; and
- g. All Deficiencies found during the Warranty Period and all Deficiencies found with the Warranty Releases shall be corrected by MS2 no later than five (5) business days, unless specifically extended in writing by the State, and at no additional cost to the State.

In the event MS2 fails to correct a Deficiency within the allotted period of time, the State may, at its option,: 1) declare MS2 in default, terminate the Contract, in whole or in part, without penalty or liability to the State; 2) return MS2's product and receive a full refund for all amounts paid to MS2, including but not limited to, any applicable license fees within (90) days of notification to MS2 of the State's intent to request a refund; and 3) to pursue its remedies available at law and in equity.

Notwithstanding any provision of this Contract, pursuant to Contract Agreement -Part 2 Section 13.1, the State's option to declare MS2 in default, terminate the Contract and pursue its remedies shall remain in effect until satisfactory completion of the full Warranty Period.

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EXHIBIT K  
WARRANTY AND WARRANTY SERVICES**

**3. WARRANTY PERIOD**

The Warranty Period shall commence upon the State's issuance of a Letter of Acceptance for the UAT and extend for ninety (90) days.

For subsequent modules or functions, the Warranty period will extend for ninety (90) days after each of the remaining major functions or modules, integrated successfully with the entire system, receives a Letter of Acceptance from the State.

If within the last thirty (30) calendar days of the Warranty Period, the Software fails to operate in accordance with its Specifications, the Warranty Period will cease, MS2 shall correct the Deficiency, and a new thirty (30) day Warranty Period will begin. Any further Deficiencies with the Software must be corrected and run fault free for thirty (30) consecutive calendar days.

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EXHIBIT L  
TRAINING SERVICES

MS2 shall provide the following Training Services.

**A. TRAINING**

The majority of courses are to be offered on-site in New Hampshire.

**1. Delivery Method -Instructor-Led Class Training**

This method helps build the in-depth knowledge and hands-on experience the State's employees will need to succeed in their job role with MS2. From in-class demonstrations led by experienced MS2 instructors, to realistic hands-on labs, Instructor-Led Class courses provide a dynamic learning environment.

This instruction is targeted to train the group of Users defined as Project Team, Users from Departments and selected Subject Matter Experts (SMEs).

**2. Project Team Developed Training**

a. MS2 and the State agree to an end user training approach to meet training objectives, including:

- 1) developing "in house" experts and end-user support channels that involve and leverage internal resources and subject matter experts (SMEs); and
- 2) Leveraging statewide access to computers and the Web by accessing On-line courses whenever possible to lessen time away from the job and reduce travel costs for those who are spread across the State.

b. Key activities of the approach are highlighted below:

User Training Approach	Role and Responsibility	
	MS2 Team	State of NH
Develop Training Plan	Lead the development and Implementation of the Training Plan.  Provide guidance, coaching, materials, and tools.	Assist in the development and Implementation of the Training Plan.
Develop Curriculum	Analyze skill requirements.	Assist to analyze skill requirements.
	Detail roles, course content, and estimated course length.	Assist to detail roles, course content, and estimated length.
Produce Training Materials and End-User Documentation	Lead the development of materials and Documentation to include: MS2 providing baseline Documentation in electronic format that can be modified and reproduced.	Assist in the development of training materials.

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EXHIBIT L  
TRAINING SERVICES

User Training Approach	Role and Responsibility	
	MS2 Team	State of NH
	MS2 and the State will together Conduct Train-the-Trainers for the State's Central Support Group through Implementation. MS2 will assist in the first train the trainer class for each topic.	Attend Train-the-Trainers training. Train additional State End Users.
Conduct Training	Assist to identify an approach and a plan to conduct training needs assessment for Implementation.	Conduct training needs assessment for post go-live.
Evaluate Training Effectiveness		

**c. Key User Training Approach Activities**

**1) Identify State End Users**

The MS2 Team shall lead the State in identifying and categorizing its end users:

*User Category 1—Power User Training:* Power Users are those employees who frequently use the system. Training shall consist of a series of courses based on job functions, on business processes specific to job roles, and associated transactions. The training strategy shall be organized around the State's business processes and detailed transactions that support these processes.

*User Category 2—Casual User Training:* Casual Users shall access the system for inquiries or report viewing on an occasional basis. Their courses shall focus on the end-to-end business process instruction and structured inquiry exercises.

*User Category 3—Specialty Users:* Specialty Users include functional and technical analysts. They shall be trained on the software on the basis of assignments, and may include navigation training and module overview/orientation courseware, functional (modules/business process) training, and configuration.

- 2) Develop Training Plan** The MS2 Team shall act as the training lead and shall provide guidance, coaching, materials, and tools to assist the State Team to structure and implement a Training Plan—including a strategy for outlining the scope, roles, audiences, and deployment timeline throughout the Project lifecycle. The Plan is intended to 1) reinforce knowledge comprehension across the State by employing a train-the-trainer approach, 2) train employees on what they need to know and do to perform their jobs effectively, 3) establish an ongoing skills development process, 4) offer training Solutions that address the immediate and ongoing needs of the State to train new hires and transfers, and 5) implement a blended training delivery Solution that utilizes instructor-led (ILT) and On-line training to support learner interaction, and promotes effective, timely, and cost-efficient learning.

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TRAINING SERVICES

The Training Plan shall address the specific curriculum for each user category and provide support for the design, development, and deployment of training for each user category. It shall also provide a blueprint for the State's Team to manage its resources, activities, and timeline throughout the course of the initiative.

- 3) **Develop Training Curriculum** MS2 shall develop a recommended training curriculum for the State of New Hampshire End Users.
- 4) **Produce Training Materials and End-User Documentation** The MS2 team shall lead the efforts to produce the training materials and end-user Documentation.
- 5) **Training Sessions** MS2 will provide instructor led training sessions for each of the following topics:
  - Traffic Data Management System (TDMS)

NHDOT may record any and all training sessions and post them on-line with restricted access.

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EXHIBIT M  
NH DEPARTMENT OF TRANSPORTATION RFP 2015-091 (WITH ADDENDA)  
INCORPORATED

NH DEPARTMENT OF TRANSPORTATION RFP 2015-091, with all included addenda, are included by reference as binding Deliverables to this Contract.

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VENDOR PROPOSAL BY REFERENCE

MS2 Proposal to NH Department of Transportation dated March 17, 2015 is incorporated herein by reference.

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EXHIBIT O  
SPECIAL EXHIBITS , ATTACHMENTS, AND CERTIFICATES**

Attached are:

- A. Contractor's Certificate of Vote/Authority
- B. Contractor's Certificate of Good Standing
- C. Contractor's Certificate of Insurance
- D. Attachment 1 - MS2 Oral Presentation Q & A
- E. Escrow Agreement





## Software Escrow Agreement ("Single Beneficiary")

July 28, 2015  
Date of Agreement

26574 SB  
Escrow Number

EscrowTech International, Inc.  
Escrow Agent  
3290 West Mayflower Way  
Address  
Lehi, UT 84043  
City, State, Zip Code

801-852-8202  
Telephone  
801-852-8203  
Facsimile

Midwestern Software Solutions, LLC (MS2)  
Owner Company Name  
3815 Plaza Drive  
Address Line 1  
Address Line 2  
Ann Arbor, MI 48108  
City, State, Zip Code  
USA  
Country

Ben Chen  
Main Contact  
734-995-0200  
Telephone  
Facsimile  
bc@ms2soft.com  
e-mail Address

State of New Hampshire – Department of Transportation  
Beneficiary Company Name  
18 Smokey Bear Blvd.  
Address Line 1  
PO Box 483  
Address Line 2  
Concord, NH 03302-0483  
City, State, Zip Code  
USA  
Country

Robert E. Bollinger  
Main Contact  
603-271-8010  
Telephone  
Facsimile  
rbollinger@dot.state.nh.us  
e-mail Address

1. **Software and Establishment of the Escrow.** Owner owns or has rights to the "Software" identified in Exhibit A. By this Agreement, Owner establishes an escrow of Deposit Materials (see Exhibit A) for the Software (the "Escrow").

2. **Deposit Materials.** The Deposit Materials are described in Exhibit A. Owner shall deposit the "Deposit Materials" (including "Updates") into the Escrow by delivering them to EscrowTech. Owner certifies to EscrowTech that Owner has the right to provide the Deposit Materials to EscrowTech for the purposes of this Agreement and that a release, if ever, of such Deposit Materials to Beneficiary in accordance with this Agreement will not violate third party rights or U.S. export laws or regulations. Owner shall indemnify EscrowTech against, and hold it harmless from, any claim to the contrary.

3. **Encryption and Reproduction.** Owner warrants that no Deposit Materials will be encrypted or password protected and that all Deposit Materials will be in a readable and useable form (for purposes of the Permitted Use - see Section 12) and will be readily reproducible by EscrowTech for copying as needed under this Agreement (see, e.g., Section 11). Exception: If Deposit Materials are transmitted electronically to EscrowTech via FTP or other electronic transmission method accepted by EscrowTech, then such Deposit Materials may be in an encrypted format that is acceptable to EscrowTech and that can be decrypted by EscrowTech and stored in an unencrypted format on physical media (e.g., a CD ROM). It is Owner's responsibility to provide any decryption tools/keys, passwords, and information needed for decryption. It is not EscrowTech's responsibility to discover if any of the Deposit Materials are encrypted or password protected or to provide de-encryption tools/keys, passwords or information needed for decryption.

4. **Updates.** Owner shall update the Escrow by delivering to EscrowTech Updated Deposit Materials ("Updates") as described in Exhibit A. Updates shall be part of the "Deposit Materials."

5. **Deposit Procedure.** Deposit Materials shall be delivered by Owner to EscrowTech in accordance with EscrowTech's then-current deposit procedures. Duplicate copies (i.e., two sets) of all Deposit Materials in reliable storage media should be delivered by Owner, but EscrowTech is not responsible if Owner fails to comply with this.

(a) **Deposit Inventory Form.** Owner will submit with the Deposit Materials a completed Deposit

Inventory Form. Such Deposit Inventory Form shall be a representation by Owner to Beneficiary and EscrowTech that the Deposit Materials conform to the descriptions and identifications in the Deposit Inventory Form.

(b) **Confirmation.** To confirm receipt of the Deposit Materials, EscrowTech will mail or otherwise deliver a copy of the Deposit Inventory Form to Owner and Beneficiary.

(c) **Deficiency.** If Beneficiary believes that the Deposit Materials, as identified in the Deposit Inventory Form, are deficient (e.g., incomplete or inadequate) or if there is some other problem, then Beneficiary shall notify Owner and resolve the matter with Owner. It is Owner's responsibility to deposit all required Deposit Materials.

(d) **Verification.** EscrowTech is not responsible for verifying the completeness, accuracy, suitability, state, format, safety, quality, or content of the Deposit Materials. However, at the request of Beneficiary, EscrowTech may conduct technical verifications of Deposit Materials for Beneficiary in accordance with a Technical Verification Addendum. Beneficiary must pay EscrowTech's then-current fees plus expenses for the technical verifications.

(e) **File Name Listings.** At the option of Beneficiary, EscrowTech may generate a list of file names from the Deposit Materials and provide a copy of the list to Beneficiary. This only applies to Deposit Materials in an electronic form from which EscrowTech can generate the list on a PC running Windows. The copy of the list will be provided with the Confirmation of Receipt of Deposit Materials or separately. If Beneficiary exercises this option, the "File Listing Fee" will be paid to EscrowTech in accordance with the Fee Schedule attached hereto.

6. **Replacement of Obsolete Deposit Materials.** Owner and Beneficiary may jointly identify for EscrowTech any Deposit Materials which become obsolete, outdated or redundant and instruct EscrowTech to destroy or return the identified Deposit Materials. Such identification shall be made in writing and must be consistent with the labeling and identification used by Owner when the Deposit Materials were deposited with EscrowTech or be otherwise understandable to EscrowTech. The "Deposit Materials" shall cease to include any destroyed or returned Deposit Materials.

7. **License Agreement.** Owner and Beneficiary have entered into one or more agreements

identified in Exhibit A pursuant to which Owner has licensed or provided the Software to the Beneficiary. Such agreement(s) is (are) referred to herein as the "License Agreement." This Software Escrow Agreement is intended by the Parties to be "supplementary" to the License Agreement within the meaning of Section 365(n) of the U.S. Bankruptcy Code (11 U.S.C. 365(n)). If this Agreement and/or the License Agreement is (are) rejected by Owner as a debtor in possession or a trustee or by any other person or entity under the U.S. Bankruptcy Code, then Beneficiary may elect to retain its rights as provided in Section 365(n). The Parties intend that no bankruptcy or bankruptcy proceeding, petition, law or regulation (and no other proceeding, petition, law or regulation of a similar nature in any state or foreign jurisdiction) will impede, delay or prevent the release of Deposit Materials to Beneficiary in accordance with the provisions of this Agreement, and Owner hereby conveys and licenses to EscrowTech such rights (including intellectual property rights) as are necessary to allow EscrowTech to lawfully make such release and perform this Agreement. This license is granted as of the date of this Agreement and shall predate any bankruptcy petition subsequent to such date.

8. **Embodiment of Intellectual Property.** The Deposit Materials are an "embodiment" of "intellectual property" as those terms are used in Section 365(n) of the U.S. Bankruptcy Code (11 U.S.C. 365(n)). The tangible Deposit Materials and any copies thereof made by EscrowTech in accordance with this Agreement are owned by EscrowTech, but such ownership does not include ownership of any copyrights or other intellectual property in or to the Deposit Materials.

9. **Release of Deposit Materials - Request of Beneficiary.** Beneficiary shall be entitled to receive the Deposit Materials if the Release Condition described in Exhibit B occurs. The following release procedure shall apply:

(a) **Notice to EscrowTech.** Beneficiary shall give written notice to EscrowTech informing EscrowTech that the Release Condition has occurred, and shall request EscrowTech in writing to release the Deposit Materials to Beneficiary.

(b) **Notice to Owner.** EscrowTech shall then promptly send written notice to Owner of Beneficiary's notice and request for release. Such notice will be sent by a "next day" or "overnight" or "priority" or "express" commercial delivery service (e.g., Federal Express, UPS or U.S. Express Mail, etc.)

or will be delivered personally.

(c) **Release and Waiting Period.** Unless there is a timely dispute or objection as provided in Section 9 (d) below, EscrowTech shall release the Deposit Materials to Beneficiary promptly after expiration of the Waiting Period. The "Waiting Period" shall be two weeks, beginning on the date that the notice is sent by EscrowTech to Owner.

(d) **Dispute.** If Owner disputes Beneficiary's right to the Deposit Materials or otherwise objects to their release, then Owner must give written notice of such dispute or objection to EscrowTech prior to the conclusion of the Waiting Period. If EscrowTech receives such timely notice of dispute or objection, then EscrowTech will not release the Deposit Materials to Beneficiary until the dispute or objection is resolved by Owner and Beneficiary in accordance with Section 17 or by court order. Such resolution will determine whether or not Beneficiary is entitled to receive the Deposit Materials from EscrowTech. EscrowTech has no obligation to determine whether or not Beneficiary is entitled to the Deposit Materials.

(e) **Partial Release.** If Owner believes that Beneficiary is entitled to a release of only a portion of the Deposit Materials, it is the responsibility of Owner to indicate this in a written notice to EscrowTech and to clearly identify in such notice the portion of the Deposit Materials that should be released to Beneficiary and what should not be released. This notice must be given promptly and must be received by EscrowTech within the above Waiting Period. If the Beneficiary believes that it is entitled to more than said portion of the Deposit Materials, then this dispute shall be resolved in accordance with Section 17.

10. **Release of Deposit Materials - Owner's Instruction.** Upon receipt of notice and instruction from Owner and the receipt of the Release Fee, EscrowTech shall release the Deposit Materials to Beneficiary.

11. **Copies.** Any Deposit Materials released to Beneficiary under this Agreement may be in the form of a copy of the Deposit Materials. EscrowTech may copy the Deposit Materials for the purposes of this Agreement. Such copies shall be considered Deposit Materials for the purposes of this Agreement.

12. **Use of Released Deposit Materials.**

Deposit Materials released to Beneficiary under this Agreement may only be used by Beneficiary as permitted in Exhibit B ("Permitted Use"). Owner hereby licenses Beneficiary to practice the Permitted Use. Although Beneficiary is not entitled to receive any Deposit Materials until after a release under this Agreement, this Permitted Use license is granted as of the date of this Agreement and shall predate any bankruptcy petition subsequent to such date. If this Agreement and/or the License Agreement are/is rejected by Owner as a debtor in possession or by a trustee or by any other person or entity under the U.S. Bankruptcy Code, then Beneficiary may elect to retain this Permitted Use license as part of the rights it may retain in accordance with Section 365(n) of the U.S. Bankruptcy Code. This shall not negate, prejudice or limit any other rights which Beneficiary may have.

13. **Fees.** EscrowTech shall receive the following fees and payments:

(a) **Annual Fee.** Beginning on the date of this Agreement and on each anniversary thereafter until termination of the Escrow, the Annual Fee shall be paid to EscrowTech in accordance with the Fee Schedule (Exhibit C). The Annual Fee is payable at the beginning of the contract year to which it is applicable.

(b) **Excess Update Fee.** Four Updates to the Escrow per contract year are included at no extra charge. If more than four Updates are made in a contract year, the Excess Update Fee shall be paid to EscrowTech for each extra Update in accordance with the Fee Schedule (Exhibit C).

(c) **Release Fees.** If Beneficiary requests a release of the Deposit Materials under Section 9, Beneficiary shall pay the Release Fee (Exhibit C) to EscrowTech prior to the release. If the Deposit Materials are released at the instruction of Owner under Section 10, Owner shall pay the Release Fee to EscrowTech prior to the release.

(d) **Excess Storage Charges.** If the storage requirement for the Deposit Materials exceeds two cubic feet, then the Excess Storage Charge shall be paid to EscrowTech in accordance with the Fee Schedule (Exhibit C).

(e) **Increases.** The fees set forth in Exhibit C are fixed for three years. Thereafter, fees are subject to reasonable increase by EscrowTech upon advance written notice. EscrowTech's then-current fees shall be payable.

(f) **Costs.** Beneficiary shall pay EscrowTech for reasonable out of pocket costs incurred by EscrowTech in releasing, copying and delivering the Deposit Materials to Beneficiary if the release is requested by Beneficiary. Owner shall be responsible for such costs if the release is requested by Owner. Owner and Beneficiary shall pay EscrowTech for all other costs reasonably incurred by EscrowTech in connection with this Agreement or the Escrow. Costs are not included in the above fees and are payable in addition to the above fees.

14. **Termination of Escrow by Beneficiary or Termination Condition.** The Escrow and Beneficiary's rights under this Agreement will terminate if any of the following occurs:

(a) Beneficiary gives written notice of Escrow termination to EscrowTech.

(b) A termination condition under Exhibit B is satisfied in accordance with Exhibit B. If any such termination condition is satisfied, then Beneficiary and Owner will give prompt written notice thereof to EscrowTech. If such notice is given by Owner, but not the Beneficiary, then EscrowTech may send notice thereof to Beneficiary and if EscrowTech does not receive a written objection from Beneficiary within three weeks after the date of EscrowTech's notice, then EscrowTech may terminate the Escrow.

(c) Beneficiary breaches this Agreement and does not cure such breach within 30 days of written notice of such breach, and EscrowTech gives notice of termination.

(d) The Escrow terminates under Section 15.

EscrowTech will have no obligation or liability to Beneficiary after termination of the Escrow.

15. **Termination of Escrow by Owner or EscrowTech.** Subject to Section 16, this Escrow may be terminated by either Owner or EscrowTech upon 90 days advance written notice of termination to the other Parties. Termination will not be effective until the end of the 90 day period (and any extension pursuant to Section 16). If a Release Condition occurs and EscrowTech is given written notice thereof under Section 9 (a) prior to the date of termination, then the Escrow will not terminate without the written consent of Beneficiary. Upon termination of the Escrow the following shall apply:

(a) EscrowTech shall either return the Deposit Materials to Owner or destroy the Deposit

Materials, whichever Owner requests. If destruction is requested, EscrowTech will certify in writing to Owner that such destruction has occurred.

(b) EscrowTech shall have no obligation or liability to Owner or Beneficiary after termination.

(c) Termination of the Escrow shall not affect any rights or licenses granted to EscrowTech or Beneficiary with respect to Deposit Materials released to (or which should be released to) Beneficiary because of a Release Condition occurring prior to the date of termination.

**16. Establishment of Substitute Escrow.** During the 90 day period under Section 15, Owner shall establish a substitute escrow with a third party escrow agent for the benefit of Beneficiary. The substitute escrow must be approved by Beneficiary, but such approval will not be unreasonably withheld or delayed. If necessary, this matter shall be resolved in accordance with Section 17. If more than 90 days is needed to establish the substitute escrow and if EscrowTech receives written notice from Owner or Beneficiary of such need prior to the end of such 90 days, then the 90 day period under Section 15 shall be extended as reasonably necessary and the Escrow shall not terminate until EscrowTech receives written notice from Owner that the substitute escrow has been established and approved.

**17. Dispute Resolution.** In the event of any dispute between the Parties relating to this Agreement or the Escrow, they shall first seek to settle the dispute by mutual agreement.

**18. Protection of Deposit Materials.** EscrowTech shall keep the Deposit Materials delivered to it in secure storage and shall keep the contents thereof confidential. If any of the Deposit Materials are damaged, destroyed or lost by fire, theft, accident, or other mishap or cause, Owner shall promptly submit to EscrowTech such Updates and replacements as are necessary to replace the damaged, destroyed or lost Deposit Materials. There shall be no Excess Update Fees charged to Owner for such Updates or replacements.

**19. Indemnification.** In the event that EscrowTech takes any action or inaction at the request or demand of Owner, then the Owner shall indemnify and hold harmless EscrowTech and its directors, officers, employees, shareholders, and representatives from and against any and all liabilities, claims, judgments, damages, losses and

expenses, including attorneys' fees, arising out of or relating to such action or inaction.

**20. Depository Only.** EscrowTech acts hereunder as a depository only and is not responsible or liable for the completeness, accuracy, suitability, state, format, safety, quality, content, sufficiency, correctness, genuineness or validity of the Deposit Materials or any document submitted to EscrowTech or the execution of the same or the identity, authority, or rights of any person executing or depositing the same. EscrowTech is not responsible for any loss of Deposit Materials due to defective, outdated, or unreliable storage media (e.g., CD ROMs, magnetic tape, disks, etc.) or for the degradation of storage media.

**21. Uncertainty.** Notwithstanding anything in this Agreement to the contrary, if EscrowTech is uncertain as to any duty, obligation, demand, or right, EscrowTech may hold the Deposit Materials and refrain from taking any action and wait for a final resolution under Section 17 or a court order.

**22. Reliance.** EscrowTech shall not incur any liability in acting upon any notice, request, waiver, consent, receipt or other paper or document believed by EscrowTech to be genuine and to be signed by the proper party or parties, or in acting upon any resolution under Section 17 or any court order.

**23. Extraordinary Services.** In addition to the Fees and Charges for the usual services of EscrowTech under this Agreement (see Section 13 and Exhibit C), EscrowTech shall be entitled to additional reasonable compensation should EscrowTech be requested or required to perform any additional or extraordinary service; and EscrowTech shall be reimbursed for any out-of-pocket expenses (including, without limitation, travel expenses and fees of counsel) reasonably incurred in connection with such additional or extraordinary services. Extraordinary services include, but are not limited to, any involvement of EscrowTech, at the request or demand of Owner or Beneficiary, in any meeting, mediation, arbitration or litigation between Owner and Beneficiary.

**24. Disclaimer.** ESCROWTECH MAKES NO WARRANTY NOT EXPRESSLY SET FORTH HEREIN. ANY IMPLIED WARRANTIES ARE DISCLAIMED AND EXCLUDED BY ESCROWTECH.

**25. Limitation on Liability.** FOR ANY AND ALL CLAIMS AND CAUSES OF ACTION (INCLUDING

WITHOUT LIMITATION BREACH OF CONTRACT, TORT, MALPRACTICE, ETC.), ESCROWTECH'S AGGREGATE LIABILITY TO OWNER AND BENEFICIARY SHALL NOT EXCEED THE TOTAL FEES PAID TO ESCROWTECH UNDER THIS AGREEMENT. IN NO EVENT SHALL ESCROWTECH BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES OR LOSS OF PROFITS, REVENUES OR BUSINESS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

26. *Interpretation.* The wording used in this Agreement is the wording chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against or in favor of any Party. Section headings are for convenience only, and do not limit or affect the provisions of this Agreement or their interpretation.

27. *Entire Agreement.* This Agreement constitutes the entire agreement of the Parties relating to the Escrow. This Agreement sets forth all the duties and obligations of EscrowTech with respect to any and all matters relating to this Agreement, the Escrow or the Deposit Materials. EscrowTech has no implied duties or obligations. No prior, contemporaneous, or subsequent purchase order that contains conflicting or additional terms or conditions will be binding on parties even if such purchase order is acknowledged or accepted.

28. *Force Majeure.* Except for obligations to make payment, no Party shall be liable for any failure to perform arising from causes beyond its control, including, but not limited to, fire, storm, flood, earthquake, explosion, accident, theft, terrorism, acts of public enemies, war, insurrection, sabotage, illness, labor disputes or shortages, product shortages, failure or delays in transportation, inability to secure materials, parts or

equipment, acts of God, or acts of any governmental authority or agency thereof.

29. *[Intentionally Left Blank.]*

30. *Notices.* All notices under this Agreement shall be in writing and shall be delivered to the address indicated for the intended Party at the beginning of this Agreement, or to such substitute address as any Party may designate for itself by proper notice to the other Parties. It is the responsibility of each Party to keep the other Parties informed of its then-current address and telephone and fax numbers.

31. *Modification.* This Agreement may only be modified, amended or rescinded by a writing signed by all affected Parties.

32. *Assignment.* This Agreement may be assigned by a Party to a successor who acquires substantially all of such Party's business assets relevant to the subject matter of this Agreement. The assigning Party must give notice thereof to the other affected Parties and must deliver to such other affected Parties a copy of the successor's written agreement to accept this Agreement and to assume the assigning Party's position under this Agreement.

33. *Execution.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The persons signing below represent that they are duly authorized to execute this Agreement for and on behalf of the Party for whom they are signing. The signature of a signing party may be in the form of an electronic signature.

**Agreed to and accepted by:**

Midwestern Software Solutions, LLC (MS2)

Owner Company Name



Authorized Signature

Ben Chen

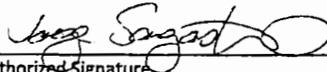
Name

Principal

Title

EscrowTech International, Inc.

Escrow Agent



Authorized Signature

Jorge Sagastume

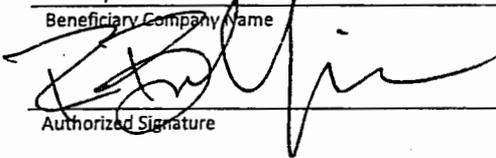
Name

Vice President

Title

State of New Hampshire – Department of  
Transportation

Beneficiary Company Name



Authorized Signature

Robert E. Bollinger

Name

Traffic Operations Engineer

Title

## EXHIBIT A

### 1. LICENSE AGREEMENT

Owner and Beneficiary have entered into one or more other agreements identified below:

Agreement for a Traffic Data Management System, including software licensing,  
maintenance, and support

License Agreement

Such agreement(s) (including addendums or amendments thereto, if any) is (are) referred to in the Escrow Agreement as the "License Agreement."

### 2. SOFTWARE

The following "Software" is licensed or provided by Owner to Beneficiary under their License Agreement:

Transportation Data Management System (TDMS)

Software

### 3. DEPOSIT MATERIALS

Owner shall deliver to EscrowTech the following "Deposit Materials" to be held in the Escrow:

Source Code for the Software

### 4. UPDATES

If and as Beneficiary receives under the License Agreement any new version of, update to, or replacement for the Software, Owner shall update the Escrow by delivering to EscrowTech the corresponding new version of, update to, or replacement for the Deposit Materials ("Updated Deposit Materials" or "Updates"). Owner shall keep the Deposit Materials current with the Software licensed or provided to Beneficiary under the License Agreement. However, Owner shall not be obligated to provide Updates more frequently than 4 times per contract year.

## EXHIBIT B

### 1. RELEASE CONDITION

The Escrow Agent shall make and release a copy of the applicable Deposit Materials to the State upon the occurrence of any of the following events ("Release Events"):

- (a) MS2 has made an assignment for the benefit of creditors;
- (b) MS2 institutes or becomes subject to a liquidation or bankruptcy proceeding of any kind;
- (c) A receiver or similar officer has been appointed to take charge of all or part of MS2's assets;
- (d) MS2 terminates its maintenance and operations support services for the State for the Software or has ceased supporting and maintaining the Software for the State whether due to its ceasing to conduct business generally or otherwise, except in cases where the termination or cessation is a result of the non-payment or other fault of the State;
- (e) MS2 defaults under the Contract; or
- (f) MS2 ceases its on-going business operations or that portion of its business operations relating to the licensing and maintenance of the Software.

### 2. PERMITTED USE

The following apply to Deposit Materials released to Beneficiary in accordance with this Software Escrow Agreement:

- a) Beneficiary may only use the Deposit Materials to maintain, modify and enhance the Software. The maintained, modified and enhanced Software may only be used in accordance with the License Agreement.
- b) Beneficiary may not disclose the Deposit Materials to any third party and shall keep the Deposit Materials confidential, except as provided below.
- c) Beneficiary may engage the services of independent contractors (e.g., computer programmers or an outsourced maintenance service) to assist Beneficiary in exercising its Permitted Use rights. Each such independent contractor must agree in writing that it/he/she will not disclose or transfer the Deposit Materials to any other person, and will not use the Deposit Materials for any purpose other than to assist Beneficiary in exercising its Permitted Use rights. These restrictions shall not limit or negate the rights, if any, of the independent contractor with respect to materials that are similar or identical to the Deposit Materials and are lawfully received by the independent contractor from a source other than Beneficiary (e.g., a maintenance service that receives similar or identical materials from other beneficiaries or licensees).
- d) Items a., b. and c. above are subject to such additional rights or limitations as may be set forth in a provision, if any, in the License Agreement which addresses use of the released Deposit Materials by Beneficiary.

The Permitted Use is a fully paid-up license and may not be revoked, terminated or rejected without Beneficiary's written consent. This Permitted Use license also includes the right to use and copy the binary, executable and object code versions of the Software and the maintained, modified and enhanced versions of Software created from or with the Deposit Materials.

**3. TERMINATION OF ESCROW – TERMINATION CONDITIONS (see Subsection 14(b) of the Software Escrow Agreement)**

In addition to other grounds for termination under Section 14 or 15, the Escrow will terminate if any of the following termination conditions is satisfied:

1. The License Agreement terminates; or
2. The License terminates; or
3. Owner's obligations to provide maintenance and support services to Beneficiary for the Software have ended.

## EXHIBIT C Fee Schedule<sup>1</sup>

Services	Description of Services	Fee	Payor
<input checked="" type="checkbox"/> Escrow	EscrowTech will setup a standard escrow account governed by the standard escrow agreement. RealTime Escrow access will be provided for online-management of account which includes access to all executed documents, Status Reports, ability to view and pay invoices, view all Confirmation of Receipt of Deposit, and submit Deposit Materials. For added retention security, EscrowTech will provide dual site storage for deposits.  Customization of this agreement may be subject to an increase in the annual fee.	\$995 USD per year	<input checked="" type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Level 1 File Listing Verification Report	In addition to the Confirmation Receipt of Deposit and Standard Inspection of Deposit Materials, EscrowTech will send to Beneficiary a File Listing Verification Report. The File Listing Verification Report includes a file listing, a file classification table, Cryptographic hash function (MD5) for each file, a virus scan outputs, and a Deposit Inventory Form.  The annual fee includes this service to be performed on up to four Deposits per year. A fee of \$100 USD will be charged to perform this service on each Deposit to the escrow in excess of four. This service can only be performed on Deposit Materials that are readable on a PC running Windows.	\$995 USD per year	<input type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Level 2 Technical Verification – Deposit Analysis	In addition to the File Listing Verification Report, EscrowTech will perform an analysis of the Build Instructions included with the Deposit Materials. The report will identify the hardware, operating system, programming languages, third party software, and library dependencies. The Owner will be required to complete a Technical Verification Questionnaire to complete the Deposit Analysis.	\$1095 USD per Analysis	<input type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Level 3 Technical Verification – Build and Compile	EscrowTech will perform a Technical Verification on deposit and any subsequent deposits upon request, which includes the outputs of the Technical Verification – Deposit Analysis as described above. EscrowTech will compile the source code in Deposit Materials and will build an executable program following build instructions and configuration information from the Owner (with respect to programs that are not compiled into executable programs in normal operations, EscrowTech will then test that the interpreted code operates). The development environment included in the Deposit Materials will be used by EscrowTech for this purpose. Owner must provide the programming documentation, build and compile instructions, and any other materials, resources, equipment, or tools needed by EscrowTech to enable or facilitate the technical verification.  The Parties and EscrowTech will agree on a custom Technical Verification Addendum prior to start of fulfillment.	Starting at \$2995 USD per verification or based on Technical Verification Addendum	<input type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Level 4 Technical Verification – Binary Comparison	Per the Technical Verification Addendum, EscrowTech will compare and analyze the files and executables against those being used by the Beneficiary. The comparison will include a file size match and an md5/sha1 checksum.	Based on Technical Verification Addendum	<input type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Level 5 Technical Verification – Test Plan	Per the Technical Verification Addendum, EscrowTech will install the executables on a target computer and will test the program for functionality following the steps agreed upon by the Owner and Beneficiary.	Based on Technical Verification Addendum	<input type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary
Excess Update Fee	Four Updates per contract year are included at no charge. The Excess Update Fee is for Updates in excess of four per contract year. Unused Updates are not credited to and may not be used in subsequent years.	\$95 USD per additional Update	<input checked="" type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary
Excess Storage Fee	Two cubic feet of space is dedicated to each account. If more than two cubic feet of space is required to hold the Deposit Materials, the Excess Storage Fee may be assessed.	\$70 USD per extra cubic foot	<input checked="" type="checkbox"/> Owner, or <input type="checkbox"/> Beneficiary

<sup>1</sup> These Fees are fixed for the first three years of the Escrow Agreement. Thereafter, all Fees are subject to increase by EscrowTech upon written notice. In addition, payments not made within 45 days of the date of the invoice are subject to a 5% late fee plus interest at the rate of 1.5% per month (but not exceeding any rate or amount prohibited by applicable law) until paid in full. In the event that a fee or payment under this Agreement is owed by a Party to EscrowTech, but not paid, then the other party must pay such fee or payment to EscrowTech.

		per year	
Release of Deposit Materials	A Release Fee will be charged each time a release of the Deposit Materials is requested and fulfilled, payable by the requesting party.	\$250 USD per release	Requesting Party

**EXHIBIT D**  
**Additional Contacts for Owner**  
**(optional)**

**1. General Counsel Contact**

Attorney Company Name	Counsel Contact
Address Line 1	Telephone
Address Line 2	Facsimile
City, State, Zip Code	e-mail Address
Country	

**2. Billing Contact**

Owner Company Name	Billing Contact
Address Line 1	Telephone
Address Line 2	Facsimile
City, State, Zip Code	e-mail Address
Country	

**EXHIBIT E**  
**Additional Contacts for Beneficiary**  
**(optional)**

**1. General Counsel Contact**

\_\_\_\_\_  
Attorney Company Name

\_\_\_\_\_  
Address Line 1

\_\_\_\_\_  
Address Line 2

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Country

\_\_\_\_\_  
Counsel Contact

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Facsimile

\_\_\_\_\_  
e-mail Address

**2. Billing Contact**

\_\_\_\_\_  
Beneficiary Company Name

\_\_\_\_\_  
Address Line 1

\_\_\_\_\_  
Address Line 2

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Country

\_\_\_\_\_  
Billing Contact

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Facsimile

\_\_\_\_\_  
e-mail Address

**EXHIBIT F**  
**Special Conditions**

[Intentionally Left Blank]

**Exhibit G**  
**Satisfaction Guarantee**

If this is Owner's first escrow with EscrowTech, then:

During the first year of this Agreement, if Owner is dissatisfied for any reason with EscrowTech's services, then Owner may terminate the Escrow (in accordance with Sections 15 and 16) and receive a full refund of all escrow fees paid by Owner to EscrowTech during the first year for this Escrow. To be eligible for the refund, Owner must terminate the Escrow prior to the end of the first year of this Agreement and must tell EscrowTech why Owner is not satisfied (so that EscrowTech will know how to improve its services). This refund does not include verification fees or out-of-pocket expenses.

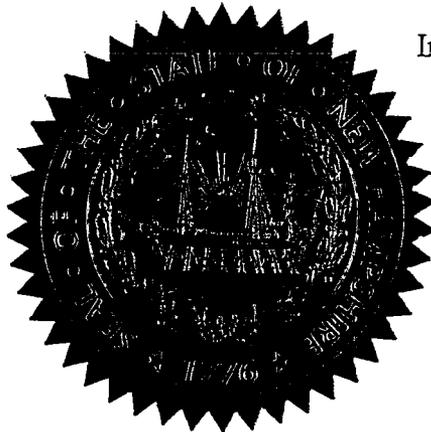
If this is Beneficiary's first escrow with EscrowTech, then:

During the first year of this Agreement, if Beneficiary is dissatisfied for any reason with EscrowTech's services, then Beneficiary may terminate the Escrow (in accordance with Section 14) and receive a full refund of all escrow fees paid by Beneficiary to EscrowTech during the first year for this Escrow. To be eligible for the refund, Beneficiary must terminate the Escrow prior to the end of the first year of this Agreement and must tell EscrowTech why Beneficiary is not satisfied (so that EscrowTech will know how to improve its services). This refund does not include verification fees or out-of-pocket expenses.

# 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 Midwestern Software Solutions, LLC a(n) Michigan limited liability company registered to do business in New Hampshire on May 12, 2015. I further certify that it is in good standing as far as this office is concerned, having paid the fees required by law.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 19<sup>th</sup> day of May, A.D. 2015

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

William M. Gardner  
Secretary of State



## CERTIFICATE OF VOTE

I, Arnold Geldermans, General Manager, hereby certify that I am the duly elected General Manager of Midwestern Software Solutions, LLC.

I hereby certify the following is a true copy of a vote taken at a meeting of the Board of Directors of the corporation, duly called and held on October 7, 2015, at which a quorum of the Board was present and voting.

DULY VOTED: Arnold Geldermans, Pat Hastings, Scott Betzoldt, and Ben Chen

As hereby noted per vote of the corporation Board of Directors on October 7, 2015, Ben Chen, with the title of Principal is authorized to execute on behalf of said corporation all legal contractual documents, leases, or other agreements for the benefit of said corporation.

I hereby certify that said vote has not been amended or repealed, remains in full force and effect as of October 7, 2015.

Date: October 7, 2015

Attest:

Arnold Geldermans  
General Manager

State of Michigan  
County of Washtenaw

On this the October 7, 2015 before me, the undersigned Notary Public, Vita Ciemiorek, personally appeared Arnold Geldermans who acknowledged himself that he, as such General Manager, of Midwestern Software Solutions, LLC, and that he being authorized so to do executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as General Manager.

In witness whereof I hereunto set my hand and official seal

Notary Public

My Commission Expires: Dec. 15, 2016

VITA M. CIEMIOREK  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WASHTENAW  
MY COMMISSION EXPIRES Dec 15, 2016  
ACTING IN COUNTY OF



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/29/2015

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

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

<b>PRODUCER</b> Eric Moore Moore Insurance Services, Inc. 67 N. Howell P.O. Box 207 Hillsdale MI 49242	<b>CONTACT NAME:</b> Cyndi Armstrong <b>PHONE (A/C, No, Ext):</b> (517) 439-9345 <b>FAX (A/C, No):</b> (517) 439-5536 <b>E-MAIL ADDRESS:</b> info@mooreinsuranceservices.com													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Charter Oak Fire Ins. Co.</td> <td>25615</td> </tr> <tr> <td>INSURER B: The Travelers Indemnity Co.</td> <td>25658</td> </tr> <tr> <td>INSURER C: Travelers Indemnity Co. of</td> <td>25682</td> </tr> <tr> <td>INSURER D: RLI Insurance Company</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Charter Oak Fire Ins. Co.	25615	INSURER B: The Travelers Indemnity Co.	25658	INSURER C: Travelers Indemnity Co. of	25682	INSURER D: RLI Insurance Company		INSURER E:		INSURER F:
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INSURER F:														
<b>INSURED</b> MIDWESTERN SOFTWARE SOLUTIONS, LLC  3815 PLAZA DR ANN ARBOR MI 48108-1655														

**COVERAGES** CERTIFICATE NUMBER: CL1592901054 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 INSR	SUBR WYD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY			6800447P655	09/30/2015	09/30/2016	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 10,000
	<input checked="" type="checkbox"/> Ltd Contractual Liab						PERSONAL & ADV INJURY \$ 1,000,000
	<input checked="" type="checkbox"/> Inland Marine						GENERAL AGGREGATE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$ 2,000,000
<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				\$			
A	AUTOMOBILE LIABILITY			BAOF655874	09/30/2015	09/30/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS	<input checked="" type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
							\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR		CUP0449P600	09/30/2015	09/30/2016	EACH OCCURRENCE \$ 5,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE \$ 5,000,000
	DED	RETENTION \$					\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			UB3965T049	09/30/2015	09/30/2016	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				E.L. EACH ACCIDENT \$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000
D	Professional Liability			TEC0001814	09/30/2015	09/30/2016	Per Claim \$2,000,000 Aggregate \$2,000,000

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

<b>CERTIFICATE HOLDER</b>  New Hampshire Department of Transportation Bureau of Traffic 18 Smokey Bear Blvd. Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  Eric Moore/CYNDI <i>Eric Moore</i>
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