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Virginia M. Barry, Ph.D.
Commissioner of Education
Tel. 603-271-3144

Paul Leather
Deputy Commissioner of Education
Tel. 603-271-3801

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
101 Pleasant Street
Concord, N.H. 03301
FAX 603-271-1953
Citizens Services Line 1-800-339-9900

February 10, 2015

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

Sole Source

REQUESTED ACTION

1. Authorize the Department of Education to enter into a **sole source** contract with the University of Kansas Center for Research, Inc. (KUCR), Lawrence, Kansas, (vendor code 253972), in an amount not to exceed \$27,000.00; effective upon Governor and Council approval through June 30, 2015 to administer the Dynamic Learning Maps alternate assessment in English language arts and mathematics. 100 % Federal Funds

Funding is available in the account entitled State Assessment as follows:

| | | |
|-------------------------------------|--------------------------------|--------------|
| | | <u>FY 15</u> |
| 06-56-56-562010-64220000-102-500731 | Contracts for Program Services | \$27,000.00 |

2. Subject to Governor and Council approval, authorize the Department of Education to exercise a renewal option on this contract for up to two additional one-year terms, subject to the contractor's acceptable performance of the terms therein, and pending legislative approval of the next biennium budget.

EXPLANATION

The Department is requesting that this contract be approved as **sole source** due to the fact that the department already received approval on October 1, 2014 (Item #38) to pay membership dues to KUCR for the 2014-15 year and is moving forward with its use of Dynamic Learning Maps as the new alternate assessment in English language arts and mathematics. KUCR is the sole provider, publisher, hosting source, and distributor of the Dynamic Learning Maps Alternate Assessment Program (DLM), Dynamic Learning Maps Essential Elements, and ancillary materials. The DLM Alternate Assessment and the KITE testing platform necessary to administer it are copyrighted and trademarked, and the University of Kansas owns all rights to these programs and has not reassigned rights to any other entities to distribute or sell these programs.

Kansas Center for Research, Inc. (KUCR) is a 501(c)(3) not-for-profit corporation affiliated with the University of Kansas, an agency of the State of Kansas and an institution of higher education (University) under a cooperative agreement from the United States Department of Education (USDE), who developed the Dynamic Learning Maps (DLM) Alternate Assessment system. KUCR, through the Center for Educational Testing and Evaluation (CETE), a division of University's Achievement and

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
February 10, 2015
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Assessment Institute, is the organizational home of the Dynamic Learning Maps Consortium (DLM Consortium), a multi-state coalition of state departments of education that acts in collaboration to research, design and implement a standards-based educational system that promotes equitable educational opportunities for students with significant cognitive disabilities in grades three through high school. The DLM Learning Maps and DLM Essential Elements form the base of this system. The DLM Essential Elements are aligned with the Common Core State Standards for students in grades 3 through high school.

DLM is unique in that it is the only alternate assessment program that includes the following features:

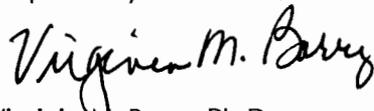
- Fine-grained learning maps to provide instructional and assessment direction,
- A subset of particularly important nodes called Essential Elements that serve as content standards,
- Linkage levels associated with each Essential Element that allow teachers to supply students with cognitively appropriate entry into grade-level differentiated instruction,
- End of year and instructionally-embedded assessments based on the Essential Element linkage levels,
- Instructionally relevant testlets that serve as models for good instruction,
- An instructional teacher interface that provides recommended content to include in the next instructional unit,
- Dynamic assessment to efficiently route students to appropriate testlets, using the structure of the learning map,
- Accessibility features including allowing students to use during assessment the same assistive and augmentive technologies that they use during instruction,
- Professional development materials that can be used in self-directed or facilitated approaches,
- The KITE technology platform to tie it all together which is not available from any other source.

The Department of Education would like to contract with KUCR based upon their extensive knowledge of large-scale assessments and online test delivery systems.

In the event Federal Funds no longer become available, General Funds will not be requested to support this program

Your consideration of this request is appreciated.

Respectfully submitted,



Virginia M. Barry, Ph.D.
Commissioner of Education

VMB:sm:emr



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

Steven J. Kelleher
Acting Commissioner

February 6, 2015

Virginia M. Barry, PhD
Commissioner
NH Department of Education
101 Pleasant Street
Concord, NH 03301

Dear Commissioner Barry:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your request to contract with the University of Kansas Center for Research, Inc. (KUCR) to support alternative English Language Arts and Mathematics assessments as described below and referenced as DoIT No. 2015-043.

The purpose of this contract is to allow the Department to move forward with the use of Dynamic Learning Maps (DLM) as the new alternate assessment in English Language Arts and Mathematics. KUCR is the sole provider, publisher, hosting source, and distributor of the DLM Alternate Assessment Program, Dynamic Learning Maps Essential Elements, and ancillary materials. The DLM Alternate Assessment and the testing platform necessary to administer it are copyrighted and owned by the University of Kansas. This contract is not to exceed \$27,000 and is effective upon Governor and Executive Council approval through June 30, 2015.

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

Sincerely,

A handwritten signature in black ink that reads "Steven J. Kelleher".

Steven J. Kelleher

SJK/dcp
DOIT 2015-043

cc: David Perry, DoIT Contracts Manager
Chris Hensel, DOIT Education Lead

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
NH ALT ASSESSMENT - DLM
CONTRACT 2015-043
AGREEMENT- PART 1**

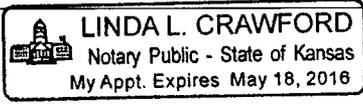
Subject: Dynamic Learning Maps (DLM) Alternate Assessment Program Agreement

1. AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

| | | | |
|---|---|--|--------------|
| 1.1 State Agency Name Department of Education | | 1.2 State Agency Address 101 Pleasant Street Concord, NH 03301 | |
| 1.3 Contractor Name University of Kansas Center for Research, Inc (KUCR) | | 1.4 Contractor Address 2385 Irving Hill Road Lawrence, KS 66045-7568 | |
| 1.5 Contractor Phone Number 785-864-3441 | 1.6 Account Number Federal: 6422 | 1.7 Completion Date June 30, 2015 | 1.8 \$27,000 |
| 1.9 Contracting Officer for State Agency Virginia M. Barry, Commissioner | | 1.10 State Agency Telephone Number 603-271-3144 | |
| 1.11 Contractor Signature <i>Kristi M. Billinger</i> | | 1.12 Name and Title of Contractor Signatory Kristi Billinger Director, Research Administration | |
| 1.13 Acknowledgement: State of Kansas , County of Douglas On <u>January 27, 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 <i>Linda L Crawford</i> [Seal] | |  | |
| 1.13.2 Name and Title of Notary or Justice of the Peace <i>Linda L. Crawford, Executive Associate</i> | | | |
| 1.14 State Agency Signature <i>Virginia M. Barry</i> | | 1.15 Name and Title of State Agency Signatory VIRGINIA M. BARRY 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) By: <i>[Signature]</i> On: <u>2/9/15</u> | | | |
| 1.18 Approval by the Governor and Executive Council By: _____ On: _____ | | | |

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

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

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

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

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

7. PERSONNEL.

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

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

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

8. EVENT OF DEFAULT/REMEDIES.

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

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

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

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

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

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

11. CONTRACTOR’S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor

nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

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

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

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain insurance during the term of this contract as provided herein in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

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

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

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

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

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

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

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

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

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

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

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

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

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

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

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
NH ALT ASSESSMENT - DLM
CONTRACT 2015-043
CONTRACT AGREEMENT –PART 2

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

| | |
|---|--|
| Name of Agency/Division: Dept. of Education/ Educational Improvement | |
| Contract Number/Name: 2015-043/NH Alt Assessment - DLM | |
| Contract Purpose: student assessment services that are designed to assess the progress of children with significant cognitive disabilities in attaining proficiency in mathematics and English language arts and that are aligned with the DLM Essential Elements. | |
| Name of Vendor: University of Kansas Center for Research, Inc (KUCR) | Who Negotiated the Contract: Scott Mantie |
| Amount of Contract: \$27,000 | Funding Source: Federal: 6422 |
| Term of Contract: June 30, 2015 | Is this an amendment? No |
| Competitive Bid Process: (Explain if "No")NO, Sole Source | |
| <p>Background Information: <i>The Dynamic Learning Maps™ Alternate Assessment System (DLM™)</i> is an instructionally relevant system that supports student learning and measures what students with significant cognitive disabilities know and can do. The system uses the DLM Essential Elements to support the design of individualized experiences for each student by presenting questions and tasks that are appropriate for a student’s needs and abilities.</p> <p>Content The Dynamic Learning Maps system features large, fine-grained learning maps to support student learning. The maps feature multiple pathways toward the development of academic knowledge and understanding. Nodes in the learning map represent specific knowledge, skills, and understandings along the pathways. The DLM system includes nodes for English language arts and mathematics, as well as nodes that are foundational to the development of academic knowledge in both subjects.</p> <p>Embedded within the learning maps are Essential Elements (EEs), which are challenging, grade-level learning targets. The DLM Essential Elements are specific statements of the content and skills students with significant cognitive disabilities are expected to know and be able to do in English language arts and mathematics. The DLM Essential Elements are intended to provide links between the general education content standards and grade-specific expectations.</p> <p>Assessments DLM assessment items are grouped together in testlets that assess one or more Essential Elements. Each testlet contains 3-8 items and an engagement activity. Testlets are built on research-based learning maps that show the relationships between the knowledge and skills that are necessary to reach the EEs. Items are aligned to nodes in the learning map. There are two types of testlets in the DLM system:</p> <ul style="list-style-type: none"> ■ Most testlets are designed for direct student interaction via computer, using special devices such as | |

**STATE OF NEW HAMPSHIRE
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CONTRACT AGREEMENT –PART 2**

alternate keyboards, touch screens, or switches. Most items are multiple choice format. Technology-enhanced items are used on a limited basis for items that require certain types of skills, such as sorting or matching.

- Some testlets are designed for administration by the test administrator, outside the system, with the test administrator recording responses in the system, rather than the student recording his or her own responses.

In instructionally embedded assessments given throughout the year, the educator is able to select the appropriate EEs for a student and the level within each EE (five levels of assessment are available for each Essential Element allowing the appropriate and accurate measurement of students operating from the pre-intentional and pre-symbolic levels up to students meeting and exceeding grade level targets), after reviewing the recommendations from the system. The educator makes those choices, then instructs on that content before administering the assessment. The system uses the student’s assessment results to help refine the system’s recommendations. In the year-end assessment, the student is automatically routed to the most appropriate level of the EEs tested after initial placement and subsequent student performance.

Accessibility

Having accessible content is essential to the success of the student. DLM has integrated accessible content by developing various testlet levels for each Essential Element, using grade-appropriate core vocabulary, supporting growth through multiple and alternate pathways through the nodes, and following item writing guidelines designed to prevent barriers to access. The system uses information about the student, including prior academic achievement, expressive and receptive communication, and previous DLM assessment results, to determine where the student should start his or her first DLM assessment.

Accessibility is also supported through the Personal Needs and Preferences (PNP) profile. Each student’s IEP team decides which tools and supports should be provided. The teacher records these choices in the system and the student’s assessment experience is customized based on those tools and supports.

Technology

DLM assessments can be delivered on PC or Mac desktops or laptops, iPads, or with other devices attached to computers such as interactive whiteboards. Tests are delivered using KITE®, which is a customized, secure web browser that is downloaded onto the device. Educator Portal (EP) is the website where teachers manage student data, create instructional plans, retrieve test assignment information and score reports, and manage their own completion of DLM professional development and required training.

Professional Development

The DLM system includes professional development to support instruction. Modules are offered in a self-directed format, which allows teachers to complete them independently on a flexible schedule; and in a facilitated format, which allows for group delivery. Each module concludes with a quiz.

Special Concerns:

Amendment History (if applicable):

| | |
|----------------------|----------------------|
| | |
| Submitted By: | Current Date: |
| Phone: | Email: |

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
NH ALT ASSESSMENT - DLM
CONTRACT 2015-043
CONTRACT AGREEMENT –PART 2**

TERMS AND DEFINITIONS

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

| | |
|---|---|
| AA | Alternative Assessment |
| Acceptance | Notice from the State that a Deliverable has satisfied Acceptance Test or Review. |
| Acceptance Letter | An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review. |
| Acceptance Period | The timeframe during which the Acceptance Test is performed |
| Acceptance Test Plan | The Acceptance Test Plan provided by KUCR and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables. |
| Access Control | Supports the management of permissions for logging onto a computer or network |
| Agreement | A contract duly executed and legally binding. |
| Appendix | Supplementary material that is collected and appended at the back of a document |
| Audit Trail Capture and Analysis | Supports the identification and monitoring of activities within an application or system |
| CCP | Change Control Procedures |
| CR | Change Request |
| COTS | Commercial Off-The-Shelf Software |
| Certification | KUCR's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that KUCR has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review. |
| CETE | Center for Educational Testing and Evaluation (CETE), a division of University's Achievement and Assessment Institute, is a department at the University of Kansas and the organizational home of the Dynamic Learning Maps Consortium (DLM Consortium) |
| Change Control | Formal process for initiating changes to the proposed solution or process once development has begun. |
| Change Order | Formal documentation prepared for a proposed change in the Specifications. |
| Completion Date | End date for the Contract |
| Confidential Information | Information required to be kept Confidential from unauthorized disclosure <i>under the Contract</i> |
| Contract | This Agreement between the State of New Hampshire and KUCR, which creates binding obligations for each party to perform as specified in the Contract Documents. |
| Contract Conclusion | Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default. |
| Contract Documents | Documents that comprise this Contract (See Contract Agreement, |

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| | |
|-----------------------------|--|
| | Section 1.1) |
| Contract Managers | The persons identified by the State and KUCR 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>) |
| Contractor | The University of Kansas, Center for Research (KUCR) whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract. |
| COTS | Commercial off the Shelf |
| Cure Period | The thirty (30) day period following written notification of a default within which KUCR must cure the default identified. |
| Custom Software | Software developed by KUCR specifically for this project for the State of New Hampshire |
| Data | State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used /converted by KUCR during the Contract Term |
| Deficiencies/Defects | <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>Class A Deficiency – <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>Class B Deficiency – <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>Class C Deficiency – <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> |
| Deliverable | A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by KUCR to the State or under the terms of a Contract requirement. |
| Department | An agency of the State |

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| Department of Information Technology (DoIT) | The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008. |
| DLM AA | Dynamic Learning Maps Alternative Assessment |
| DLM Consortium Associate Member | Any state educational agency that is not using the DLM Alternate Assessment during the current year, but would like to attend Governance Meetings and conference calls. Associate members may participate in conversations but have no vote. Educators and students from Associate Member states will not participate in ongoing research. Associate membership requires an affirmative vote by two-thirds of the DLM Consortium Members. |
| DLM Consortium Member | Any state educational agency that approves and/or purchases the DLM Consortium student assessment services to satisfy the state and local educational agencies requirements of the Elementary and Secondary Education Act that pertain to the academic assessment students with significant cognitive disabilities. |
| DLM Governance Board Member | Any person appointed to the DLM Governance Board according to the Board Member Appointment |
| DLM | Dynamic Learning Maps show the relationships among skills and offer multiple learning pathways. |
| DLM Consortium | Dynamic Learning Maps Consortium is a multi-state coalition of state departments of education that acts in collaboration to research, design and implement a standards-based educational system that promotes equitable educational opportunities for students with significant cognitive disabilities in grades three through high school. |
| Documentation | All information that describes the installation, operation, and use of the Software, either in printed or electronic format. |
| Effective Date | The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract |
| Enhancements | 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 |
| Essential Elements (EEs) | Specific statements of knowledge and skills linked to the grade-level expectations identified in college- and career-readiness standards. EEs build a bridge from content standards to academic expectations for students with the most significant cognitive disabilities |
| Governor and Executive Council | The New Hampshire Governor and Executive Council. |
| Identification and Authentication | Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users |
| Implementation | The process for making the System fully operational for processing the Data. |
| Implementation Plan | Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures. |
| Information Technology (IT) | Refers to the tools and processes used for the gathering, storing, |

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| | manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies. |
| Input Validation | Ensure the application is protected from buffer overflow, cross-site scripting, SQL injection, and canonicalization |
| Intrusion Detection | Supports the detection of illegal entrance into a computer system |
| Invoking Party | In a dispute, the party believing itself aggrieved |
| IP | Intellectual Property |
| Key Project Staff | Personnel identified by the State and KUCR as essential to work on the Project. |
| KITE™ | Kansas Interactive Testing Engine™ platform - DLM system providing an online testing interface for students that includes practice items. |
| KITE™ Client (Windows/Mac) | DLM Web-based interface used by students for taking tests |
| KITE™ Educator Portal | An application that allows educators to manage student data, enroll students in instructionally embedded assessments, retrieve test tickets, and access professional development and training modules. |
| KUCR | University of Kansas Center for Research, Inc. a 501(c)(3) not-for-profit corporation (KUCR) affiliated with the University of Kansas. |
| LEA | “LEA” means local educational agency and includes any educational agency within a DLM Consortium Member state subject to the requirements of ESEA of NCLB. |
| Non Exclusive Contract | 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. |
| Non-Software Deliverables | Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other |
| Normal Business Hours | Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, July 4 th , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided |
| Notice to Proceed (NTP) | The State Contract Manager’s written direction to KUCR to begin work on the Contract on a given date and time |
| Operational | 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. |
| Order of Precedence | The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence |
| Project | The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto. |
| Project Team | The group of State employees and KUCR’s personnel responsible |

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| | for managing the processes and mechanisms required such that the Services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality |
| Project Management Plan | A document that describes the processes and methodology to be employed by KUCR to ensure a successful Project. |
| Project Managers | The persons identified who shall function as the State's and KUCR'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) |
| Project Staff | State personnel assigned to work with KUCR on the Project |
| Proposal | The submission from KUCR in response to the Request for a Proposal or Statement of Work |
| Regression Test Plan | A plan integrated into the Work Plan used to ascertain whether fixes to Defects have caused errors elsewhere in the application/process. |
| Review | The process of reviewing Deliverables for Acceptance |
| Review Period | The period set for review of a Deliverable. If none is specified then the Review Period is five (5) business days. |
| RFP (Request for Proposal) | A Request For Proposal solicits Proposals to satisfy State functional requirements by supplying data processing product and/or Service resources according to specific terms and conditions |
| Role/Privilege Management | Supports the granting of abilities to users or groups of users of a computer, application or network |
| Schedule | The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract |
| SEA | State educational agency including each state's education Superintendent. |
| Services | The work or labor to be performed by KUCR on the Project as described in the Contract. |
| Software | All custom Software and COTS Software |
| Software Deliverables | COTS Software and Enhancements |
| Software License | Licenses provided to the State under this Contract |
| Solution | 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 KUCR in response to this RFP. |
| Specifications | The written Specifications that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein. |
| State | defined as: State of New Hampshire |

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| | <p>Department of Education 101 Pleasant Street Concord, NH 03301 Reference to the term “State” shall include applicable agencies</p> |
| Statement of Work (SOW) | <p>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 KUCR. The Contract Agreement SOW defines the results that KUCR remains responsible and accountable for achieving.</p> |
| State’s Confidential Records | <p>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></p> |
| State Data | <p>Any information contained within State systems in electronic or paper format.</p> |
| State Fiscal Year (SFY) | <p>The New Hampshire State Fiscal Year extends from July 1st through June 30th of the following calendar year</p> |
| State Project Leader | <p>State’s representative with regard to Project oversight</p> |
| State’s Project Manager (PM) | <p>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).</p> |
| Subcontractor | <p>A person, partnership, or company not in the employment of, or owned by, KUCR, which is performing Services under this Contract under a separate Contract with or on behalf of KUCR</p> |
| System | <p>All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.</p> |
| TBD | <p>To Be Determined</p> |
| Test Plan | <p>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.</p> |
| Term | <p>Period of the Contract from the Effective Date through termination.</p> |
| Transition Services | <p>Services and support provided when KUCR is supporting System changes.</p> |
| UAT | <p>User Acceptance Test</p> |
| USDE | <p>United States Department of Education</p> |
| User Acceptance Testing | <p>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</p> |

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| | be mapped to business requirements outlined in the user requirements documents. |
| User Management | Supports the administration of computer, application and network accounts within an organization |
| Vendor | The company whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract; in this case KUCR. |
| Verification | Supports the confirmation of authority to enter a computer system, application or network |
| Warranty Period | A period of coverage during which KUCR is responsible for providing a guarantee for products and Services delivered as defined in the Contract. |
| Warranty Releases | Code releases that are done during the Warranty Period. |
| Warranty Services | The Services to be provided by KUCR during the Warranty Period. |
| Work Hours | State personnel shall be available 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. |
| Work Plan | The overall plan of activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project as specified in 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. |
| Written Deliverables | Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by KUCR either in paper or electronic format. |

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INTRODUCTION

This agreement (Agreement) is between the New Hampshire Department of Education, located at 101 Pleasant Street, Concord, NH 03301 and the University of Kansas Center for Research, Inc. a 501(c)(3) not-for-profit corporation (KUCR), located at 2385 Irving Hill Road, Lawrence, Kansas 66045-7568, affiliated with the University of Kansas, an agency of the State of Kansas and an institution of higher education (University).

RECITALS

Whereas, KUCR was organized to promote scientific and educational development at the University and is charged with managing all administrative and financial functions of sponsored project agreements and contracts for University, and

Whereas, KUCR under a cooperative agreement from the United States Department of Education (USDE) developed the Dynamic Learning Maps Alternate Assessment system, and

Whereas, KUCR through the Center for Educational Testing and Evaluation (CETE), a division of University's Achievement and Assessment Institute, is the organizational home of the Dynamic Learning Maps Consortium (DLM Consortium), a multi-state coalition of state departments of education that acts in collaboration to research, design and implement a standards-based educational system that promotes equitable educational opportunities for students with significant cognitive disabilities in grades three through high school. The DLM Learning Map and DLM Essential Elements form the base of this system. The DLM Essential Elements are aligned with the Common Core State Standards for students in grades 3 through high school, and

Whereas, the Federal Elementary and Secondary Education Act (20 USC 6301 et Seq.) (ESEA) requires local educational agencies (LEAs) to measure student attainment on the alternate assessment based on alternate achievement standards (34 CFR 200.1(d)), and

Whereas, KUCR offers student assessment services that are designed to assess the progress of children with significant cognitive disabilities in attaining proficiency in mathematics and English language arts and that are aligned with the DLM Essential Elements. As part of these student assessment services KUCR offers the Dynamic Learning Maps Alternate Assessment (DLM AA) for students with significant cognitive disabilities, and

Whereas, New Hampshire has selected the DLM AA as an evaluation measure available to meet New Hampshire's and New Hampshire's LEAs' annual assessment requirements, and

Whereas New Hampshire wishes to enter into an agreement with KUCR, upon approval of the New Hampshire Governor and Council, in order to acquire the annual administration of DLM AA and related services of CETE, and

Whereas, CETE having the requisite expertise, wishes to provide New Hampshire with DLM AA administration and related evaluation services.

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Therefore, in consideration of the foregoing recitals and the mutual covenants set forth below, New Hampshire and KUCR now 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 Requirements and Deliverables*
 - Exhibit B- Price and Payment Schedule*
 - Exhibit C- Special Provisions - DLM Trademarks*
 - Exhibit D- Administrative Services*
 - Exhibit E- Security and Implementation Services*
 - Exhibit F- Testing Services*
 - Exhibit G- Hosting and 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- Data Use Agreement*
 - Exhibit N- The KUCR Proposal, (not used)*
 - Exhibit O- Certificates and Attachments*

1.2 Order of Precedence

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

- a. *The State of New Hampshire Terms and Conditions, Form P-37-Contract Agreement Part 1.*
- b. State of New Hampshire, Department of Education Contract 2015-043, Part 2

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, 2015. The Term may be extended annually for one-year extensions (“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, 2017.

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

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

KUCR shall use all reasonable efforts to complete its obligations under the Contract in accordance with Exhibit E, 1.3 Implementation.

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 Non-Exclusive, Not To Exceed Contract

This is a Non-Exclusive, Not to Exceed (“NTE”) Contract with price and term limitations as set forth in the Contract.

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

3. Contract Management

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

3.1 The KUCR Contract Manager

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

Kristi Billinger
Director of Research Administration
Youngberg Hall
2385 Irving Hill Road
Lawrence, KS 66045
Tel: 785-864-3441
Fax: 785-864-5272
Email: kristib@ku.edu

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3.2 The KUCR Project Manager

3.2.1 Contract Project Manager

The KUCR assures the Project Manager will be able to perform under the requirements of the Contract. KUCR's Project Manager's resume and qualifications may be reviewed by the State. The State may request replacement or reassignment of the KUCR Project Manager who, in consultation with KUCR, is found unacceptable or is not performing to the State's satisfaction.

3.2.2 The KUCR Project Manager must be qualified to perform the programmatic obligations required of the position under the Contract, shall have full authority to perform duties as described in the Contract, and shall function as the KUCR representative for all programmatic matters. The KUCR Project Manager shall perform the duties required under the Contract, as set forth in Contract Exhibit I, Section 2. The KUCR Project Manager or designee 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 KUCR Project Manager must work diligently and use his/ her best efforts on the Project.

3.2.3 The KUCR shall notify the State in the event KUCR's Project Manager is unable to complete the duties as set forth in Contract Exhibit I, Work Plan. State may review the resume and qualifications of any replacement of the KUCR Project Manager. . The replacement Project Manager shall have comparable or greater skills than the KUCR Project Manager being replaced; meet the requirements of the Contract, and may be subject to reference and background checks described above in 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. KUCR shall assign a replacement KUCR Project Manager as soon as possible, and in the interim, try to find a qualified interim KUCR 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 if KUCR fails to assign a KUCR Project Manager meeting the requirements and terms of the Contract.

3.2.5 The KUCR Project Manager is:

Neal Kingston
Director and Principal Investigator
Dynamic Learning Maps Alternate Assessment Project
University of Kansas
Lawrence, KS 66045
785-864-9705
785-864-5212
nkingston@ku.edu

3.3 The KUCR Key Project Staff

3.3.1 KUCR assures all Key Project Staff will be able to perform the requirements of the Contract. The State may conduct reference and background checks on the KUCR Key Project Staff. The State may request removal or reassignment of the KUCR Key Project Staff, in consultation with KUCR, who are found unacceptable to the State. Any

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background checks shall be performed in accordance with the Contract Agreement Section 4.10: *Background Checks*.

3.3.2 KUCR shall notify State of a change in any of the KUCR Key Project Staff commitments and provide the State written justification of the change. . State may review resumes and qualifications of any replacement of the KUCR Key Project Staff. . The replacement of the KUCR Key Project Staff shall have comparable or greater skills than the KUCR Key Project Staff being replaced; meet the requirements of the Contract, 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 if KUCR is unable to assign Key Project Staff meeting the requirements and terms of the Contract or if it is dissatisfied with the KUCR replacement Project staff.

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

The KUCR Key Project Staff:

Key Member(s)

Karthick Palaniswamy

Title

Director of Agile
Technology Systems

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:

Scott Mantie, PhD
Department of Education
101 Pleasant Street
Concord, NH 03301
Tel: (603) 271-3844
Fax: (603) 271-7381
Email: Scott.Mantie@doe.nh.gov

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 all vendors;
- c. Managing significant issues and risks.
- d. Reviewing and accepting Contract Deliverables;
- e. Invoice sign-offs;
- f. Review and approval of change proposals; and
- g. Managing stakeholders' concerns.

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The State Project Manager is:
Scott Mantie, PhD
Department of Education
101 Pleasant Street
Concord, NH 03301
Tel: (603) 271-3844
Fax: (603) 271-7381
Email: Scott.Mantie@doe.nh.gov

3.6 Reference and Background Checks

The State may, at its sole expense, conduct reference and background screening of the KUCR Project Manager and the KUCR 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 KUCR Responsibilities

KUCR 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.

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

KUCR 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, KUCR represents that it has performed its obligations under the Contract associated with the Deliverable or Service.

4.3 Non-Software and Written Deliverables Review and Acceptance

After receiving written Certification from KUCR 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 KUCR in writing of its Acceptance or rejection of the Deliverable within five (5) business days of the State's receipt of KUCR's written Certification. If the State rejects the Deliverable, the State shall notify KUCR of the nature and class of the Deficiency and KUCR shall correct the Deficiency within the period identified in the Work Plan. If no period for KUCR's correction of the Deliverable is identified, KUCR shall use its best efforts to correct the Deficiency in the

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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 KUCR of its Acceptance or rejection thereof, with the option to extend the Review Period up to five (5) additional business days. If KUCR fails to correct the Deficiency within the allotted period of time, the State may, at its option, continue reviewing the Deliverable and require KUCR to continue until the Deficiency is corrected, or immediately terminate the Contract, declare KUCR 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.

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. WARRANTY

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

6. SERVICES

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

6.1 Administrative Services

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

6.2 Implementation Services

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

6.3 Testing Services

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

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6.4 Training Services

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

6.5 Maintenance and Support Services

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

7 WORK PLAN DELIVERABLE

KUCR 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 parties shall update the Work Plan as necessary, but no more than every two weeks, 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 KUCR from liability to the State for damages resulting from KUCR'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, KUCR must immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inactions of KUCR 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 KUCR 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 KUCR'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 KUCR's Work Plan or elements within the Work Plan.

8. 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 ten (10) business days of KUCR's receipt of a Change Order, KUCR shall advise the State, in detail, of

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any impact on cost (e.g., increase or decrease), the Schedule, the Work Plan, or feasibility of the change or revision.

KUCR 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 KUCR'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 KUCR to the State and the State acceptance of KUCR'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.

9. Intellectual Property (IP)

9.1 KUCR Intellectual Property

The University of Kansas owns the copyrights, trademarks, and related intellectual property covered under this agreement (IP). This agreement does not convey any exclusive rights, title, or interest in or to IP to New Hampshire. New Hampshire shall not take any actions that would limit or restrict access to the materials by other states or otherwise adversely affect the proprietary nature of the IP.

Intellectual Property includes but is not limited to the following:

1. Dynamic Learning Map End-of-Year Alternate Assessment and DLM Instructionally Embedded Alternate Assessment, collectively known as DLM AA;
2. Dynamic Learning Map Essential Elements and Resource Guide ("DLM EE"), including future editions;
3. Professional Development materials and administration manuals for using the KITE™ system to administer DLM ("KITE Professional Development materials"); and
4. Dynamic Learning Map technical documents and research reports.

The Center for Education and Testing Evaluation (CETE) will use the IP to provide test administration services for DLM AA to New Hampshire under the following conditions:

- payment of the required fees set forth in schedule B of this Agreement
- New Hampshire acknowledges that the DLM AA is a secure test, as that term is defined in 37 C.F.R. § 202.20(b)(4).
- New Hampshire shall implement applicable federal and statewide policies and procedures to ensure that the security of the test is maintained. New Hampshire shall immediately notify KUCR if it learns of any breach or threatened breach of test security.
- The DLM AA shall not be copied, modified, distributed or displayed in any manner without express written permission from KUCR and with the appropriate security measures in place.

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KUCR hereby grants New Hampshire the right to reproduce copies of DLM EE, KITE PD materials, and DLM Technical Manual and research reports (IP items 2-4 above) for New Hampshire’s educational purposes within the state of New Hampshire.

New Hampshire shall permanently and legibly mark all DLM technical documents and research reports in accordance with all applicable copyright marking and notice provisions under title 17, US Code. Access to an electronic copy will be provided for all DLM technical documents and research reports. The DLM technical documents and research reports shall not be modified by New Hampshire.

The trademarks listed in Attachment 2 attached hereto and incorporated by reference, are intellectual property of the University (collectively the “DLM Trademarks”). Any use of the DLM Trademarks shall inure to the benefit of University. New Hampshire acknowledges that University may, from time-to-time, issue trademark and copyright use guidelines and policies in order to maintain the proper use and integrity of the IP and the quality of KUCR services and products. If New Hampshire shall become aware of any misuse of IP New Hampshire agrees to notify KUCR.

DLM professional development materials (“DLM PD Materials”) created by the University of North Carolina, Chapel Hill Medical School may be copied and distributed by New Hampshire, subject to acknowledgement of the copyrighted source materials. DLM PD Materials may be modified by New Hampshire in which case New Hampshire is responsible for any modified content. New Hampshire shall permanently and legibly mark all DLM PD materials in accordance with all applicable copyright marking and notice provisions under title 17, US Code. Access to an electronic copy will be provided for all DLM PD materials.

9.2 State Data

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

9.3 State Website Copyright

WWW Copyright and Intellectual Property Rights

All right, title and interest in the State WWW site, 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.

This Contract Agreement Section 9: *Intellectual Property* shall survive the termination of the Contract.

10. Use of state’s information, confidentiality

10.1 Use of State’s Information

In performing its obligations under the Contract, KUCR 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

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Exemptions). KUCR 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 KUCR's performance under the Contract. State Confidential Information provided to KUCR shall be reduced to written or other tangible form and marked "Confidential". Any State Confidential Information that is disclosed orally or visually will be confirmed in writing as confidential within thirty (30) days of such disclosure. KUCR retains the right to refuse to accept State Confidential Information it deems, in its sole discretion, not applicable to its obligations under the Contract.

10.2 State Confidential Information

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

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

Any disclosure of the State Confidential Information shall require the prior written approval of the State. KUCR shall immediately notify the State if any request, subpoena or other legal process is served upon KUCR regarding the State Confidential Information, and KUCR shall cooperate with the State in any effort the State lawfully 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, KUCR 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.

10.3 KUCR Confidential Information

Insofar as KUCR seeks to maintain the confidentiality of its confidential or proprietary information, KUCR must clearly identify in writing all information it claims to be confidential or proprietary. Notwithstanding the foregoing, the State acknowledges that KUCR considers the Software, KITE™ system and DLM Documentation to be Confidential Information. KUCR 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 KUCR as confidential, the State shall notify the KUCR and specify the date the State will be releasing the requested information. At the request of the State, KUCR shall cooperate and assist the State

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with the collection and review of KUCR's information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be KUCR's sole responsibility and at KUCR's sole expense. If KUCR 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 KUCR, without any liability to KUCR.

10.4 Education Record Release and Data Use

The parties acknowledge that the unauthorized access to or dissemination of student records is prohibited under state and federal law. In order to protect the privacy of students and parents, and to prevent the disclosure of New Hampshire's confidential information, the parties agree to enter into the Education Record Release and Data Sharing Agreement attached as **Exhibit M** to this Agreement.

10.5 Survival

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

11.Limitation of Liability

11.1 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 KUCR 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.

11.2 KUCR

Subject to applicable laws and regulations, in no event shall KUCR be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and KUCR's liability to the State shall not exceed two times (2X) 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 KUCR'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.

11.3 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.

11.4 Survival

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This *Contract Agreement- Part 2-Section 12: Limitation of Liability* shall survive termination or Contract conclusion.

12.Termination

This Section 12 shall survive the termination or Contract Conclusion.

12.1 Termination for Default

Any one or more of the following acts or omissions of KUCR 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

12.1.1 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 KUCR 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 KUCR fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving KUCR 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 KUCR 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 KUCR during the period from the date of such notice until such time as the State determines that KUCR has cured the Event of Default shall never be paid to KUCR.
- c. Set off against any other obligations the State may owe to KUCR 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.

12.1.2 KUCR shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days.

12.1.3 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.

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12.2 Termination for Convenience

12.2.1 Either party may terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to the other party. In the event of a termination for convenience, the State shall pay KUCR 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.

12.2.2 During the thirty (30) day period, KUCR 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.

12.3 Termination for Conflict of Interest

12.3.1 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 KUCR did not know, or reasonably did not know, of the conflict of interest.

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

12.4 Termination Procedure

12.4.1 Upon termination of the Contract, the State, in addition to any other rights provided in the Contract, may require KUCR to deliver to the State any property provided to KUCR and Written Deliverables, for such part of the Contract as has been terminated.

12.4.2 after receipt of a notice of termination, and except as otherwise directed by the State, KUCR 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

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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 KUCR and in which the State has an interest;
- d. Return to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is owned by the State; and
- e. Provide written Certification to the State that KUCR has surrendered to the State all said property.
- f. Assist in Transition Services, as reasonably requested by the State at no additional cost.

13.Change of Ownership

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

14.Assignment, Delegation and Subcontracts

14.1 KUCR 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.

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

14.3 Notwithstanding the foregoing, nothing herein shall prohibit KUCR from assigning the Contract to the successor of all or substantially all of the assets or business of KUCR provided that the successor fully assumes in writing all obligations and responsibilities under the Contract. In the event that KUCR 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 KUCR, its successors or assigns for the full remaining term of the Contract;

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continue under the Contract with KUCR, its successors or assigns for such period of time as determined necessary by the State; or immediately terminating the Contract without liability to the KUCR, its successors or assigns.

15. 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 | <u>CUMULATIVE ALLOTTED TIME</u> |
|----------------|---|--|--|
| Primary | KUCR Project Manager | Scott J. Mantie, PhD State Project Manager (PM) | 5 Business Days |
| First | KUCR Director of Research Administration | Scott J. Mantie, PhD State Project Management Team (PMT) | 10 Business Days |
| Second | TBD | Commissioner V. Barry | 15 Business Days |

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

16. General Provisions

16.1 Travel Expenses

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

KUCR 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.

16.2 Shipping and Delivery Fee Exemption

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

16.3 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 KUCR with access to all program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware as required to complete contracted services.

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

16.4 Required Work Procedures

All work done must conform to standards and procedures agreed upon by the Department of Information Technology, State and KUCR.

16.5 Regulatory Government Approvals

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

16.6 Force Majeure

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

16.7 Insurance

16.7.1 KUCR Insurance Requirement

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

16.8 Exhibits

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

16.9 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

16.10 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 KUCR:
Kristi Billinger
Director of Research Administration
University of Kansas Center for Research
2385 Irving Hill Road
Lawrence, KS, 66045-7568
Tel: 785-864-3441
kristib@ku.edu

TO STATE:
Dr. Scott Mantie, Administrator
State of New Hampshire
Department of Education
101 Pleasant Street
Concord, NH 03301
Tel: (603) 271-3844
scott.mantie@doe.nh.gov

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EXHIBIT A
CONTRACT DELIVERABLES**

1. DELIVERABLES, MILESTONES AND ACTIVITIES

KUCR shall provide the State with access to the Kansas Interactive Testing Engine™ platform (KITE) to provide the DLM Alternate Assessment. The KITE platform will meet and perform in accordance with the Contract Specifications and Deliverables, and in accordance with the time frames provided in Exhibit A, 2.1 Implementation Schedule – Activities / Deliverables / Milestones.

The Activities, Deliverables, and Milestones 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.

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

| | | | |
|----|--|--------------|--------------------------------|
| 1 | Conduct Project Kickoff Meeting - teleconference | Non-Software | After fully executing contract |
| 2 | Work Plan | Written | |
| 3 | Webinars | Non-Software | Early September 2014 |
| 4 | Registration of Districts and Schools | Non-Software | As per schools' schedule |
| 5 | Registration of Educators | Non-Software | As per schools' schedule |
| 6 | Registration of Students | Non-Software | Deadline October 1, 2014 |
| 7 | On-line access to allow educators to input information | | |
| 8 | Practice Tests and Sample Items | | |
| 9 | DLM Instructionally Embedded Assessment | | |
| 10 | DLM End of Year Assessment | | |

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| | | | |
|----|---|--------------|--------------------------------------|
| 11 | Test Administration Manual, and Assessment Coordinator Manual Available | Written | Mid September-est. |
| 12 | Local Caching Server Update | | End of September – est. |
| 13 | Chromebook and iPad applications available | | Late September-est. |
| | | | |
| 14 | | | |
| 15 | Closing Date for Data validation/revision window #1 | Non-Software | Early October – est. |
| 16 | Phase A Field Testing | Software | Mid through Late October – est. |
| 17 | Embedded testing | Software | Early November – est. |
| 18 | Phase B Field Testing and Operational Instructionally Embedded | Software | Mid Nov. through Dec. 20, 2014 |
| 19 | Braille Field Testing | Software | January – February 2015 - tentative |
| | | | |
| 20 | Preparation for Operational Spring Window | Software | Late February through Mid March 2015 |
| 21 | Consortium operational spring window | Software | Mid March through Mid June |
| 22 | Final Scores for 2015 Sent to States | Written | July 2015 |
| | | | |
| | | | |

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EXHIBIT B
PRICE AND PAYMENT SCHEDULE**

1. DELIVERABLE PAYMENT SCHEDULE

1.1 Not to Exceed

This is a Not to Exceed (NTE) Contract totaling \$27,000 for the period between the Effective Date through June 30, 2015 KUCR shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow KUCR to invoice the State for the following activities, Deliverables, or milestones appearing in the price and payment tables below.

- a. Based upon New Hampshire’s alternate assessment test population for the 2013-14 testing year of **1125** students, the State will pay KUCR a fixed price amount of \$20 per student (English language arts and mathematics) for the 2014-15 testing year. The *estimated* 2014-15 DLM AA total cost is **\$27,000** (\$20 times an estimated 1350 students). No payments over and above the amount in Part 1 P-37 Section 1.8 Price Limitation shall be made without prior approval of the New Hampshire Governor and Executive Council.
 - KUCR shall invoice New Hampshire for 35% of the estimated cost after approval by the New Hampshire Governor and Council and New Hampshire shall pay within 30 calendar days after invoice is received.
 - KUCR shall invoice New Hampshire for 35% of the estimated total cost on or before January 1, 2015 and New Hampshire shall pay on or before February 1, 2015, and
 - KUCR shall invoice New Hampshire for the balance of the total cost, based on the actual number of students tested during the end-of-year assessment, upon completion and delivery of the annual test reports and New Hampshire shall pay within 30 calendar days.

Table 1 - Payment Schedule

| | | |
|---|--|--------|
| First Payment upon NH Governor and Council Approval of Contact | 35% of Estimated Amount | \$9450 |
| Second Payment January 1, 2015 | 35% of Estimated Amount | \$9450 |
| Final Payment upon conclusion of the end-of-year assessment as described below. | Final invoice adjusted to account the actual number of students tested. | \$8100 |

- b. For English Language Arts and Mathematics testing services in the 2015-16 and 2016-17 years, estimated payment will be based on the previous year’s STATE’s alternate assessment test population multiplied by a fixed cost of \$78 a student. Costs after the 2016-17 testing year will be determined based on discussions with the Consortium.
 - KUCR shall invoice STATE for 35% of the estimated total cost on or before August 1, of the current testing year and STATE shall pay on or before September 1 of the current testing year,
 - KUCR shall invoice STATE for 35% of the estimated total cost on or before January 1, of the current testing year and STATE shall pay on or before February 1 of the current testing year, and

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- KUCR shall invoice STATE for the balance of the total cost, based on the actual total number of students tested during either the instructionally embedded or end-of-year assessment, upon completion and delivery of the annual test reports and STATE shall pay within 30 calendar days.

2. TOTAL CONTRACT PRICE

This is a **Not to Exceed (NTE)** Contract for the period between the Effective Date through June 30, 2015. KUCR shall be responsible for performing its obligations in accordance with the Contract. 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 \$27,000 ("Total Contract Price"). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to KUCR for all fees and expenses, of whatever nature, incurred by KUCR 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

KUCR 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. KUCR shall only submit invoices for Services or Deliverables as permitted by the Contract. Invoices will be provided in a format that is generated by KUCR's financial system and will contain enough detail to identify the deliverable, as defined in Table 1- Payment Schedule.

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:

Scott Mantie, Ph.D.
NH Dept of Education
101 Pleasant Street
Concord, NH 03301

4. PAYMENT ADDRESS

All payments shall be sent to the following address:

University of Kansas Center for Research, Inc.
Financial Services
2385 Irving Hill Road
Lawrence, KS 66045-7568
kucr@ku.edu

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EXHIBIT B
PRICE AND PAYMENT SCHEDULE**

5. OVERPAYMENTS TO KUCR

KUCR shall promptly, but no later than thirty (30) 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 KUCR's invoices with appropriate information attached.

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EXHIBIT C
SPECIAL PROVISIONS**

SUBPARAGRAPH 6.3 of the General Provisions, Compliance By Contractor With Laws and Regulations / Equal Opportunity, is replaced as follows:

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 that may apply or that the United States may 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.

SUBPARAGRAPH 7 of the General Provisions, Personnel, is replaced as follows:

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor assures 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 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.

SUBPARAGRAPH 8.2.2 of the General Provisions, Event of Default/Remedies, is replaced as follows:

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement until the Default is cured;

SUBPARAGRAPH 9 of the General Provisions, Data/Access/Confidentiality/Preservation, is replaced as follows:

9.DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all student data provided by State during the performance of this Agreement.

9.2 All data and any property which has been received from the State shall remain 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.

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EXHIBIT C
SPECIAL PROVISIONS**

SUBPARAGRAPH 10 of the General Provisions, Termination, is replaced as follows:

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 thirty (30) 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.

SUBPARAGRAPH 13 of the General Provisions, Indemnification, is replaced as follows

13. INDEMNIFICATION

The Contractor agrees to accept responsibility for injury or damage to any person or persons or property that arise solely out of the Contractor's negligent acts or omissions in connection with this Project. Contractor further agrees that the State shall not be liable for damages arising solely from injuries or damages sustained by any person or persons or property resulting from the negligent performance or omission by the Contractor of this Agreement.

SUBPARAGRAPH 14 of the General Provisions, Insurance, is replaced as follows

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain insurance during the term of this contract as provided herein in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$1,000,000 per occurrence; and

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

SUBPARAGRAPH 15 of the General Provisions, Worker's Compensation, is replaced as follows

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and agrees that the Contractor is covered by the terms of the State of Kansas Workers Compensation Act, K.S.A. 44-501.

15.2 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.

SUBPARAGRAPH 19 of the General Provisions, Construction of Agreement and Terms is deleted.

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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 and will participate in the DLM Consortium.

As a member of the Dynamic Learning Maps Consortium (DLM Consortium), State will be able to participate in DLM Consortium meetings and receive all communications issued to Consortium members

2. STATE-OWNED DOCUMENTS AND DATA – N/A

3. RECORDS RETENTION AND ACCESS REQUIREMENTS

KUCR 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 OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

KUCR 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. KUCR 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 during normal business hours at KUCR's physical facilities. 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. KUCR 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 KUCR'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.

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EXHIBIT D
ADMINISTRATIVE SERVICES**

4. ACCOUNTING REQUIREMENTS

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

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EXHIBIT E
SECURITY AND IMPLEMENTATION**

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

1. IMPLEMENTATION STRATEGY

1.1 Key Components

- A. KUCR shall oversee an Implementation strategy with a timeline set forth in accordance with Exhibit A, 2.1 Implementation Schedule – Activities/Deliverables/Milestones:
- B. KUCR and the State, as part of the DLM Consortium, shall adopt a change management approach to identify and plan key strategies and communication initiatives.
- C. The KUCR team will provide training templates on line 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. KUCR shall utilize an approach that fosters and allows the participation of State and other Consortium members in the implementation of the DLM.
- F. KUCR shall manage Project execution and provide the tools needed to create and manage the Project’s deliverables and tasks, manage and schedule Project staff, track and manage issues, manage changing requirements, maintain communication within the Project Team, and report status.
- G. KUCR shall maintain an Implementation time-line aligned with the Consortium States required time-line.

1.2 Timeline

The timeline is set forth in Exhibit A. 2.1 Implementation Schedule – Activities/Deliverables/Milestones. 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.

1.3 Implementation

KUCR, through CETE shall provide the professional services listed below. The professional services set forth below shall be performed: (i) using the requisite degree of skill, care and diligence; and (ii) will be reasonably accurate in accordance with accepted professional testing standards. Charges for 2014-15 only apply to the end-of-year assessment (a.vii, a.viii, a.ix, and a.x). All listed tasks will be covered by charges in 2015-16 and beyond.

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SECURITY AND IMPLEMENTATION**

1.3.1 Assessment Administration Services

- i. **Registration of Districts and Schools.** (at no charge in 2014-15). CETE shall provide a mutually acceptable file format to New Hampshire to allow state to provide a school system hierarchy that CETE shall enter into the KITE™ system.
- ii. **Registration of Educators.** (at no charge in 2014-15). CETE shall provide functionality and instruction supporting centralized or distributed (SEA, LEA, or school) data load into the KITE™ system.
- iii. **Registration of Students.** (at no charge in 2014-15). CETE shall provide functionality and instruction supporting centralized or distributed (SEA, LEA, school) data load of unique student identifiers for the sole purpose of the assessment and appropriate demographic information into the KITE™ system. CETE shall ensure appropriate FERPA safeguards on all student data including authenticated user access.
- iv. **Online Collection of Student Personal Needs and Preferences Profiles, First Contact Survey Data, and/or Personal Learning Profiles.** (at no charge in 2014-15). CETE shall provide online access to allow educators to input information needed to allow personalized administration by provision of necessary accessibility tools and test accommodations and for determining appropriate initial placement of students with significant cognitive disabilities into the DLM Assessments. All information collected shall follow FERPA rules and regulations and New Hampshire privacy laws as it pertains to NH RSA 189:65, 66, 67, 68 and RSA 193-E:5. CETE will remove student unique numeral identifiers from the database and at no time store demographic data with student names.
- v. **Practice tests and sample items.** (at no charge in 2014-15) CETE shall provide practice tests and sample items to ensure students and educators may become familiar with the assessments.
- vi. **Administration of the DLM Instructionally Embedded Assessment.** (at no charge in 2014-15) All registered students shall be provided with access to the DLM Instructionally Embedded Assessment.
- vii. **Administration of DLM End-of-Year Assessment.** All registered students shall be provided with access to the DLM End-of-Year Assessment.
- viii. **Tier 1 Help Desk Support.** CETE shall provide a toll free telephone number for New Hampshire educators to have access to a help desk between the hours of 7:00 am and 6:00 pm Central Time Monday through Friday during the DLM End-of-Year test window and between 8:00 am and 5:00 pm Central Time at other times of the year (except National Holidays and December 26 through January 1 when the Help Desk shall be closed). Tier 1 support shall provide a response or resolution back to the originating caller within 24 hours.
- ix. **Tier 2 Help Desk Support.** CETE shall provide Tier 2 help desk support between 8:00 am and 5:00 pm Central Time Monday through Friday (except National Holidays and December 26 through January 1 when the Help Desk shall be closed). Tier 2 help desk support shall trouble shoot problems not solvable by Tier 1 support.
- x. **Score Reporting (all FERPA and New Hampshire privacy laws as provided in 1.3.1. iv. shall be followed).**
 1. CETE shall produce PDF files containing student, classroom, teacher, grade, school and district reports that may be accessed and printed by the appropriate local education agency or its designee. Report files shall be packaged for distribution at the individual student, teacher, school and district level.

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EXHIBIT E
SECURITY AND IMPLEMENTATION**

2. CETE shall produce a PDF file with a state level report that New Hampshire authorized SEA representatives may access and print.
3. CETE shall provide the SEA with an electronic data file containing all student scores, performance levels, and information indicating the student, classroom, teacher, school, and district for each score by content area and any other data in the DLM database required for accountability reporting.
4. CETE shall provide facility within the KITE™ system to allow teachers to look at the results of the DLM instructionally embedded assessment including recommendations for next Essential Element for instructional focus and a mechanism for the teacher to override the recommendation.

1.3.2 KITE™ System Enhancement and Maintenance. (at no charge in 2014-15). Seeking advice from the DLM Governance Board, CETE shall prioritize and implement KITE™ system enhancements on at least an annual basis.

1.3.3 Professional Development. (at no charge in 2014-15).

- i. CETE shall provide professional development that addresses general components of the DLM Alternate Assessment System (e.g., Claims and Conceptual Areas, DLM Essential Elements, Symbols), instructional practices (e.g., Universal Design for Learning, Principles of Instruction in English Language Arts, Unitizing, and Counting and Cardinality), and assessment preparation and administration (e.g., Completing the Personal Needs and Preferences Profiles and First Contact Survey).
- ii. The professional development provided by CETE shall be available in Self-directed formats that are available 24 hours a day, 7 days per week to educators through an on-line portal accessed via the DLM website and in Facilitated formats that are for use in face-to-face training or as part of local professional learning communities.
- iii. CETE shall host professional development materials
- iv. Seeking advice from the DLM Governance Board, CETE shall prioritize and create new and enhance existing professional development materials.
- v. CETE shall provide SEA with monthly reports regarding educator completion of Self-Directed versions of professional development modules.
- vi. CETE shall host a DLM Virtual Community of Practice open by registration to all educators working with students with significant cognitive disabilities in the DLM Consortium. As part of the DLM Virtual Community of Practice, CETE shall
 1. Provide instructional materials and supports including access to familiar texts used in the DLM Alternate Assessment System, supports for communication for students with complex communication needs, and sample lesson plans and units.
 2. Support and curate an instructional materials and lesson plan exchange that shall allow educators across the DLM Consortium to share resources.

1.3.4 Incremental Test Development. (not performed in 2014-15). CETE shall annually develop and field test approximately 500 testlets in each of English language arts and mathematics.

1.3.5 Research and Technical Documentation (at no charge in 2014-15). CETE shall conduct and publish research documenting the psychometric characteristics of the DLM assessments including policy

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SECURITY AND IMPLEMENTATION**

implications. In addition, CETE shall organize documentation to support USED peer review requirements and shall facilitate all non-state-specific peer review efforts.

1.3.6 Learning Maps Enhancement. (at no charge in 2014-15) As data are gathered and analyzed any appropriate changes shall be made to the learning maps.

1.3.7 DLM Essential Elements. (at no charge in 2014-15) CETE shall maintain and make available the DLM Essential Elements. CETE shall keep track of any recommendations for changes to the Essential Elements. At any time the Governance Board can vote to revise and reissue the Essential Elements, with any such motion including a schedule for implementation to allow the following.

- i. Time to revise the Learning Map, Essential Element Concept Maps, and Testlets
- ii. Time for educators to familiarize themselves with any changes
- iii. Time for New Hampshire to formally adopt the revised DLM Essential Elements.

1.3.8 Other Consortium Support Services (at no charge in 2014-15)

- i. CETE shall support the DLM Governance Board hosting two face-to-face meetings and as needed governance conference calls. Schedule E describes the functioning of the Governance Board.
- ii. CETE shall support two meetings a year of the DLM Technical Advisory Committee.
- iii. CETE shall host, maintain and enhance the DLM web site.

1.4 SECURITY

KUCR shall ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of the State's student data. KUCR shall provide the State resources, information, and Services during the term of the contract, with the appropriate infrastructure and security controls to ensure business continuity and to safeguard the confidentiality and integrity of State Data. Parties agree to enter into a Data Sharing Agreement, Exhibit M.

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EXHIBIT F
TESTING SERVICES**

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

1. TESTING AND ACCEPTANCE

KUCR shall be responsible for testing the software and KITE Platform prior to allowing State and other Consortium States access. Training on using KITE is available, in form of webinars and online, to the State staff responsible for assessment activities.

KUCR has an overall internal testing plan for the KITE platform. Testing shall be performed in accordance with this plan, including but not limited to, User Acceptance Testing.

1.4 Regression Testing

The KUCR will perform regression testing as necessary to fulfill the requirements under the Exhibit E, 1.3 Implementation. 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.

1.5 Security Review and Testing

All components of the software and KITE platform shall be reviewed and tested internally prior to allowing access to State and Consortium users.

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EXHIBIT G
HOSTING, MAINTENANCE, AND SUPPORT SERVICES**

1. SYSTEM MAINTENANCE

KUCR shall host, maintain, and support the software and KITE platform in all material respects for the duration of the Contract.

KUCR's Responsibility - KUCR shall maintain the functionality and security of the software and KITE platform. KUCR will not be responsible for maintenance or support for Software developed or modified by the State.

2. SYSTEM SUPPORT

2.1 KUCR's Responsibility

KUCR will be responsible for providing technical support to State users as provided herein:

a. **Tier 1 Help Desk Support** - CETE will provide a toll free telephone number for STATE educators to have access to a help desk between the hours of 7:00 am and 6:00 pm Central Time Monday through Friday during the DLM End-of-Year test window and between 8:00 am and 5:00 pm Central Time at other times of the year (except National Holidays and December 26 through January 1 when the Help Desk will be closed). Tier 1 support to provide a response or resolution back to the originating caller within 24 hours.

b. **Tier 2 Help Desk Support** - CETE will provide Tier 2 help desk support between 8:00 am and 5:00 pm Central Time Monday through Friday (except National Holidays and December 26 through January 1 when the Help Desk will be closed). Tier 2 help desk support will trouble shoot problems not solvable by Tier 1 support.

c. Technical assistance is also available by email at: DLM-support@ku.edu . Response time is within twenty-four (24) hours.

3. SUPPORT OBLIGATIONS AND TERM

3.1 KUCR shall provide ongoing operational support and hosting of the software and KITE platform for the DLM Alternate Assessment for the duration of the contract period;

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EXHIBIT H
TECHNICAL REQUIREMENTS**

Table C-2 General System Requirements

The hosting service provided by the University of Kansas must conform to the information technology Privacy, and security standards of the University of Kansas, which include but are not limited to:

University of Kansas Security Standards

The primary information can be found at:

KORA – Kansas Open Records Act
<http://www.privacy.ku.edu/resources/hipaa.shtml>

Information Access and Technology Policies
<http://www.policy.ku.edu/infoaccess.shtml>

| Specific Documents: | |
|---|---|
| <p>Information Access Acceptable Use of Educational Technologies: Guidelines for Faculty and Staff Access to Libraries Services, Policies on Blackboard, Policies and Procedures Related to Use of, University of Kansas Circulation Policies and Procedures, KU Libraries Code of Conduct for Library Users, KU Libraries Confidentiality Agreement for Use of Alumni Information System Content Management System Policy Data Classification and Handling Policy Data Classification and Handling Procedures Guide Guest Access to Wireless Network Index to Policies and Procedures, KU Libraries Information Access Control Policy Internal Audit Charter Investigative Contact by Law Enforcement, Policy and Procedures KLETC Open Records Request Policy KU Alumni Association E-mail Policy KU Card Center - Obtaining the KU Card KU Card Center - Request for Release of Photo KU Card Center - Terms and Conditions of the KU Card KU Libraries: Access, Circulation, and Request Services - Requirements for KU Students, Faculty, Staff, and Affiliates on the Lawrence and Edwards Campuses KU Libraries: Access, Circulation, and Request Services for KU Faculty, Staff, and Affiliates KU Libraries: Access, Circulation, and Request Services for KU Graduate Students KU Libraries: Access, Circulation, and Request Services for KU Undergraduate and Law Students KU Libraries: Code of Conduct for Library Users Library Services for Other Users Maintenance of Alumni Records Missing Residential Student Policy and Procedure: Vice Provost for Student Affairs</p> | <p>Privacy & Security Acceptable Use of Educational Technologies: Guidelines for Faculty and Staff Access to Libraries Services, Policies on Blackboard, Policies and Procedures Related to Use of, University of Kansas Clinic Policies and Procedures Regarding Privacy & Security of Patient Information Code of Conduct for Library Users, KU Libraries Confidentiality of Proposals and Awards Credit Card Information Data Center and Server Room Policy Data Center and Server Room Standards Data Classification and Handling Policy Data Classification and Handling Procedures Guide Education Credential Files: University Career Center Electronic Data Disposal Policy Electronic Data Disposal Procedure Gramm-Leach-Bliley Student Financial Information Security Program Health Information Privacy Policy: Watkins Health Services Identity Theft Prevention Program Information Access Control Policy Information Technology Security Policy Instructions for a lost, stolen, or damaged KU Card KU Card Center - Disclosure Statement KU Card Center - Report KU Card Lost or Stolen KU Card Center - Request for Release of Photo KU Libraries: Code of Conduct for Library Users KU Libraries: Privacy and Confidentiality KUMC Computer Security Incident Response KUMC Computer Security Policy KUMC Gramm-Leach-Bliley Act KUMC Mobile Device Security KUMC Password Policy KUMC Payment Card Acceptance KUMC Secure Application Development</p> |

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EXHIBIT H
TECHNICAL REQUIREMENTS**

| | |
|--|---|
| <p>Open Access Policy for University of Kansas Scholarship Records Retention Schedule Requests for Alumni Records Safety and Security of Funds Student Record Policy Primary Records Custodians Student Records Policy: Office of the University Registrar Systems Development Life Cycle (SDLC) Policy Systems Development Life Cycle (SDLC) Standard Undergraduate Admission Records Retention Policy: Office of Admissions and Scholarships Virtual Private Network (VPN) Remote Access Procedure Virtual Private Network (VPN) Service on the University of Kansas Data Network</p> | <p>KUMC Sensitive Information in Electronic and Paper-Based Systems KUMC Vulnerability Management KUMC Working with Vendor Systems Missing Residential Student Policy and Procedure: Vice Provost for Student Affairs Password Policy Privacy Policy, General Privacy Policy: Counseling and Psychological Services Record Confidentiality Records Retention Schedule Roles and Responsibilities for Information Management Policy Safety and Security of Funds Security Policy Procedure: Risk and Vulnerability Guidelines Security Policy: Assessment for Local IT Environments and Outline for Risk and Vulnerability Assessments Student Record Policy Primary Records Custodians Student Records Policy: Office of the University Registrar Systems Development Life Cycle (SDLC) Policy Systems Development Life Cycle (SDLC) Standard Unauthorized Peer-to-Peer File Sharing ..</p> |
| <p>Information Technology Acceptable Use of Educational Technologies: Guidelines for Faculty and Staff Acceptable Use of Electronic Information Resources Access to Libraries Services, Policies on Blackboard, Policies and Procedures Related to Use of, University of Kansas Code of Conduct for Library Users, KU Libraries Content Management System Policy Data Center and Server Room Policy Data Center and Server Room Standards Electronic Mail Policy Internet-Based Credit Card Processing Policy KUMC Computer Equipment Disposal and Media Sanitization KUMC Copyright Policy and Guidelines KUMC Email Use KUMC Internet Use KUMC Ownership of Computing Hardware and Software KUMC Roles of Technical Support Associates KUMC Social Media KUMC Software Licensing KUMC Student Email Use KUMC Web Resource Accessibility KUMC Web Server Appropriate Use KUMC Working with Vendor Systems Mobile Communication & Information Devices Network Policy Server Registration & Centralization Telecommunications Physical Infrastructure Telecommunications Wiring Policy Unauthorized Peer-to-Peer File Sharing Visual Identity (Web Standards) Manual for the University of Kansas Wireless Local Area Network (LAN) Systems Policy</p> | |

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EXHIBIT H
TECHNICAL REQUIREMENTS**

Specific Documents:

Data Classification and Handling Policy

<https://documents.ku.edu/policies/IT/DataClassificationandHandlingPolicy.htm>

Data Classification and Handling Guide

<https://documents.ku.edu/policies/IT/DataClassificationandHandlingProceduresGuide.htm>

Data Center and Server Room Policy

https://documents.ku.edu/policies/IT/DataCenterandServerRoom_Policy.htm

Data Center and Server Room Standards

https://documents.ku.edu/policies/IT/DataCenterandServerRoom_Standards.htm

Data Disposal Policy

<https://documents.ku.edu/policies/IT/DataDisposalPolicy.htm>

Data Disposal Procedure

<https://documents.ku.edu/policies/IT/DataDisposalProcedure.htm>

Information Access Control Policy

<https://documents.ku.edu/policies/IT/InformationAccessControlPolicy.htm>

Technical requirements are included in Attachment 1, and are hereby incorporated within.

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EXHIBIT I
WORK PLAN**

See: Exhibit A, 2.1. Implementation Schedule – Activities / Deliverables / Milestones and Exhibit E. 1.3. Implementation. Any additional activities and milestones will be decided by the Consortium.

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EXHIBIT J
SOFTWARE LICENSE**

There are no software licenses provided under this contract.

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EXHIBIT K
ASSURANCES**

KUCR provides the DLM AA and related services offered under this Agreement as part of the non-profit research and educational activities of University, and are provided to the State of New Hampshire as part of University's mission of outreach and service to the educational community. CETE has no reason to believe that the DLM AA infringes on the intellectual property rights of any third party, or that they are unfit for the purposes described in this Agreement. Notwithstanding any other statement, KUCR and University, their respective trustees, directors, officers, employees, and affiliates make no representations and extend no warranties of any kind, either express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose, absence of latent or other defects, whether or not discoverable or non-infringement of proprietary rights of any third party.

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EXHIBIT L
TRAINING SERVICES**

KUCR shall provide Training Services in the following manner:

A. TRAINING

Training for end users is available online any time using the Educator Portal Login. Training is also available through webinars offered by the KUCR Project Team. The Guide to DLM Required Training and Professional Development 2014-15 may be downloaded from, <http://dynamiclearningmaps.org/content/professional-development>.

1. Delivery Method -Instructor-Led Class Training

2. Project Team Developed Training

a. KUCR 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 listed below:

| User Training Approach | Role and Responsibility | |
|---|---|---|
| | KUCR 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 KUCR providing baseline Documentation in electronic format that can be modified and reproduced. | Assist in the development of training materials. |
| | KUCR and the State will together Conduct Train-the-Trainers for the State’s Central Support Group through Implementation. KUCR 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 | | |

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
NH ALT ASSESSMENT - DLM
CONTRACT 2015-043
EXHIBIT M
DATA SHARING AGREEMENT**

This Data Use Agreement is made and entered into by and between the New Hampshire Department of Education, hereafter “Holder,” the University of Kansas Center for Research, Inc., hereafter “Recipient.”

1. This agreement sets forth the terms and conditions pursuant to which Holder will disclose certain protected educational information, hereafter “PEI” in the form of a Limited Data Set to the Recipient.
2. Terms used, but not otherwise defined, in this Agreement shall have the meaning given the terms in the United States Department of Education Regulations 20 U.S.C. § 1232g; 34 CFR Part 99, also known as FERPA.
3. The purpose of this disclosure is to support the development and implementation of the Dynamic Learning Maps Alternate Assessment System for State of New Hampshire students. This purpose falls under both FERPA section 99.31(a)(6)(i)(A) which allows such disclosure in order to “Develop, validate, or administer predictive tests,” or “Improve instruction,” and FERPA section 99.35(a)(1) which allows such disclosure for the evaluation of state and federal education programs.

For purposes of this study, personally identifiable information about students with disabilities will be provided to the Recipient whenever Holder will want score reporting. For uses that do not require score reporting student names may be redacted at the sole discretion of the Holder and an identifier provided by Holder will be used to identify students during the administration of the Dynamic Learning Maps project.

4. Permitted Uses and Disclosures
 - 4.1 Except as otherwise specified herein, Recipient may make all uses and disclosures of the Limited Data Sets necessary to conduct the research described herein:
 - 4.1.1 Student data necessary for evaluation, test development, and support of instruction will include demographic information, education and disability status, indicators of current English/language arts and mathematics skills, and performance results on the Dynamic Learning Maps assessment. This information is intended to ensure test questions are useful and unbiased, inform the appropriate placement of the student in the computer-based assessment, and aid in the interpretation of the assessment results.
 - 4.1.2 Common Measures for teacher evaluation include collection of demographic information, teacher experience, and teacher responses to a survey about their own and their students’ experiences with the Dynamic Learning Maps assessment. This information is intended

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EXHIBIT M
DATA SHARING AGREEMENT**

to inform the test development and professional development activities.

5. Recipient Responsibilities
 - 5.1 The Recipient will not use or disclose the Limited Data Set for any purpose other than permitted by this Agreement pertaining to the Project, or as required by law. If disclosure of data of any kind is deemed necessary, it will take place only after prior notification of the Holder.
 - 5.2 The Recipient will use appropriate administrative, physical, and technical safeguards to prevent use or disclosure of the Limited Data Set other than as provided for by this Agreement.
 - 5.3 The Recipient will report to the Holder any use or disclosure of the Limited Data Set not provided for by this Agreement. The report should be made (to Holder, by Recipient) within 24 hours of its discovery.
 - 5.4 The Recipient will ensure that any agent, including a subcontractor, to whom it provides the Limited Data Set, agrees to the same restrictions and conditions that apply through this Agreement to the Recipient with respect to the Limited Data Set.
 - 5.5 The Recipient will not identify the information contained in the Limited Data Set. Any reports or materials developed by Recipient or subcontractors that use data provided under this Agreement, will not contain any personally identifiable information that is protected by the Family Educational Rights and Privacy Act (FERPA), 34 CFR 99.
 - 5.6 The Recipient will not contact the individuals who are the subject of the PEI contained in the Limited Data Set.
6. Term and Termination
 - 6.1 The terms of this Agreement shall be effective as of the effective date of contract #2015-043 and shall remain in effect until all PEI in the Limited Data Set provided to the Recipient is destroyed or returned to the Holder.
 - 6.2 Upon the Holder's knowledge of a material breach of this Agreement by the Recipient, the Holder shall provide an opportunity for Recipient to cure the breach or end the violation. If efforts to cure the breach or end the violation are not successful within the reasonable time period specified by the Holder, the Holder shall discontinue disclosure of the Limited Data Set to the Recipient if the Holder determines cure of the breach is not possible.

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- 6.3 Both Holder and Recipient shall have the right to terminate this Data Use Agreement for any reason by providing sixty (60) days notice of termination of this Data Use Agreement to the other party (Holder or Recipient).
7. General Provisions
- 7.1 The Recipient and Holder understand and agree that individuals who are the subject of Protected Educational Information are not intended to be third party beneficiaries of this Agreement.
- 7.2 This Agreement shall not be assigned by Recipient without the prior written consent of the Holder.
- 7.3 Each party agrees that it shall be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party or the results thereof.
8. Data Confidentiality and Security
- 8.1 The Recipient shall implement and adhere to policies and procedures that restrict access to the Limited Data Set. A complete list of individuals with access to the Limited Data Set will be identified and maintained.
- 8.2 Persons retrieving data/using data from the Limited Data Set shall never copy any student-level data to a laptop/desktop hard drive for any reasons. Tables and charts to be included in a project report may be stored outside of the secure hard drive or other secure data storage where the Limited Data Set is stored.
- 8.3 All individuals permitted to use or receive the Limited Data Set for purposes of the Project agree to handle pupil data in a manner that maintains privacy and confidentiality. All individuals using or receiving the Limited Data Set must sign and DLM's data access form, which will be maintained for the length of the project and will be shared with Holder.
9. Transmission of Data
- 9.1 All student data shall be sent to the Recipient via a secure File Transfer Protocol (FTP) or other method selected by the Holder.
- 9.2 During this transmission data shall be secured based upon a method selected by the Holder.
10. Data Storage

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DEPARTMENT OF EDUCATION
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CONTRACT 2015-043
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DATA SHARING AGREEMENT**

- 10.1 Personally identifiable information shall be kept, for a period not to exceed ten years, Holder's membership in the Dynamic Learning Maps Alternate Assessment, or the date when the data are no longer needed for the purposes for which the component of the project was conducted, whichever is the shortest duration.
- 10.2 Data will be stored in a secure electronic format by the Recipient. All personally identifiable information connected with this Project shall be destroyed per 10.1. Recipient shall give Holder written notice of planned destruction of records at least thirty (30) days prior to such destruction.
11. Data Elements
- 11.1 Attached is a Data Request (attachment 1) listing variables to be provided by Holder to Recipient for use with the Project. All data remains the property of Holder.

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KUCR DLM GOVERNANCE**

1. Definitions.

- a. SEA – “SEA” means state educational agency and includes each state’s education Superintendent.
- b. LEA – “LEA” means local educational agency and includes any educational agency within a DLM Consortium Member state subject to the requirements of ESEA of NCLB.
- c. KUCR – “KUCR” means the University of Kansas Center for Research, Inc.
- d. DLM Consortium – “DLM Consortium” means the set of states that purchase DLM Consortium student alternate assessment services.
- e. DLM Consortium Member – “DLM Consortium Member” means any state educational agency that approves and/or purchases the DLM Consortium student assessment services to satisfy the state and local educational agencies requirements of the Elementary and Secondary Education Act that pertain to the academic assessment students with significant cognitive disabilities.
- f. DLM Consortium Associate Member – “DLM Consortium Associate Member” means any state educational agency that is not using the DLM Alternate Assessment during the current year, but would like to attend Governance Meetings and conference calls. Associate members may participate in conversations but have no vote. Educators and students from Associate Member states will not participate in ongoing research. Associate membership requires an affirmative vote by two-thirds of the DLM Consortium Members.
- g. DLM Governance Board Member – “DLM Governance Board Member” means any person appointed to the DLM Governance Board according to the Board Member Appointment subsection below, *see* sec. 3a.

2. Purpose.

- a. Advisory - The DLM Governance Board serves as an advisory board to the Center for Educational Testing and Evaluation in their administration, maintenance and enhancement of the Dynamic Learning Maps Alternate Assessment system.
- b. Collaborative - The DLM Governance Board provides an organized opportunity for SEAs to associate and address common issues relating to students with significant cognitive disabilities, the academic proficiency of grade 3 through grade 12 students and other issues related to SEA and LEA requirements of ESEA of NCLB.

3. Structure.

- a. Board Member Appointment – Each DLM Consortium Member should appoint two SEA representatives to the DLM Consortium Board. The representatives should be a state special education and state assessment administrator.
- b. The CETE director of the Dynamic Learning Maps Alternate Assessment Project will be an ex officio member of the governance board.
- c. Term of DLM Governance Board Members – Each DLM Governance Board Member will serve until replaced by their respective SEA or until their SEA is no longer a DLM Consortium Member.

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- d. Removal of DLM Governance Board Members - DLM Consortium Board Members may only be removed by their respective SEA. An SEA will appoint a successor member to the DLM Governance Board if that SEA removes its appointed member.
 - e. Compensation – Members of the DLM Governance Board do not receive compensation.
4. Operations.
- a. General - CETE will facilitate the activities of the DLM Governance Board.
 - b. Semi-annual Meeting - CETE will conduct semi-annual gathering of the DLM Governance Board.
 - c. Ad hoc Committee Meetings - CETE will conduct ad hoc committee meetings of the DLM Governance Board as necessary.
 - d. Communications
 - i. General - CETE will provide the necessary infrastructure to facilitate the DLM Governance Board activities.
 - ii. Meeting Summaries – CETE will maintain meeting notes and provide meeting summaries to the DLM Governance Board Members after any DLM Governance Board meeting.
 - e. Costs
 - i. General – CETE will pay the costs associated with operating the DLM Governance Board. All travel expense reimbursements will be made in accordance with KUCR guidelines.
 - ii. Incremental Travel Expenses – If any SEA wants to bring more than two representatives to a DLM Consortium meeting, that SEA will be responsible for these peoples’ travel expenses.
 - f. Fiscal Impact – The activities of the DLM Governance Board will have no direct fiscal impact on individual DLM Consortium Members without an additional written agreement between the individual DLM Consortium Members and KUCR. If DLM Governance Board Members recommend and the DLM Consortium adopts any changes to the DLM Consortium services that affect the price, then no price change will take effect until the individual DLM Consortium Members execute written agreements with KUCR that reflect these changes.
5. Activities.
- a. General – The activities of the DLM Governance Board include the following:
 - i. Annual DLM Governance Board meetings;
 - ii. DLM Governance Board committees as determined by this section; and
 - iii. Special meetings conducted by the DLM Consortium
 - b. DLM Governance Board Meetings - CETE will coordinate the meetings of the DLM Governance Board.
 - i. Meeting Agendum – CETE, with input from the states, will set the agenda for DLM Governance Board meetings.
 - ii. Meeting Activities
 - 1. Substantive Presentations. CETE will present updates on DLM Consortium activities related to the implementation, research and development of the DLM Consortium Works.
 - 2. Financial Presentations. At every fall/winter Governance meeting CETE will provide a financial review of the previous year actual income and expenses and present a proposed budget

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for the current and subsequent year. At every Spring/Summer Governance meeting CETE will present a financial update on the current year budget.

3. Discussion and Review Groups. CETE will facilitate discussion groups on targeted topics related to the implementation, research and development of the DLM Consortium Works. The discussion groups are an opportunity for DLM Governance Board Members to provide input to the DLM Consortium and to interact and exchange ideas with other SEAs.
4. Policy Orientation and Priority Setting. CETE will poll the DLM Governance Board in order to ascertain the position of DLM Governance Board members on issues related to the policy orientation and priorities of the implementation, research and development. Each DLM Governance Board Member present will receive one vote. The votes will be recorded by CETE on behalf of the DLM Consortium.

c. Committees

- i. Ad Hoc Committees – the DLM Consortium and the DLM Governance Board may form ad hoc committees to address specific issues as necessary.

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EXHIBIT O
SPECIAL EXHIBITS, ATTACHMENTS, AND CERTIFICATES**

Attached are:

- A.** KUCR's Certificate of Vote/Authority
- B.** KUCR's Certificate of Good Standing
- C.** KUCR's Certificate of Insurance
- D.** Attachments
 - i.** Attachment 1 – DLM Contract Requirements
 - ii.** Attachment 2 - Trademarks

CERTIFICATE OF VOTE

I, Mary Lee Hummert, do hereby certify that:
(Name of the elected Officer of the Agency; cannot be contract signatory)

1. I am a duly elected Officer of University of Kansas Center for Research, Inc.
(Agency Name)

2. The following is a true copy of the resolution duly adopted at a meeting of the Board of Directors of
the Agency duly held on January 27, 2015
(Date)

RESOLVED: That the Director of Research Administration
(Title of Contract Signatory)

is hereby authorized on behalf of this Agency to enter into the said contract with the State and to
execute any and all documents, agreements and other instruments, and any amendments, revisions,
or modifications thereto, as he/she may deem necessary, desirable or appropriate.

3. The forgoing resolutions have not been amended or revoked, and remain in full force and effect as of
the 27th day of January, 2015.
(Date Contract Signed)

4. Kristi Billinger is the duly elected Director of Research Administration
(Name of Contract Signatory) (Title of Contract Signatory)

of the Agency.

Mary Lee Hummert
(Signature of the Elected Officer)

STATE OF KANSAS

County of Douglas

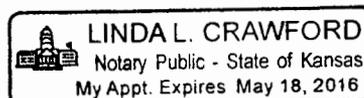
The forgoing instrument was acknowledged before me this 27th day of January, 2015.

By Mary Lee Hummert
(Name of Elected Officer of the Agency)

Linda L Crawford
(Notary Public/Justice of the Peace)

(NOTARY SEAL)

Commission Expires: 05-18-2016



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 University of Kansas Center for Research, Inc., a(n) Kansas nonprofit corporation, registered to do business in New Hampshire on October 20, 2014. 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 21st day of October, A.D. 2014

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

William M. Gardner
Secretary of State



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/29/2014

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

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

| | | |
|---|---|--------------------------------------|
| PRODUCER Calvin Eddy Kappelman Insurance 1011 Westdale Rd. Lawrence KS 66049-2638 | CONTACT NAME: Amanda Lutz PHONE (A/C No. Ext): (785) 843-2772 E-MAIL ADDRESS: alutz@cekinsurance.com | FAX (A/C No.): (785) 843-1583 |
| | INSURER(S) AFFORDING COVERAGE | |
| INSURED University of Kansas Center for Research Inc 2385 Irving Hill Road Lawrence KS 66044-7552 | INSURER A: Atain Spec. Ins. Co. | |
| | INSURER B: State Auto Insurance Companies | |
| | INSURER C: Associated International Insur | |
| | INSURER D: Houston Casualty Company | |
| | INSURER E: | |
| | INSURER F: | |

COVERAGES CERTIFICATE NUMBER: 14-15 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 WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|-----------|----------|---------------|-------------------------|-------------------------|--|
| A | GENERAL LIABILITY | | | [REDACTED] | 6/30/2014 | 6/30/2015 | EACH OCCURRENCE \$ 1,000,000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 |
| | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR | | | | | | MED EXP (Any one person) \$ 5,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | PERSONAL & ADV INJURY \$ Excluded |
| | <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | | | | GENERAL AGGREGATE \$ 2,000,000 |
| | | | | | | | PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| | | | | | | | \$ |
| B | AUTOMOBILE LIABILITY | | | [REDACTED] | 6/30/2014 | 6/30/2015 | 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 type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS | | | | | | PROPERTY DAMAGE (Per accident) \$ |
| | | | | | | | PIP-Basic \$ 10,000 |
| C | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR | | | [REDACTED] | 6/30/2014 | 6/30/2015 | EACH OCCURRENCE \$ 5,000,000 |
| | <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE | | | | | | AGGREGATE \$ 5,000,000 |
| | <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 | | | | | | \$ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | WC STATUTORY LIMITS OTH-ER |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) | Y/N | N/A | | | | E.L. EACH ACCIDENT \$ |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE \$ |
| | | | | | | | E.L. DISEASE - POLICY LIMIT \$ |
| D | Errors & Omissions | | | [REDACTED] | 2/10/2014 | 6/30/2015 | Limit \$1,000,000 |

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

CERTIFICATE HOLDER **CANCELLATION**

| | |
|-------------------------------------|--|
| **To provide proof of coverage only | 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 AL HACK/LUTZ |

October 10, 2014

To Whom It May Concern,

In response to your request for a certificate of insurance for The University of Kansas, please be advised that under the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.* (the "Act"), the State of Kansas has assumed liability for the negligent or wrongful acts and omissions of its employees and agents acting within the scope of their responsibilities on behalf of the State of Kansas, as outlined in that Act. This includes the University of Kansas. The liability for claims within the scope of the Act may not exceed Five Hundred Thousand Dollars (\$500,000) per occurrence. The University of Kansas will remain covered by the Act for the duration of the Event. Additionally, the State is required to indemnify its employees against damages for injury or damages proximately caused by the employee's acts or omissions. As a state agency, the University is also covered under the State of Kansas worker's compensation program for State agencies.

I trust that the coverage provided by the Kansas Tort Claims Act will adequately fulfill the insurance requirement, but please feel free to contact me if you have any questions or need additional information.

Sincerely,



Kimberly M. Grunewald
Associate General Counsel

KMG/trm

Division of Health Care Finance
Landon State Office Building
900 SW Jackson Street, Room 900-N
Topeka, KS 66612



Phone: 785-296-2364
Fax: 785-296-6995
www.kdheks.gov/hcf/

Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

March 3, 2014

Gale Carter, Contract Officer
Contract Negotiations
University of Kansas Center for Research, Inc.
2385 Irving Hill Road
Lawrence, KS 66045-7568

Re: State of Kansas Workers Compensation Claims

Dear Gale:

Please be advised that the State of Kansas' State Self-Insurance Fund ("SSIF") provides workers compensation coverage to State employees per K.S.A. 44-575. Employees whose injuries arise out of and in the course of their employment with the State of Kansas are still bound and covered by Kansas workers compensation laws.

Additionally, SSIF, as the name states, is wholly self-insured.

Thank you for your attention to this matter. Should you have any questions, comments or concerns, please do not hesitate to contact me at the phone number printed above.

Sincerely,

A handwritten signature in cursive script that reads "Carrie Doyal".

Carrie Doyal
Senior Manager, State Self Insurance Fund

Attachment 1_Business Requirements

Vendor Instructions

| | | |
|---|--|---|
| <p>Vendor Response Column: "Yes" if the current release of the software can fully support ALL the functionality described in the row, without special customization. A "Yes" can only be used if the delivery method is Standard (see delivery method instructions below). Otherwise, enter an "No"; A "No" can only be used with delivery method Future, Custom, or Not Available/Not Proposing (see delivery method instructions below).</p> | <p>Delivery Method Column: Complete the delivery method using a Standard, Future, Custom, or Not Available/Not Proposing (as defined below) that indicates how the requirement will be delivered.</p> <p>Standard - Feature/Function is included in the proposed system and available in the current software release. Future - Feature/Function will be available in a future release. (Provide anticipated delivery date, version, and service release in the comment area.) Custom - Feature/Function can be provided with custom modifications. (Respondent must provide estimated hours and average billing rate or flat cost for the software modification in the comment area. These cost estimates should add up to the total cost for software modifications found in the cost summary table in Section X of the RFP). Not Available/Not Proposing - Feature/Function has not been proposed by the Vendor. (Provide brief description of why this functionality was not proposed.)</p> | <p>Comments Column: For all Delivery Method responses other than standard (Future, Custom, or Not Available/Not Proposing) vendors must provide a brief explanation. Free form text can be entered into this column.</p> |
|---|--|---|

BUSINESS REQUIREMENTS**a. Assessment Administration Services (KUCR, through CETE) shall provide:**

| | | | | |
|-------|--|---|-----|--|
| B1.1 | Registration of Districts and Schools | M | Yes | |
| B1.2 | Registration of Educators | M | Yes | |
| B1.3 | Registration of students | M | Yes | |
| B1.4 | Online Collection of Student Personal Needs and Preferences Profiles, First Contact Survey Data, and/or Personal Learning Profiles | M | Yes | |
| B1.5 | Practice tests and sample items | M | Yes | |
| B1.6 | Administration of the DLM Instructionally Embedded Assessment | M | Yes | |
| B1.7 | Administration of DLM End-of-Year Assessment | M | Yes | |
| B1.8 | Tier 1 Help Desk Support | M | Yes | |
| B1.9 | Tier 2 Help Desk Support | M | Yes | |
| B1.10 | Score Reporting | M | Yes | |

b. KITE™ System Enhancement and Maintenance - CETE shall:

| | | | | |
|------|--|---|-----|--|
| B2.1 | prioritize and implement KITE™ system enhancements on at least an annual basis by seeking advice from the DLM Governance Board | M | Yes | |
|------|--|---|-----|--|

c. Professional Development - CETE shall provide:

| | | | | |
|------|--|---|-----|--|
| B3.1 | professional development that addresses general components of the DLM Alternate Assessment System (e.g., Claims and Conceptual Areas, DLM Essential Elements, Symbols), instructional practices (e.g., Universal Design for Learning, Principles of Instruction in English Language Arts, Unitizing, and Counting and Cardinality), and assessment preparation and administration (e.g., Completing the Personal Needs and Preferences Profiles and First Contact Survey). | M | Yes | |
| B3.2 | self-directed formats that are available 24 hours a day, 7 days per week to educators through an on-line portal accessed via the DLM website and in Facilitated formats that are for use in face-to-face training or as part of local professional learning communities. | M | Yes | |
| B3.3 | professional development materials | M | Yes | |
| B3.5 | prioritize and create new and enhance existing professional development materials by seeking advice from the DLM Governance Board | M | Yes | |
| B3.6 | SEA with monthly reports regarding educator completion of Self-Directed versions of professional development modules | M | Yes | |
| B3.7 | host a DLM Virtual Community of Practice open by registration to all educators working with students with significant cognitive disabilities in the DLM Consortium | M | Yes | |

1. BUSINESS REQUIREMENTS (6jt)

Attachment 1_Business Requirements

| | | | | |
|--|--|---|-----|--|
| d. Incremental Test Development - CETE shall: | | | | |
| B4.1 | annually develop and field test approximately 500 testlets in each of English language arts and mathematics. | M | Yes | |
| e. Research and Technical Documentation - CETE shall: | | | | |
| B5.1 | shall conduct and publish research documenting the psychometric characteristics of the DLM assessments including policy implications | M | Yes | |
| B5.2 | organize documentation to support USED peer review requirements and will facilitate all non-state-specific peer review efforts | M | Yes | |
| f. Learning Maps Enhancement | | | | |
| B6.1 | As data are gathered and analyzed any appropriate changes will be made to the learning maps | M | Yes | |
| g. DLM Essential Elements - CETE shall: | | | | |
| B7.1 | maintain and make available the DLM Essential Elements | M | Yes | |
| B7.2 | keep track of any recommendations for changes to the Essential Elements | M | Yes | |
| B7.3 | Board | M | Yes | |
| h. Other Consortium Support Services - CETE shall: | | | | |
| B8.1 | support the DLM Governance Board hosting two face-to-face meetings and as needed governance conference call | M | Yes | |
| B8.2 | support two meetings a year of the DLM Technical Advisory Committee | M | Yes | |
| B8.3 | host, maintain and enhance the DLM web site | M | Yes | |

APPLICATION REQUIREMENTS

GENERAL SPECIFICATIONS

| | | | | | |
|-------|---|---|-----|-------------------------|---|
| A1.1 | Ability to access data using open standards access drivers (please specify supported versions in the comments field). | M | N/A | | |
| A1.2 | The system software adheres to open standards and is not proprietary. | M | Yes | | |
| A1.3 | The database platform adheres to open standards. | M | N/A | Extracts | As csv files. |
| A1.4 | The Solution must comply with Open Standards as specified in RSA 21-R:10 and 21-R:13, including but not limited to Open Data Formats. | M | Yes | Published data formats. | |
| A1.5 | Web-based compatible and in conformance with the following W3C standards: | M | Yes | | |
| A1.6 | XHTML 1.0 | M | Yes | | |
| A1.7 | CSS 2.1 | M | Yes | | |
| A1.8 | XML 1.0 (fourth edition) | M | N/A | | No customer facing pieces of the applications that use this technology. |
| A1.9 | Ability to operate in a virtual environment, with VMWare | M | N/A | | Not using. |
| A1.10 | Comatibility with EMC Networker for managing backups | M | N/A | | |
| A1.11 | Operates on an Oracle/Linux or Microsoft SQL database platform | M | N/A | | |

APPLICATION SECURITY

| | | | | | |
|-------|--|---|-----|--------|------------------------------|
| A1.12 | Verify the identity and authorize all of the system users before allowing use of the system to prevent access to inappropriate or confidential data or services. | M | Yes | | David Vigneau |
| A1.13 | Verify the identity and authenticate all of the system's human users before allowing them to use its capabilities to prevent access to inappropriate or confidential data or services.. | M | Yes | | Compare to previous language |
| A1.14 | Enforce unique user names. | M | Yes | | |
| A1.15 | 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 | No | Custom | Part of future roadmap |
| A1.16 | Enforce the use of complex passwords for general users using capital letters, numbers and special characters | M | No | Custom | Part of future roadmap |
| A1.17 | Encrypt passwords in transmission and at rest within the database. | M | Yes | | |

Attachment 1_Business Requirements

| | Expire passwords after < a definite period of time> | M | Yes | 1 Year | CETE will work towards 90 days as part of future roadmap. |
|----------------|---|---|-----|--------|---|
| A1.18 | Authorize users and client applications to prevent access to inappropriate or confidential data or services. | M | Yes | | |
| A1.19 | Provide ability to limit the number of people that can grant or change authorizations | M | Yes | | |
| A1.20 | Establish ability to enforce session timeouts during periods of inactivity. | M | Yes | | |
| A1.21 | 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 (http://www.owasp.org/index.php/OWASP_Top_Ten_Project)) | M | Yes | | |
| A1.22 | The application shall not store authentication credentials or sensitive Data in its code. | M | Yes | | |
| A1.23 | Audit all attempted accesses that fail identification, authentication and authorization requirements | M | Yes | | |
| A1.24 | 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 (XX- days, weeks, or months) | M | Yes | | |
| A1.25 | The application must allow a user to explicitly terminate a session. No remnants of the prior session should then remain. | M | Yes | | No connection remains when users terminate session |
| A1.26 | Use only the Software and System Services designed for use | M | N/A | | |
| A1.27 | The application Data shall be protected from unauthorized use when at rest | M | Yes | | |
| A1.28 | Keep any sensitive Data or communications private from unauthorized individuals and programs. | M | Yes | | |
| A1.29 | Subsequent application enhancements or upgrades shall not remove or degrade security requirements | M | Yes | | |
| A1.30 | Create change management documentation and procedures | M | Yes | | |
| A1.31 | | M | Yes | | |
| SUBHEAD | | | | | |
| A2.1 | | | N/A | | |

HARDWARE REQUIREMENTS

| | | | | | |
|----------------|----------------|--|--|--|--|
| SUBHEAD | | | | | |
| E1.1 | Not applicable | | | | |

TESTING

APPLICATION SECURITY TESTING

| | | | | | |
|-------|---|---|-----|--|--|
| T1.1 | All components of the Software shall be reviewed and tested to ensure they protect the State's web site and its related Data assets. | M | Yes | | |
| 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 | Yes | | |
| 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 | Yes | | |
| T1.4 | Test for Access Control; supports the management of permissions for logging onto a computer or network | M | Yes | | |
| T1.5 | Test for encryption; supports the encoding of data for security purposes | M | Yes | | |
| T1.6 | Test the Intrusion Detection; supports the detection of illegal entrance into a computer system | M | Yes | | |
| T1.7 | Test the Verification feature; supports the confirmation of authority to enter a computer system, application or network | M | Yes | | |
| T1.8 | Test the Digital Signature; guarantees the unaltered state of a file | M | Yes | | |
| T1.9 | Test the User Management feature; supports the administration of computer, application and network accounts within an organization. | M | Yes | | |
| T1.10 | Test Role/Privilege Management; supports the granting of abilities to users or groups of users of a computer, application or network | M | Yes | | |
| T1.11 | Test Audit Trail Capture and Analysis; supports the identification and monitoring of activities within an application or system | M | Yes | | |
| T1.12 | Test Input Validation; nsures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server. | M | Yes | | |
| T1.13 | Provide the State with validation of 3rd party penetration testing performed on the application and system environment. | | Yes | | University of Kansas IT Security Department provides external security testing independent of the AAI software development group. Security testing occurs a minimum of annually and more frequent testing will occur whenever appropriate based on system updates. |

Attachment 1_Business Requirements

| | | | | | |
|-------------------------|--|---|-----|--|-----------|
| T1.14 | 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 | N/A | | Per T1.13 |
| STANDARD TESTING | | | | | |
| T2.1 | The Vendor must test the software and the system using an industry standard and State approved testing methodology. | M | Yes | | |
| T2.2 | The Vendor must perform application stress testing and tuning. | M | Yes | | |

HOSTING-CLOUD REQUIREMENTS**OPERATIONS**

| | | | | | |
|-------|--|---|----------------------------------|--|---|
| H1.1 | 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 | Yes | | |
| H1.2 | State access will be via Internet Browser | M | Browser | | |
| H1.3 | Not providing software. Providing access to test material via browser. | M | Yes | | |
| H1.4 | 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 | Yes | | |
| H1.5 | 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 | Yes | | |
| H1.6 | 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 | Yes, we have sysops on call 24/7 | | Each datacenter provides their own 24/7 monitoring of network and equipment, we are notified in event of a network event. |
| H1.7 | Data Center Air Conditioning – used to control temperature and humidity in the Data Center. Temperature ranges shall be between 68 and 75 °F. | M | Yes | | |
| H1.8 | Data Center Humidity shall be non-condensing and be maintained between 40-55% with a maximum dew point of 62 °F. | M | Yes | | |
| H1.9 | 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 | Yes | | |
| H1.10 | 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 | Yes | | |

5. HOSTING-CLOUD REQUIREMENTS

Attachment 1 Business Requirements

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|--------------------------|--|---|--------------------|--|---|--|
| H1.11 | 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 | Yes | | | |
| H1.12 | 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 | Yes | | KU Facility utilizes water rather than gas utilizing a dry pipe system requiring multiple faults and immediate heat detection localized to source, Cosentry utilizes gas. | |
| H1.13 | The Data Center must be physically secured – restricted access to the site to personnel with controls such as biometric, badge, and others security solutions. Policies for granting access must be in place and followed. Access shall only be granted to those with a need to perform tasks in the Data Center. | M | Yes | | | |
| H1.14 | Vendor must monitor the application and all servers. | M | Yes | | | |
| H1.15 | Vendor shall manage the databases and services on all servers located at the Vendor's facility. | M | Yes | | | |
| H1.16 | Vendor shall install and update all server patches, updates, and other utilities within 60 days of release from the manufacturer. | M | Yes | | | |
| H1.17 | Vendor shall monitor System, security, and application logs. | M | Yes | | | |
| H1.18 | Vendor shall manage the sharing of data resources. | M | Yes | | | |
| H1.19 | Vendor shall manage daily backups, off-site data storage, and restore operations. | M | Yes | | | |
| H1.20 | The Vendor shall monitor physical hardware. | M | Yes | | | |
| H1.21 | The Vendor shall report any identified breach in security to the State of New Hampshire. | M | Yes - see comment. | | KUCR shall report any breach in security to the State of New Hampshire within for (4) hours of determining a breach has occurred | |
| DISASTER RECOVERY | | | | | | |
| H2.1 | Vendor shall conform to adequate disaster recovery procedures as defined by the State of New Hampshire. | M | See comment | | State of Kansas | |
| 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 | Yes | | | |
| 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 | Yes | | | |

Attachment 1_Business Requirements

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|-----------------------------|---|---|-----|--|
| H2.4 | Vendor shall adhere to a defined and documented back-up schedule and procedure. | M | Yes | |
| 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 | Yes | |
| 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 disaster. | M | Yes | |
| H2.7 | The minimum acceptable frequency is differential backup daily, and complete backup weekly. | M | Yes | |
| 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 | Yes | |
| H2.9 | If State data is personally identifiable, data must be encrypted in the operation environment and on back up tapes. | M | Yes | |
| 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 | Yes | |
| NETWORK ARCHITECTURE | | | | |
| 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 | Yes | |
| 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 | Yes | Each facility has multiple connections either through vendor CoSentry or KANREN. |
| 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 | Yes | KANREN supplied connections as well as cosentry connections at present. |
| H3.4 | The Vendor' network architecture must include redundancy of routers and switches in the Data Center. | M | Yes | |
| HOSTING SECURITY | | | | |
| H4.1 | The Vendor shall employ security measures ensure that the State's application and data is protected. | M | Yes | |

Attachment 1 Business Requirements

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|-------|---|---|--------------------|--|--|
| H4.2 | If State data is hosted on multiple servers, data exchanges between and among servers must be encrypted. | M | Yes | | |
| 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 | Yes | | |
| 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 | Yes | | |
| 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 | Yes | Provided binaries are compiled in a secured build environment monitored for security and virus breaches to ensure code is safe. All binaries are tested in multiple environments prior to release. | |
| 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 | Yes - per comment. | KUCR shall report any breach in security to the State of New Hampshire within for (4) hours of determining a breach has occurred | |
| 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 | Yes | | |
| 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 | Yes | | |
| 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 | Yes | To allow this will require state to bear all costs including the time of KU staff needed to support any such audits. | |
| H4.10 | Logging should go to centralized logs server for security reasons. Logs should include System, Application, Web and Database logs. | M | Yes | | |
| H4.11 | The operating system and the data base should be built and hardened wherever possible to guidelines set forth by CIS (Center Internet Security), NIST, and NSA | M | Yes | | |

Attachment 1 Business Requirements

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|--------------------------------|--|---|--------------------|--|---|
| H4.12 | The Vendor must provide reports to validate that redundancy is in fact in place and backup/restores are functioning. | M | Yes | | |
| H4.13 | 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 | Yes | | |
| SERVICE LEVEL AGREEMENT | | | | | |
| 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 | Yes | | |
| 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 | Yes | | |
| 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 | Yes | | |
| H5.4 | The State shall have unlimited access, via phone or Email, to the Help Desk support Monday through Friday from 8:00am to 7:00pm Central Time. During State's spring testing window, the Help Desk is open from 7:00am to 7:00pm Central Time. The Help Desk is closed in observance of the following holidays: Labor Day, 9/1/2014; Veteran's Day, 11/11/2014; Thanksgiving Day, 11/27/2014 & 11/28/2014; Christmas and New Year's break, 12/24/2014 through 1/1/2015; Martin Luther King Jr. Day, 1/19/2015; Memorial Day, 5/25/2015; and Independence Day, 7/4/2015. | M | Yes - per comment. | | Help Desk support is available Monday through Friday from 8:00am to 7:00pm Central Time. During State's spring testing window, the Help Desk is open from 7:00am to 7:00pm Central Time. The Help Desk is closed in observance of the following holidays: Labor Day, 9/1/2014; Veteran's Day, 11/11/2014; Thanksgiving Day, 11/27/2014 & 11/28/2014; Christmas and New Year's break, 12/24/2014 through 1/1/2015; Martin Luther King Jr. Day, 1/19/2015; Memorial Day, 5/25/2015; and Independence Day, 7/4/2015. |

Attachment 1 Business Requirements

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|--------------|--|---------------------|--|--|--|
| <p>H5.5</p> | <p>The Vendor response time for support shall conform to the specific deficiency class as described below: o Class A Deficiency - Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service. o Class B Deficiency - Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the Service. o Class C Deficiency - Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service.</p> | <p>M</p> <p>Yes</p> | | | |
| <p>H5.6</p> | <p>As part of the Software maintenance agreement, ongoing software maintenance and support issues, shall be responded to according to the following: a. Class A Deficiencies - The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request; or the Vendor shall provide support on-site or with remote diagnostic Services, within four (4) business hours of a request; b. Class B & C Deficiencies –The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within four (4) hours of notification of planned corrective action; The Vendor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract;</p> | <p>M</p> <p>Yes</p> | | | |
| <p>H5.7</p> | <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> | <p>M</p> <p>Yes</p> | | | |
| <p>H5.8</p> | <p>The Vendor will guide the State with possible solutions to resolve issues to maintain a fully functioning, hosted System.</p> | <p>M</p> <p>Yes</p> | | | |
| <p>H5.9</p> | <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> | <p>M</p> <p>Yes</p> | | | |
| <p>H5.10</p> | <p>The Vendor response time for support shall conform to the specific deficiency class as described in</p> | <p>M</p> <p>Yes</p> | | | |
| <p>H5.11</p> | <p>The Vendor will give two-business days prior notification to the State Project Manager of all changes/updates and provide the State with training due to the upgrades and changes.</p> | <p>M</p> <p>Yes</p> | | | |

Attachment 1 Business Requirements

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|-------|---|---|--------------------|--|--|
| H5.12 | The Vendor shall guarantee 99.9% uptime, exclusive of the regularly scheduled maintenance window | M | Yes | | |
| H5.13 | 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 | Yes - per comment. | | This applies only to downtime during the New Hampshire end of year testing window. |
| H5.14 | The Vendor shall use a change management policy for notification and tracking of change requests as well as critical outages. | M | Yes | | Change requests or defects tracked in Rally as part of development process, issues by client are tickets at help desk. |
| H5.15 | A critical outage will be designated when a business function cannot be met by a nonperforming application and there is no work around to the problem. | M | Yes | | |
| H5.16 | 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 | Yes | | |
| H5.17 | The Vendor shall maintain a record of the activities related to repair or maintenance activities performed for the State and shall report quarterly on the following: Server up-time; All change requests implemented, including operating system patches; All critical outages reported including actual issue and resolution; Number of deficiencies reported by class with initial response time as well as time to close. | M | Yes | | |
| H5.18 | The Vendor shall provide the secure transport method for uploading and downloading files. | M | Yes | | All uploads of data occur inside of the application via SSL. |

SUPPORT & MAINTENANCE REQUIREMENTS

SUPPORT & MAINTENANCE REQUIREMENTS

| | | M | Yes | | |
|------|--|---|-------------------|--|---|
| 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 | Yes | | |
| 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 | N/A | | |
| 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 | N/A | | |
| S1.4 | The State shall have unlimited access, via phone or Email, to the Help Desk support Monday through Friday from 8:00am to 7:00pm Central Time. During State's spring testing window, the Help Desk is open from 7:00am to 7:00pm Central Time. The Help Desk is closed in observance of the following holidays: Labor Day, 9/1/2014; Veteran's Day, 11/11/2014; Thanksgiving Day, 11/27/2014 & 11/28/2014; Christmas and New Year's break, 12/24/2014 through 1/1/2015; Martin Luther King Jr. Day, 1/19/2015; Memorial Day, 5/25/2015; and Independence Day, 7/4/2015. | M | Yes - per comment | | Help Desk support is available Monday through Friday from 8:00am to 7:00pm Central Time. During State's spring testing window, the Help Desk is open from 7:00am to 7:00pm Central Time. The Help Desk is closed in observance of the following holidays: Labor Day, 9/1/2014; Veteran's Day, 11/11/2014; Thanksgiving Day, 11/27/2014 & 11/28/2014; Christmas and New Year's break, 12/24/2014 through 1/1/2015; Martin Luther King Jr. Day, 1/19/2015; Memorial Day, 5/25/2015; and Independence Day, 7/4/2015. |
| S1.5 | The Vendor response time for support shall conform to the specific deficiency class as described in the contract. | M | | | |
| S1.6 | The Vendor will guide the State with possible solutions to resolve issues to maintain a fully functioning, hosted System. | M | N/A | | |

Attachment 1 Business Requirements

| | | | |
|------|--|---|-----|
| 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 | N/A |
| S1.8 | The Vendor shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State; | M | N/A |

| | |
|--|---|
| | Software as a service, clients always utilize the updated version of the applications |
| | Warranty, repair or maintenance activities are not applicable to this project. |

PROJECT MANAGEMENT**PROJECT MANAGEMENT**

| | | | | |
|------|---|---|-------------------|--|
| P1.1 | Vendor shall participate in an initial kick-off meeting to initiate the Project. | M | Yes | This is accomplished through the regular consortium meetings and not a separate New Hampshire meeting. |
| P1.2 | Vendor shall provide Project Staff as specified in the Contract. | M | N/A | |
| 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. | M | Yes - per comment | Final Work Plan: see Exhibit A, 2.1 and Exhibit E, 1.3 |
| P1.4 | Vendor shall provide detailed bi-weekly status reports on the progress of the Project | M | Yes - per comment | Bi-weekly meetings with the consortium, newsletters, and special reports available on the website serve as status updates. |
| P1.5 | All user, technical, and System Documentation as well as Project Schedules, plans, status reports, and correspondence must be maintained as project documentation. (Define how- WORD format- on-Line, in a common library or on paper) | M | Yes - per comment | All documentation available on website. |

**Attachment 2
DLM Trademarks**

| Mark | Registration Number | Serial Number | Class |
|---|---------------------|---------------|-------|
|  | | 80/054,571 | 41 |
| KANSAS INTERACTIVE TESTING ENGINE | 4,381,381 | 85/600,923 | 41 |
| KITE | | 85/600,930 | 41 |
| DLM | | 85/600,901 | 16 |
| DLM | | 85/600,894 | 41 |
|  | | 85/601,171 | 41 |
|  | | 85/601,181 | 16 |
| DYNAMIC LEARNING MAPS | | 85/600,886 | 41 |
| DYNAMIC LEARNING MAPS | | 85/600,868 | 16 |

KUCR Board of Trustees 2015

| Class (term ending) | Last Name | First Name | Title | Affiliation |
|---------------------|--------------|------------|-------------------------------------|---|
| 2015 | Alexander | Perry | Director | Electrical Eng. & Computer Sciences |
| 2018 | Anderson | Danny | Dean | College of Liberal Arts and Sciences |
| 2018 | Baker | Stan | | |
| 2018 | Barohn | Rick | | |
| 2016 | Bendapudi | Neeli | Dean | Business |
| 2017 | Branicky | Michael | Dean | Engineering |
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| 2016 | Flynn | Dan | President and CEO | Deciphera |
| officer | Goddard | Diane | Comptroller | Comptroller's Office |
| 2015 | Golden | Webb | | Stevens & Brand |
| 2018 | Goldstein | Bob | Distinguished Professor | Geology Department |
| officer | Gordzica | Theresa | Chief Financial Officer | |
| officer | Gray-Little | Bernadette | Chancellor | Chancellor's Office |
| 2017 | Haggart | Ted | President and CEO | Douglas County Bank |
| officer | Heppert | Joseph | Assoc. Vice Provost for Research | Research & Graduate Studies |
| officer | Hummert | Mary Lee | | |
| 2018 | Jernigan | Cheryl | | |
| 2015 | Johnson | Donna | President | Pinnacle Technology, Inc. |
| 2016 | Kingston | Neal | Director | Psychology & Research in Education |
| 2015 | Lewis | Adrian | Professor | History |
| 2017 | Lieberman | Alice | Professor | Social Welfare |
| 2016 | Lunte | Sue | Distinguished Professor | Chemistry |
| 2016 | McElwain | Larry | | |
| 2015 | Meyers | Maria | Managing Director | KC SourceLink |
| 2018 | Moore Dorsey | Kristi | | |
| 2015 | Neufeld | Kristi | Associate Professor | Molecular Biosciences |
| 2018 | O'Leary | Rosemary | | |
| 2015 | Otten | Jim | | James Otten DDS |
| 2018 | Picking | Bill | | |
| 2017 | Schaub | Sherry | | |
| 2017 | Schoneich | Christian | Chairperson | Pharmaceutical Chemistry |
| ex-officio | Seuferling | Dale | President | KU Endowment Association |
| 2018 | Spratt | Sharon | | |
| officer | Torres | Rodolfo | Assoc VC | RGS |
| officer | Vitter | Jeffrey | Provost & Executive Vice Chancellor | Provost's Office |
| 2017 | Ward | Joy | Associate Professor | Ecology and Evolutionary Biology |
| 2016 | Wu | Judy | Distinguished Professor | Physics & Astronomy |

BYLAWS
of
UNIVERSITY OF KANSAS CENTER FOR RESEARCH, INC.

ARTICLE I – NAME AND LOCATION

Section 1: The name of this corporation is University of Kansas Center for Research, Inc.

Section 2: It is incorporated under the laws of the State of Kansas and its registered office shall be University of Kansas Center for Research, Inc., 2385 Irving Hill Road, Lawrence, Kansas 66045.

ARTICLE II – TRUSTEES, THEIR MEETING, NOTICES, QUORUM

Section 1: The number of trustees of this corporation shall be thirty-six (36) beginning in fiscal year 1997, excluding ex officio members, with an approximately equal number of University and non-University members.

Section 2: The term of office of the trustees, other than ex officio trustees, shall be four years, with four classes, and each class serving four year terms. A trustee (other than ex officio members) may be removed from office by a majority vote of the Board of Trustees.

Section 3: Trustees to fill vacancies in the Board of Trustees shall be elected (for the unexpired term) at any annual or special meeting of the Board of Trustees.

Section 4: The annual meeting of the trustees shall be held on a date in November or December as may be designated annually by the Executive Committee.

In the event that such annual meeting is omitted by oversight or otherwise, the trustees shall cause a meeting in lieu thereof to be held as soon thereafter as may be convenient and any business transacted or held at such meeting shall be as valid as if transacted or held at the annual meeting.

Section 5: Special meetings of the trustees may be called by the chair, or in his or her absence, by the president, at any time or by twenty-five percent of the members of the Board of Trustees.

Section 6: Notice of an annual or other official meeting of the trustees shall be given by the secretary to each trustee by letter notice, mailed at least 20 days in advance of an annual meeting or at least seven days in advance of any other official meeting to his or her last known address as shown by the records of the corporation.

Section 7: Notice of any meeting may be waived by being personally present or by a written waiver submitted either before or after such meeting.

Section 8: Ten trustees shall be required to constitute a quorum.

ARTICLE III – OFFICERS, THEIR DUTIES, BONDS

Section 1: The officers of this corporation shall be a chair of the Board of Trustees who shall serve as the chief executive officer, a vice chair, a president who shall serve as the chief operating officer, one or more vice presidents, a secretary, and a treasurer. Certain officers of the corporation shall be designated for office by virtue of their University titles: Chancellor, chair; Provost, vice chair; Vice Chancellor for Research & Graduate Studies (Lawrence Campus), president; Associate Vice Chancellor(s) for Research & Graduate Studies (Lawrence Campus), vice president(s); and the Vice Provost for Administration & Finance (Lawrence Campus), secretary-treasurer. Subject to the above provisions for holding office by virtue of University titles, one officer position may be held by the same person (e.g., the secretary and treasurer positions may be held by the same person). The other officers shall all be members of the Board of Trustees.

Section 2: The duties of the several officers of this corporation shall be as follows:

Chair of the Board. The Chair of the Board shall be the chief executive officer of the corporation and shall, if present, preside at all meetings of the Board of Trustees or Executive Committee, and exercise and perform such other powers and duties as may be assigned from time to time by the Board of Trustees or prescribed by the Bylaws.

Vice Chair of the Board. The Vice Chair shall preside at all meetings of the Trustees or Executive Committee in the absence of the Chair and exercise and perform such other powers and duties as may be assigned from time to time by the Board of Trustees or prescribed by the Bylaws.

President. The President shall be the chief operating officer of the corporation. It shall be the President's duty to implement and carry out the policy decisions of the Board of Trustees and to actively manage the business of the corporation; to see that all orders and resolutions of the Board of Trustees are carried out and put into effect; to make reports to the Board of Trustees; to have the general supervision and direction of the other officers of the corporation and to see that their duties are properly performed; and to perform all such other duties as are incidental to the President's office or are properly required by the Board of Trustees.

Vice President(s). The Vice President, or, if there be more than one (1), the Vice Presidents, in the order designated by the President, shall exercise the functions of the President during the absence or disability of the President, shall actively perform duties as directed by the President, and shall perform such other duties as may be required by the Board of Trustees.

Secretary. The Secretary shall keep minutes of all meetings, shall have charge of the seal and the corporate books. The Secretary shall be a faculty member at the University of Kansas (Lawrence Campus). The Secretary shall perform all duties incidental to the office of the Secretary or properly required by the Board of Trustees.

Treasurer. The Treasurer shall have custody of all moneys and securities of the corporation and shall render to the Board of Trustees from time to time, as may be required, an account of all financial transactions and of the financial condition of the corporation. The Treasurer shall not be a member of the senior management team

working directly for the corporation. The Treasurer shall perform all duties incidental to the office of the Treasurer or properly required by the Board of Trustees.

Section 3: The trustees shall require the treasurer, and may require any of the other officers or employees, to give bond for the faithful performance of his or her respective duties in such sum and with such sureties as they by resolution may provide, the cost thereof to be paid by the corporation.

ARTICLE IV – EXECUTIVE COMMITTEE POWERS, MEETINGS, QUORUM

Section 1: There shall be an Executive Committee which shall include the chair, vice chair, president, vice president(s), secretary, and treasurer of this corporation, and at least five other members to be selected by the trustees from their number, at least two of whom shall be faculty members at the University of Kansas, which Executive Committee shall have all of the powers of the trustees except to fill vacancies on the Board. The chief financial officer of the University shall serve as an ex-Officio member of the Executive Committee.

Section 2: The Executive Committee shall have full charge of the business and general operation of the corporation, shall have full power and authority to do all business that it deems for the best interest of the corporation, including the power to borrow money, give evidence thereof and give security therefore, and do any or all things which the trustees may do except to fill vacancies in the membership of the trustees.

Section 3: Meetings of the Executive Committee shall be held at the call of the president, or in his or her absence by a vice president, or at the call of any four of its members and shall be held at such hour and place as may be designated in the call. At least three days' notice of such meeting shall be given in person, by email, or by mail to the registered address of each member. Notice may be waived in writing either before or after such meeting and the presence of a member at the meeting shall be deemed as a waiver of notice.

Section 4: A majority shall be necessary to constitute a quorum at any meeting of the Executive Committee.

ARTICLE V – COMMITTEES AND EMPLOYEES

Section 1: The Executive Committee may appoint such committees and give them such duties as may from time to time be deemed advisable; and they may employ such persons and assign to them such duties as they may deem necessary from time to time, and provide their compensation.

Section 2: Trustees shall receive no compensation for services rendered by them as such.

ARTICLE VI – AMENDMENTS

The trustees shall have the power to alter, repeal or amend any of these bylaws at any regular meeting provided notice thereof be given them ten days in advance thereof, and the Executive Committee shall have the same power provided such notice be given at least three days before and provided also that amendment by the Executive Committee shall be valid only until the next regular meeting of the trustees, unless at such meeting the trustees shall approve.

ARTICLE VII – SEAL

The following is an impression of the corporate seal:

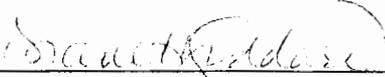
ARTICLE VIII – INDEMNIFICATION OF TRUSTEES,
EXECUTIVE COMMITTEE, AND OFFICERS

When a person is sued, either alone or with others, because he or she is or was a trustee, Executive Committee member or officer of the corporation, any proceeding arising out of such person's alleged misfeasance or nonfeasance in the performance of such person's duties or out of any alleged wrongful act against the corporation or by the corporation, such person shall be indemnified for such person's reasonable expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any action, suit or proceeding, including attorneys' fees, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation; and, with respect to any criminal action or proceeding, if such person had no reasonable cause to believe his or her conduct was unlawful.

The amount of such indemnity which may be assessed against the corporation, its receiver, or its trustee, by the court in the same or in a separate proceeding shall be so much as the court determines and finds to be reasonable. Application for indemnity for expenses may be made either by the indemnified person or the person rendering services to the indemnified person in connection with the defense, and the court may order the fees and expenses to be paid directly to the attorney or other service provider, although the attorney or other service provider is not a party to the proceeding. Notice of the application for such indemnity shall be served upon the corporation, its receiver, or its trustee, and upon the plaintiff and other parties to the proceeding. The court may order notice to be given also to the trustees in the manner provided in Article II, Section 6 for giving notice of meetings, in such form as the court directs.

I, Diane H. Goddard, being the current Secretary-Treasurer of the University of Kansas Center for Research, Inc., hereby certify that the foregoing is a true copy of the bylaws of the aforementioned corporation as originally adopted on June 9, 1962, with the incorporating amendments duly adopted on October 19, 1968, June 10, 1972, October 2, 1976, October 24, 1977, October 18, 1980, February 21, 1997, December 8, 2006, November 9, 2009 and the date indicated below.

Dated this 22nd day of November, 2010.



Diane H. Goddard, Secretary-Treasurer



COCHRAN HEAD VICK & CO., P.A.

& Co

Certified Public Accountants

1333 Meadowlark Lane
Kansas City, KS 66102
(913) 287-4433
(913) 287-0010 FAX

INDEPENDENT AUDITOR'S REPORT

Board of Trustees
University of Kansas Center for Research, Inc.
Lawrence, Kansas

Report on the Financial Statements

We have audited the accompanying financial statements of the University of Kansas Center for Research, Inc. (the Center), a component unit of the University of Kansas (the University), which comprise the statements of financial position as of June 30, 2014 and 2013, and the related statements of activities, and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Center as of June 30, 2014 and 2013, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Offices

1251 NW Briarcliff Pkwy
Suite 125
Kansas City, MO 64116
(816) 453-7014
(816) 453-7016 FAX

6700 Antioch Rd, Suite 460
Merriam, Kansas 66204
(913) 378-1100
(913) 378-1177 FAX

400 Jules Street
Suite 415
St. Joseph, MO 64501
(816) 364-1118
(816) 364-8144 FAX

Other Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying schedule of expenditures of federal awards, as required by Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the financial statements as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated September 30, 2014, on our consideration of the Center's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Center's internal control over financial reporting and compliance.

Kansas City, Kansas
September 30, 2014

Cochran Head Vick & Co., P.A.

University of Kansas Center for Research, Inc.
Statements of Financial Position
June 30, 2014 and 2013

| | 2014 | 2013 |
|--|----------------|----------------|
| Assets | | |
| Current assets: | | |
| Cash and cash equivalents | \$ 9,937,673 | \$ 14,205,861 |
| Current investments | 36,055,260 | 28,443,265 |
| Interest receivable | 86,258 | 89,696 |
| Accounts receivable, net | | |
| Federal | 25,276,694 | 20,174,867 |
| State | 1,163,820 | 1,803,293 |
| Other | 9,206,791 | 5,201,768 |
| Total accounts receivable | 35,647,305 | 27,179,928 |
| Note receivable - current | 47,766 | 45,818 |
| Prepaid expenses | 236,635 | 150,710 |
| Total current assets | 82,010,897 | 70,115,278 |
| Property and equipment, net | 22,933,752 | 24,479,874 |
| Buildings and equipment in progress | 948,294 | 882,668 |
| Total property and equipment | 23,882,046 | 25,362,542 |
| Long-term investments | 6,714,103 | 7,351,304 |
| Other assets | | |
| Bond issuance costs and other | 544,635 | 603,726 |
| Notes receivable | 887,160 | 934,925 |
| Total other assets | 1,431,795 | 1,538,651 |
| Total assets | \$ 114,038,841 | \$ 104,367,775 |
| Liabilities and Net Assets | | |
| Current liabilities: | | |
| Accounts payable and accrued expenses | \$ 21,940,546 | \$ 15,676,140 |
| Current portion of long-term debt | 3,332,349 | 3,054,287 |
| Assets held for others | 6,939,183 | - |
| Deferred revenues - sponsored research | | |
| Federal | 2,388,230 | 4,406,008 |
| State | 2,065,419 | 3,336,249 |
| Other | 5,779,463 | 5,332,622 |
| Total deferred revenues | 10,233,112 | 13,074,879 |
| Total current liabilities | 42,445,190 | 31,805,306 |
| Bonds payable, net | 37,437,071 | 40,753,703 |
| Total liabilities | 79,882,261 | 72,559,009 |
| Net Assets | | |
| Unrestricted | 27,011,379 | 25,523,953 |
| Temporarily restricted | 1,274,195 | 533,807 |
| Permanently restricted | 5,871,006 | 5,751,006 |
| Total net assets | 34,156,580 | 31,808,766 |
| Total liabilities and net assets | \$ 114,038,841 | \$ 104,367,775 |

See notes to the financial statements

University of Kansas Center for Research, Inc.
Statement of Activities
For the year ended June 30, 2014

| | Unrestricted | Temporarily Restricted | Permanently Restricted | Total |
|---|----------------------|---------------------------|---------------------------|----------------------|
| Revenues, Gains, and Other Support | | | | |
| Direct research income | \$ 126,291,625 | \$ - | \$ - | \$ 126,291,625 |
| Facilities & administrative (F&A) revenue | 24,677,737 | - | - | 24,677,737 |
| | <u>150,969,362</u> | <u>-</u> | <u>-</u> | <u>150,969,362</u> |
| Service centers | 4,708,714 | - | - | 4,708,714 |
| Royalties | 5,163,677 | - | - | 5,163,677 |
| Investment income | 1,035,334 | 990,529 | - | 2,025,863 |
| Contributions | - | - | 120,000 | 120,000 |
| Other income | 640,538 | - | - | 640,538 |
| | <u>11,548,263</u> | <u>990,529</u> | <u>120,000</u> | <u>12,658,792</u> |
| Net assets released from restriction: | | | | |
| Satisfaction of program restrictions | 250,141 | (250,141) | - | - |
| | <u>162,767,766</u> | <u>740,388</u> | <u>120,000</u> | <u>163,628,154</u> |
| Expenses | | | | |
| Direct research expenses | 126,291,625 | - | - | 126,291,625 |
| Capitalized expenses for property and equipment | (5,176,695) | - | - | (5,176,695) |
| | <u>121,114,930</u> | <u>-</u> | <u>-</u> | <u>121,114,930</u> |
| Corporation F&A expenses: | | | | |
| University support | 2,547,977 | - | - | 2,547,977 |
| Research admin., unit support, startup | 13,784,314 | - | - | 13,784,314 |
| Matching costs | 1,465,206 | - | - | 1,465,206 |
| Interest expense-bonds | 1,601,566 | - | - | 1,601,566 |
| Research unit/school expenses | 3,791,486 | - | - | 3,791,486 |
| Service centers | 3,457,834 | - | - | 3,457,834 |
| Other programs services | 3,404,669 | - | - | 3,404,669 |
| Depreciation | 5,160,103 | - | - | 5,160,103 |
| Loss on disposal of assets | 278,081 | - | - | 278,081 |
| Loss on partial bond refunding | 910,088 | - | - | 910,088 |
| | <u>157,516,254</u> | <u>-</u> | <u>-</u> | <u>157,516,254</u> |
| Change in net assets before transfers | 5,251,512 | 740,388 | 120,000 | 6,111,900 |
| Transfers to University | (3,764,086) | - | - | (3,764,086) |
| | <u>1,487,426</u> | <u>740,388</u> | <u>120,000</u> | <u>2,347,814</u> |
| Change in net assets | 1,487,426 | 740,388 | 120,000 | 2,347,814 |
| Net assets, beginning of year | 25,523,953 | 533,807 | 5,751,006 | 31,808,766 |
| Net assets, end of year | <u>\$ 27,011,379</u> | <u>\$ 1,274,195</u> | <u>\$ 5,871,006</u> | <u>\$ 34,156,580</u> |

See notes to the financial statements

University of Kansas Center for Research, Inc.
Statement of Activities
For the year ended June 30, 2013

| | Unrestricted | Temporarily Restricted | Permanently Restricted | Total |
|---|----------------------|---------------------------|---------------------------|----------------------|
| Revenues, Gains, and Other Support | | | | |
| Direct research income | \$ 134,468,296 | \$ - | \$ - | \$ 134,468,296 |
| Facilities & administrative (F&A) revenue | 25,731,884 | - | - | 25,731,884 |
| | <u>160,200,180</u> | <u>-</u> | <u>-</u> | <u>160,200,180</u> |
| Service centers | 4,620,228 | - | - | 4,620,228 |
| Royalties | 5,224,372 | - | - | 5,224,372 |
| Donations of equipment - non project funds | 37,341 | - | - | 37,341 |
| Investment income | 346,197 | 565,047 | - | 911,244 |
| Contributions | - | - | 120,000 | 120,000 |
| Other income | 994,067 | - | - | 994,067 |
| | <u>11,222,205</u> | <u>565,047</u> | <u>120,000</u> | <u>11,907,252</u> |
| Net assets released from restriction: | | | | |
| Satisfaction of program restrictions | 249,848 | (249,848) | - | - |
| | <u>171,672,233</u> | <u>315,199</u> | <u>120,000</u> | <u>172,107,432</u> |
| Expenses | | | | |
| Direct research expenses | 134,468,296 | - | - | 134,468,296 |
| Capitalized expenses for property and equipment | (5,047,026) | - | - | (5,047,026) |
| | <u>129,421,270</u> | <u>-</u> | <u>-</u> | <u>129,421,270</u> |
| Corporation F&A expenses: | | | | |
| University support | 579,295 | - | - | 579,295 |
| Research admin., unit support, startup | 11,264,886 | - | - | 11,264,886 |
| Matching costs | 1,058,455 | - | - | 1,058,455 |
| Interest expense-bonds | 1,353,228 | - | - | 1,353,228 |
| Research unit/school expenses | 9,979,035 | - | - | 9,979,035 |
| Service centers | 3,985,604 | - | - | 3,985,604 |
| Other programs services | 5,710,690 | - | - | 5,710,690 |
| Depreciation | 5,341,289 | - | - | 5,341,289 |
| Loss on disposal of assets | 242,908 | - | - | 242,908 |
| Total expenses | <u>168,936,660</u> | <u>-</u> | <u>-</u> | <u>168,936,660</u> |
| Change in net assets before transfers | 2,735,573 | 315,199 | 120,000 | 3,170,772 |
| Transfers to University | <u>(3,575,460)</u> | <u>-</u> | <u>-</u> | <u>(3,575,460)</u> |
| Change in net assets | (839,887) | 315,199 | 120,000 | (404,688) |
| Net assets, beginning of year | <u>26,363,840</u> | <u>218,608</u> | <u>5,631,006</u> | <u>32,213,454</u> |
| Net assets, end of year | <u>\$ 25,523,953</u> | <u>\$ 533,807</u> | <u>\$ 5,751,006</u> | <u>\$ 31,808,766</u> |

See notes to the financial statements

University of Kansas Center for Research, Inc.
Statements of Cash Flows
For the years ended June 30, 2014 and 2013

| | 2014 | 2013 |
|---|----------------|----------------|
| Operating Activities | | |
| Cash received for research contracts, grants and service accounts and unit support | \$ 154,329,660 | \$ 174,468,994 |
| Royalties received | 2,580,956 | 2,285,319 |
| Interest received | 736,481 | 565,841 |
| Payments to suppliers and employees | (148,654,574) | (166,818,181) |
| Interest paid | (2,840,780) | (1,611,228) |
| Other operating receipts | 5,540,227 | 6,399,212 |
| Net cash provided by operating activities | 11,691,970 | 15,289,957 |
| Investing Activities | | |
| Purchase of property and equipment | (7,721,774) | (9,629,472) |
| Purchase of investments | (23,627,850) | (26,223,473) |
| Proceeds from sales and maturities of investments | 17,945,876 | 26,625,434 |
| Collection of notes receivable | 45,817 | 43,951 |
| Net cash used in investing activities | (13,357,931) | (9,183,560) |
| Financing Activities | | |
| Proceeds from issuance of bonds payable | 10,580,000 | - |
| Bond premium, issuance costs, and other, net | 62,773 | - |
| Principal payments of long-term debt | (13,365,000) | (2,845,000) |
| Permanently restricted contributions | 120,000 | 120,000 |
| Net cash used in financing activities | (2,602,227) | (2,725,000) |
| Increase (Decrease) in Cash and Cash Equivalents | (4,268,188) | 3,381,397 |
| Cash and Cash Equivalents, Beginning of Year | 14,205,861 | 10,824,464 |
| Cash and Cash Equivalents, End of Year | \$ 9,937,673 | \$ 14,205,861 |
| Reconciliation of Change in Net Assets to Net Cash Provided by Operating Activities | | |
| Change in net assets | \$ 2,347,814 | \$ (404,688) |
| Adjustments to reconcile change in net assets to net cash provided by operating activities: | | |
| Depreciation | 5,160,103 | 5,341,289 |
| Amortization | (1,167,340) | (186,126) |
| Donations of equipment - non project funds | - | (37,341) |
| Loss on disposal of property and equipment | 278,081 | 242,908 |
| Loss on extinguishment of bonds | 910,088 | - |
| Realized and unrealized (gains) losses on investments | (1,292,820) | (376,441) |
| Transfer of assets to University of Kansas | 3,764,086 | 3,575,460 |
| Permanently restricted contributions | (120,000) | (120,000) |
| Changes in: | | |
| Accounts receivable - research | (3,128,864) | 3,760,292 |
| Interest receivable | 3,438 | 31,038 |
| Prepaid expenses | (85,925) | (98,571) |
| Accounts payable and accrued expenses | 925,893 | 546,265 |
| Assets Held for Others | 6,939,183 | - |
| Deferred revenues - research | (2,841,767) | 3,015,872 |
| Net cash provided by operating activities | \$ 11,691,970 | \$ 15,289,957 |
| Supplemental Cash Flow Information | | |
| Noncash investing activities: | | |
| Donations of equipment - non project funds | \$ - | \$ 37,341 |

See notes to the financial statements