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Frank Edelblut
Commissioner

Paul K. Leather
Deputy Commissioner

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

June 27, 2017

His Excellency, Governor Christopher T. Sununu
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

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 the amount of \$950,300.00, to administer the Dynamic Learning Maps (DLM) alternate assessment in English language arts, mathematics, and science, effective upon Governor and Council approval through July 31, 2018, with the option to renew for up to three additional one-year terms. 100% Federal Funds

Funds to support this request are available in FY 18 in the account titled Special Education-Elem/Sec as follows:

	FY18
06-56-56-562010-25040000-102-500731 Contracts for Program Services	\$950,300.00

EXPLANATION

The Department is requesting that this be approved as a **sole source** contract due to the fact that in 2014, representatives from the Department and a group of NH Alt Assessment Stakeholders (Special Education Directors, teachers, private providers and partners) made the decision for the DOE to request approval to move forward with DLM as its partner for the development and implementation of the state's next alternate assessment. Prior to this decision, the Department and Stakeholders met to learn more about the options of joining a state-led alternate assessment consortium. The reason for reviewing these options came from feedback and requests received from parents and educators to look at other alternate assessment tools. There were two identified consortiums focused on building a new generation of assessments for students with the most significant cognitive impairments: Dynamic Learning Maps (DLM) and the National Center and State Collaborative (NCSC). The stakeholder group was presented with information from both consortiums, researched publically available information regarding the assessments designed by DLM and NCSC, talked with other state members of each consortium and reviewed the feedback received from a posted survey.

His Excellency, Governor Christopher T. Sununu
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June 27, 2017
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The department received approval on October 1, 2014 (Item #38) to pay membership dues to KUCR for the 2014-15 year and moved forward with its use of DLM as the alternate assessment in English language arts and mathematics. An alternate assessment in science has been added this year.

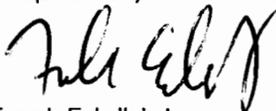
KUCR is the sole provider, publisher, hosting source, and distributor of the Dynamic Learning Maps Alternate Assessment Program (DLM), Dynamic Learning Maps Essential Elements, and ancillary materials. The DLM Alternate Assessment and the KITE testing platform necessary to administer it are copyrighted 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.

The 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 the 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 Maps and DLM Essential Elements form the base of this system. The DLM Essential Elements are aligned with the NH Academic Standards for English language arts, mathematics and science for students in grades 3 through high school.

The Department wishes to continue contracting with KUCR to administer the Dynamic Learning Maps (DLM) alternate assessment. Since 2015, KUCR has successfully delivered the Dynamic Learning Maps alternate assessment operational tests to students with significant cognitive disabilities in grades three through high school. By continuing this contract, New Hampshire will fulfill, RSA 193-C:6, "Each year, a statewide assessment shall be administered in all school districts in the state in grades 3 through 8 and one grade in high school." and be able to provide meaningful information to schools, districts and parents to inform instruction. By administering the Dynamic Learning Maps Assessment through a multi-state coalition of state departments of education, New Hampshire can continue to share resources and apply cost-cutting measures to produce a high quality assessment at a reasonable price to the state.

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

Respectfully submitted,



Frank Edelblut
Commissioner of Education

FE: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

Denis Goulet
Commissioner

July 14, 2017

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

Dear Commissioner Edelblut:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a **sole source** contract with the University of Kansas Center for Research Inc. (KUCR), of Lawrence, KS as described below and referenced as DoIT No. 2017-084.

This is a request to enter into a **sole source** contract with the University of Kansas Center for Research Inc., to utilize the Dynamic Learning Maps (DLM) Alternate Assessment system. This system will manage, administer, score and report on English Language Arts, Mathematics and Science assessments in grades 3 through 8 and 11 for appropriate populations.

The funding amount is not to exceed \$950,300.00, and the contract shall become effective upon Governor and Council approval through July 31, 2018.

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

Sincerely,

Denis Goulet

DG/kaf
DoIT #2017-084

cc: Chris Hensel, IT Manager, DoIT

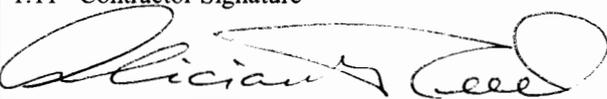
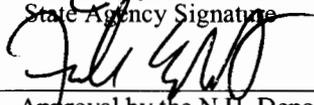
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH 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: 4110	1.7 Completion Date July 31, 2018	1.8 Price Limitation \$950,300.00
1.9 Contracting Officer for State Agency Frank Edelblut, Commissioner		1.10 State Agency Telephone Number 603-271-3144	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Alicia M Reed, Interim Director, Research Admin	
1.13 Acknowledgement: State of <u>Kansas</u> , County of <u>Douglas</u> On <u>July 18, 2017</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 			
1.13.2 Name and Title of Notary or Justice of the Peace Christine Fosher, Exec. Assistant			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory FRANK EDELBLUT, COMMISSIONER OF EDUCATION	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Date: <u>7-25-17</u> Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>8/9/17</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

Agreement. This provision shall survive termination of this Agreement.

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

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

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

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

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

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

14. INSURANCE.

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

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

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

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

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

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

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

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

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

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

19. CONSTRUCTION OF AGREEMENT AND TERMS.

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

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

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

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

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

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

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
2017-084 DOE NH ALT ASSESSMENT-DLM
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: 2017-084 DOE 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 English language arts, mathematics and science and that are aligned with the DLM Essential Elements.	
Name of Vendor: University of Kansas Center for Research, Inc. (KUCR)	Who Negotiated the Contract: Sandie MacDonald
Amount of Contract: \$950,300.00	Funding Source: Federal: 4110
Term of Contract: July 31, 2018	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</p>	

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
2017-084 DOE NH ALT ASSESSMENT-DLM
CONTRACT AGREEMENT –PART 2**

the learning map. There are two types of testlets in the DLM system:

- Most testlets are designed for direct student interaction via computer, using special devices such as 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.

The DLM assessment system is a dynamic adaptive assessment delivered in a series of "testlets", each consisting of 3-8 items. Dynamic adaptive delivery is a variant of computer adaptive testing. Traditional computer adaptive testing follows item-by-item adaptive delivery model where items are selected based on their difficulty. A correct response results in the selection of a more difficult item to follow, and an incorrect response leads to a less difficult item. Dynamic delivery relies on several pieces of information, including the student's level of success with the previous testlet and the position in the learning map of the skills being assessed. Testlets are available in a spring assessment window and during an instructionally embedded test window from early fall through late winter. Additionally, states may choose to use the integrated model of assessments for ELA and math instead of a spring only summative testing window. DLM is the only dynamic adaptive alternate assessment and the only alternative assessment with instructionally embedded, integrated model, and year-end features.

**STATE OF NEW HAMPSHIRE
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2017-084 DOE NH ALT ASSESSMENT-DLM
CONTRACT AGREEMENT –PART 2**

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:

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

2017-084 COTS Contract Agreement-Part 2

Initial All Pages:

KUCR Initials:

7/18/2017

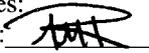
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**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
2017-084 DOE NH ALT ASSESSMENT-DLM
CONTRACT AGREEMENT –PART 2**

	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 Agreement	The documentation consisting of both the P-37 Agreement, Contract Agreement - IT Provisions, and the Exhibits which represents the understanding and acceptance of the reciprocal legal rights and duties of the parties with respect to the Scope of Work
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, 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>)
Contract Price	The total, not to exceed amount to be paid by the State to the Contractor for product and services described in the Contract Agreement. This amount is listed in the General Provisions Section 1.8 as well as Exhibit B Paragraph 2.
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	A failure, deficiency, or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to

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	<p>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
Department of Information Technology (DoIT)	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
DLM	Dynamic Learning Maps show the relationships among skills and offer multiple learning pathways.
DLM AA	Dynamic Learning Maps Alternative Assessment
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.
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

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	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
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
Fully Loaded	Rates are inclusive of all allowable expenses, including, but not limited to: Meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses.
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, 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

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	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 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

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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 Department of Education 101 Pleasant Street Concord, NH 03301 Reference to the term “State” shall include applicable agencies
Statement of Work (SOW)	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

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	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.
State's Confidential Records	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>
State Data	Any information contained within State systems in electronic or paper format.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1 st through June 30 th of the following calendar year
State Project Leader	State's representative with regard to Project oversight
State's Project Manager (PM)	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).
Subcontractor	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
System	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
TBD	To Be Determined
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	Period of the Contract from the Effective Date through termination.
Transition Services	Services and support provided when KUCR is supporting System changes.
UAT	User Acceptance Test
USDE	United States Department of Education
User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
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.

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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

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

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 - Assurances*
 - Exhibit L - Training Services*
 - Exhibit M - Data Sharing Agreement*
 - Exhibit N - The KUCR Proposal, (not used)*
 - Exhibit O - Special Exhibits, Attachments, and Certificates*

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 2017-084, Part 2 and 3.

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

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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 July 31, 2018. The Term may be extended annually for three (3) one-year extensions 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 July 31, 2021.

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. CONTRACT PRICE

The Contract Price is identified in Part 1, P37, block 1.8 Price Limitation. Method of payment and terms of payment are identified and more particularly described in Part 3 Contract Exhibit B: *Price and Payment Schedule*.

2.1 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:

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Alicia Reed
Director of Research Administration
Youngberg Hall
2385 Irving Hill Road
Lawrence, KS 66045
Tel: 785-864-3289
Fax: 785-864-5272
Email: amreed@ku.edu

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 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:

Meagan Karvonen
Director and Principal Investigator
Dynamic Learning Maps Alternate Assessment Project
University of Kansas

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Lawrence, KS 66045
785-864-3537
karvonen@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 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)

Neal Kingston

Title

Senior Advisor

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:

Sandie MacDonald
Department of Education
101 Pleasant Street
Concord, NH 03301
Tel: (603) 271-3453
Fax: (603) 271-7381
Email: Saundra.MacDonald@doe.nh.gov

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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.

The State Project Manager is:

Sandie MacDonald
Department of Education
101 Pleasant Street
Concord, NH 03301
Tel: (603) 271-3453
Fax: (603) 271-7381
Email: Sandra.MacDonald@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.

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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 scope of work previously approved by the DLM Consortium. 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 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.

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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*.

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 that are outside the DLM consortium-approved scope of work and Deliverables 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.

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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 as much detail as possible within that period, of any impact on cost (e.g., increase or decrease), the Schedule, the Work Plan, or feasibility of the change or revision. All Change Orders submitted by the state shall be considered by KUCR to be services outside the approved consortium standard scope of work.

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;

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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:

1. payment of the required fees set forth in schedule B of this Agreement
2. 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).
3. 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.
4. 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.

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.

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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.

9.4 Survival

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 *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 regardless of its form.

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

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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 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*.

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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

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.

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- b. Set off against any other obligations the State may owe to KUCR any damages the State suffers by reason of any Event of Default;
- c. 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.

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.

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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 completed 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 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.

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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; 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	Sandie MacDonald (PM)	5 Business Days
First	KUCR Director of Research Administration	Heather Gage (PMT)	10 Business Days
Second	TBD	Commissioner Edelblut	15 Business Days

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

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.

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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:

Alicia Reed
Director of Research Administration
University of Kansas Center for Research
2385 Irving Hill Road
Lawrence, KS, 66045-7568
Tel: 785-864-3289
amreed@ku.edu

TO STATE:

Sandie MacDonald
Bureau Administrator
Department of Education
101 Pleasant Street
Concord, NH 03301
Tel: (603) 271-3453
saundra.macdonald@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	Science Summer Governance Meeting	Non-Software	After fully executing contract
2	Annual Work Plan	Written	Summer
3	Webinars	Non-Software	Early September
4	Registration of Districts and Schools, local ability enabled and dependent on SEA delivery of state organization file.	Non-Software	As per schools' schedule
5	Registration of Educators, local ability enabled and dependent on SEA delivery of state organization file.	Non-Software	As per schools' schedule
6	Registration of Students, local ability enabled and dependent on SEA delivery of state organization file.	Non-Software	Deadline January for Year End September or Year Round
7	On-line access to allow educators to input information, local ability enabled and dependent on SEA delivery of state organization file.		As per schools' schedule
8	Practice Tests and Sample Items		Early September

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9	DLM Instructionally Embedded Assessment		The Instructionally Embedded assessment window for the consortium is mid-September through the end of February. State Partners set their own window with the consortium window.
10	DLM End of Year Assessment		The spring assessment window for the consortium is mid-March through the end of the first full week of June. State Partners set their own window with the consortium window.
11	Test Administration Manual, and Assessment Coordinator Manual Available	Written	August
12	Local Caching Server Update		End of September – est.
13	Chromebook and iPad applications available		Early September
15	Closing Date for Data validation/revision window #1	Non-Software	Early August
17	Preparation for Fiscal Year 2018 Operational Spring Window.	Software	Late November through Mid - March 2018
18	Consortium Fiscal Year 2018 Operational Spring Window	Software	Mid-March through Mid-June
19	Final Scores for 2018 Sent to States.	Electronic Format	No later than July 31, 2018

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EXHIBIT A
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**STATEMENT AND PERFORMANCE OF WORK
RELATED TO 2017-2018 AND 2018-2019 SCIENCE DLM-AA CONSORTIUM
DEVELOPMENT BUY-IN**

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. DLM science development has been self-funded by states, starting with just 4 states in 2014. Due to the 24-month timeline states required to deliver the first operational assessment by 2016, the initial scope of work was limited and a significant amount of development is required in the coming years. All states joining the Science DLM-AA Consortium contribute at a total of \$500,000 which is used the support the work startup work needed to fully develop a fully mature assessment system that is parallel to English language arts and mathematics in its design.

This statement of work applies to all tests that are under operational administration including instructionally embedded assessments and covers the work plan developed by the consortium for 2017-2018 and 2018-2019.

1. DLM Science Alternate Assessment Consortium Development Buy-In Services

- a. CETE will integrate science EE map neighborhoods to support a transition to a full science learning map that includes connections to other DLM learning map nodes.
- b. CETE will develop sufficient testlets to support delivery of optional instructionally embedded assessments.
- c. CETE will develop and field test the testlets needed to support the transition to 5 linkage levels.
- d. CETE will complete studies needed to evaluate and support the availability of an integrated assessment model in science.
- e. CETE will design and try out multi-level testlets for improved information about student mastery.
- f. CETE will complete studies needed to evaluate and support the use of multi-level testlets for improved information about student mastery.
- g. Using the full science learning map model, CETE will develop draft blueprints for grade-specific science assessments in grades 3-8.

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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 \$950,300.00 for the period between the Effective Date through July 31, 2018 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 2017-18 testing year of 1,480 students (**1025** students in English language arts and mathematics and 455 student in science) the State will pay KUCR an annual fixed rate price amount of \$300,000.00 plus a per student cost of \$150,300.00, which is $(\$120.00 \times 1025) + (\$60 \times 455)$, plus a one-time DLM Science consortium fee of \$500,000.00 for the 2017-18 testing year.
 - 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, 2018 and New Hampshire shall pay on or before February 1, 2018, 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	\$332,605.00
Second Payment January 1, 2018	35% of Estimated Amount	\$332,605.00
Final Payment upon conclusion of the end-of-year assessment as described below.	Final invoice adjusted to account the actual number of students tested.	\$285,090.00
Total		\$950,300.00

- b. For English Language Arts, Mathematics and Science testing services in the 2018-19 year, estimated payment will be based on the previous year’s STATE’s alternate assessment test population multiplied by a fixed cost of \$60.01 per student per test and the annual fixed flat rate of \$300,000.00. Costs after the 2018-19 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,

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PRICE AND PAYMENT SCHEDULE**

- 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
- 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 July 31, 2018. 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 the price limitation in block 1.8 of the P37 (“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:

Sandie MacDonald
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
kucrcr@ku.edu

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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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SPECIAL PROVISIONS**

1. **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.

2. **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.

3. **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;

4. **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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5. **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.

6. **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.

7. **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.

14.4 The Contractor certifies that project personnel working under this contract are University of Kansas employees, and therefore State of Kansas employees. Under the Kansas Tort Claims Act, K.S.A. 75-6101 et seq. ("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, as outlined in the Act. The Contractor will remain covered under the Act for the duration of the contract. Additionally, the state of Kansas is required to indemnify its employees against damages for injury or damages proximately caused by the employee's acts or omissions in accordance with the Act.

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8. **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.

9. **SUBPARAGRAPH 19** of the General Provisions, Construction of Agreement and Terms, is replaced as follows

19. CONSTRUCTION OF AGREEMENT AND TERMS.

Contractor shall comply with all applicable federal, state, and local laws and regulations.

All issues of law relating to the governmental authority and the sovereign and governmental immunities and liabilities of the State of Kansas acting by and through the University of Kansas, shall be resolved and enforced according to the laws of the State of Kansas, without resort to any jurisdiction's conflict of law rules or doctrines. Nothing in this contract shall be construed as a waiver of the State of Kansas' right to be subject to suit in only the courts of Kansas. Further, the University of Kansas, its officers, employees and agents shall be subject to no liability or obligation arising out of this contract that would not be recognized and enforced against them by the courts of the State of Kansas.

Likewise, all issues of law relating to the governmental authority and the sovereign and governmental immunities and liabilities of the State of New Hampshire acting by and through the Department of Education, shall be resolved and enforced according to the laws of the State of New Hampshire, without resort to any jurisdiction's conflict of law rules or doctrines. Nothing in this contract shall be construed as a waiver of the State of New Hampshire's right to be subject to suit in only the courts of New Hampshire. Further, the State of New Hampshire, its officers, employees and agents shall be subject to no liability or obligation arising out of this contract that would not be recognized and enforced against them by the courts of the State of New Hampshire.

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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 2 CFR Part 200, including 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.

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. The KUCR team will provide training templates on line as defined in the Training Services, Exhibit L, which will be customized to address the State’s specific requirements.

1.2 Timeline

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

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 2017-18 apply only to the model chosen by the NH DOE, either end of year or embedded, as determined by June 1, 2017 (a.vii, a.viii, a.ix, and a.x). All listed tasks will be covered by charges in 2017-18 and beyond.

1.3.1 Assessment Administration Services

- i. **Registration of Districts and Schools.** (at no charge in 2017-18). 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 2017-18). 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 2017-18). 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 2017-18). 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.

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- v. **Practice tests and sample items.** (at no charge in 2017-18) 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 2017-18) 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.
 - 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 2017-18). 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 2017-18).

- 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).

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- 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 2017-18). 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 2017-18). CETE shall conduct and publish research documenting the psychometric characteristics of the DLM assessments including policy 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 2017-18) 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 2017-18) 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 2017-18)
- 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.

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SECURITY AND IMPLEMENTATION**

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.

1.2 Regression Testing

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

1.3 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.

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

The Guide to DLM Required Training and Professional Development 2017-18 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 using the standard training services and resources provided to DLM state partners under the service rate agreement 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.

**STATE OF NEW HAMPSHIRE
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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.

3.1 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

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EXHIBIT M
DATA SHARING AGREEMENT**

Dynamic Learning Maps assessment. This information is intended 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 #2017-084 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

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EXHIBIT M
DATA SHARING AGREEMENT**

Holder shall discontinue disclosure of the Limited Data Set to the Recipient if the Holder determines cure of the breach is not possible.

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 PEI 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 or unencrypted 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.

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DATA SHARING AGREEMENT**

10. Data Storage

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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EXHIBIT O
SPECIAL EXHIBITS, ATTACHMENTS, AND CERTIFICATES

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.
- h. Technical Advisory Committee (TAC) – The TAC consists of experts in areas of assessment ranging from standard setting and validity in large-scale assessments, to accessibility in alternative assessments, to cognitive diagnostic modeling that provide advice and guidance the DLM Consortium on technical aspects of the DLM AA system.

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.

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SPECIAL EXHIBITS, ATTACHMENTS, AND CERTIFICATES

- 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.
- 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.

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EXHIBIT O
SPECIAL EXHIBITS, ATTACHMENTS, AND CERTIFICATES**

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 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.

Attached are:

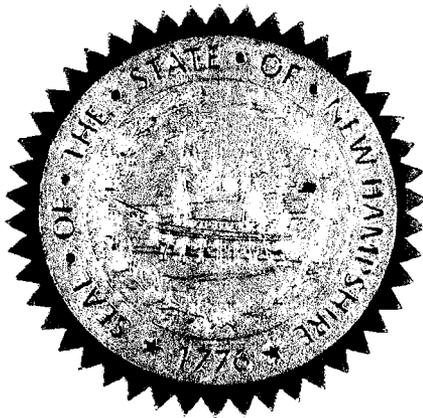
- A. KUCR's Certificate of Vote/Authority
- B. KUCR's Certificate of Good Standing
- C. KUCR's Certificate of Insurance
- D. Attachments
 - i. Attachment 1 – DLM Contract Requirements
 - ii. Attachment 2 - Trademarks

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 1st day of October, A.D. 2015

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

William M. Gardner
Secretary of State

CERTIFICATE OF VOTE

(Corporation without Seal)

I, James W. Tracy, do hereby certify that:
(Name of the Officer of the Corporation; cannot be contract signatory)

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

2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors

of the Corporation duly held on January 27, 2015:
(Date)

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting through its Department of Education, for the provision of Dynamic Learning Maps Alternate Assessment services.

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

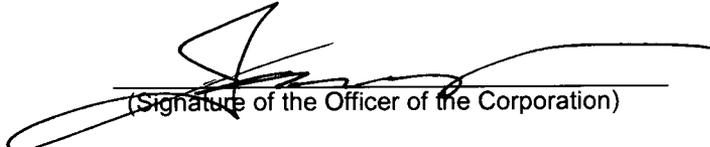
is hereby authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable or appropriate.

3. The forgoing resolutions have not been amended or revoked, and remain in full force and effect as of

the 18th day of July, 2017.

4. Alicia M. Reed is the duly elected Interim Director of Research Administration
(Name of Contract Signatory) (Title of Contract Signatory)

of the Corporation.

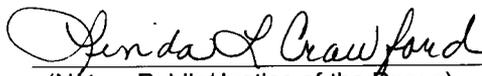

(Signature of the Officer of the Corporation)

STATE OF KANSAS

County of Douglas

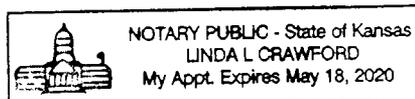
The forgoing instrument was acknowledged before me 18th day of July, 2017.

By James W. Tracy
(Name of Officer of the Corporation)


(Notary Public/Justice of the Peace)

(Notary Seal)

Commission Expires: 05/18/2020



September 4, 2015

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.

Additionally, Kansas's state worker's compensation self-insurance fund, which is wholly self-insured, provides worker's compensation coverage to State employees per K.S.A. 44-575.

I trust that the coverage provided by the Kansas Tort Claims Act and the State Self-Insurance Fund 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