New Hampshire DOT
Department of Transportation

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

Bureau of Highway
Maintenance
April 21, 2017

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

REQUESTED ACTION

Authorize the Department of Transportation to enter into a Contract with ProMiles Software Development Corporation (ProMiles), Bridge City, Texas (Vendor #273456) in the amount of $2,814,392, for design, testing, installation and maintenance services for the Oversize/Overweight (OSOW) Permitting Software System for the Division of Operations effective upon Governor and Council approval, through October 29, 2025 with an option to renew, at the sole discretion of the State, for up to three 3-year optional maintenance periods up to, but not beyond, October 29, 2034, subject to Governor and Council approval. 71% Capital Highway Project Funds, 29% OSOW Program Funds.

Funding is available for FY 2017 as follows and funding for FY 2018 through FY 2025 is contingent upon the availability and continued appropriation of funds with the authority to adjust encumbrances for the State fiscal year through the Budget Office if needed and justified.

	FY2017	FY2018	FY2019	FY2020	FY2021
04-96-96-960030-8287 Capital Highway Fund Project 034-500099 Major IT Systems	$32,300	$661,797	$977,430	$198,720	$129,753
04-96-96-960515-5032 Oversize & Overweight Permitting 038-509038 Technology - Software					$70,647
Fiscal Year Totals	$32,300	$661,797	$977,430	$198,720	$200,400

	FY2022	FY2023	FY2024	FY2025
04-96-96-960030-8287 Capital Highway Fund Project 034-500099 Major IT Systems				
04-96-96-960515-5032 Oversize & Overweight Permitting 038-509038 Technology - Software	$201,680	$202,985	$204,330	$134,750
Fiscal Year Totals	$201,680	$202,985	$204,330	$134,750
Contract Total				$2,814,392

EXPLANATION

OSOW Contract involves engaging ProMiles under contract to perform design, testing, installation, and operation and maintenance services for the OSOW Permitting Software System. This request specifically addresses the procurement of the OSOW System and services under RFP 2016-043.

OSOW will be a 24/7/365 web based permitting software system that will provide OSOW permit application submittal, state review and approval operations, routing, bridge load evaluation, restriction management and reporting capabilities. It will increase customer service/satisfaction, operational efficiency, and overall productivity.

ProMiles will provide system design, testing, installation, and support and maintenance of an OSOW System. The OSOW system will be completely vendor hosted including all software, hardware, and permit payment processing. The Commercial-Off-The-Shelf (COTS) OSOW permitting system will be configured and customized as required to meet NHDOT requirements and associated services for NHDOT.

On August 19, 2016, the Department publicly advertised the subject RFP. During the response period, the Department had a question/inquiry period from the Vendors with the Department providing responses helping them finalizing their proposals. Proposals were received from the following vendors in accordance with the requirements for submission, including the stipulated deadline of November 10, 2016:

VENDOR NAMES

- Celtic Systems
- Hexagon Safety and Infrastructure
- ProMiles Software Development Corporation

Proposals from each vendor were reviewed per the Initial Screening requirements as specified in the RFP under Section 5.3.1 and Appendix B. All proposals met the requirements and were reviewed by the OSOW RFP Selection Committee. The Selection Committee was comprised of Bureau of Turnpikes Assistant Administrator, DoIT IT Leader, Bureau of Bridge Design – Civil Engineer, Bureau of Planning and Community Assistance – Civil Engineer, Bureau of Transportation System Management and Operations – Supervisor, Assistant Director of Project Development, and Bureau of Highway Maintenance Assistant Administrator. Proposals from each vendor were reviewed and a preliminary evaluation and scoring was performed by the OSOW RFP Selection Committee. A minimum of 40 points for preliminary scoring of the technical aspects was required, as specified in the RFP, for further consideration in the overall selection process. The Selection Committee conducted Vendor oral presentations for the three vendors, where each vendor conducted a presentation describing the team, capabilities, and pertinent aspects of their proposal. The Vendor presentations were provided in accordance with an agenda and a list of questions developed by the RFP Selection Committee specifically for each vendor. The Vendor presentations included questions and answers by the RFP Selection Committee. Following the Vendor oral presentations, the RFP Selection Committee met to discuss the Vendors presentations and finalize ratings of the proposals. Vendor reference checks were then performed to complete the proposal evaluation process.

The Selection Committee used the table below to rate each proposal taking into account the OSOW system design and technical aspects; firm's qualifications, project team, capabilities and references; and implementation, transition and delivery approach. The RFP responses were evaluated using a scoring scale of 100 points which were applied to the solution as a whole. Points were distributed among the following factors:

1. 23 points -Proposed Software Solution
2. 8 points - Proposed Mapping Solution
3. 8 points - Proposed Routing Solution
4. 8 points - Proposed Bridge Evaluation Solution
5. 8 points - Proposed Restriction Management Solution

6. 20 points - Vendor company and staffing qualifications, project management approach, training, support, maintenance, and schedule
7. 25 points -   Total Cost of Solution
8. 100 points   Total Possible Score

Based on the above-referenced analysis, the RFP Selection Committee ranked all three vendors based on technical and cost proposals and the Vendor oral presentations. A summary of the vendor scoring is presented in the following table:

2016-043 Oversize/Overweight Permitting Software System					
Company	Company Address	Software Solution - 23 Points max	Mapping Solution - 8 Points max	Routing Solution - 8 Points max	Bridge Evaluation Solution - 8 Points max
Hexagon	05 Intergraph Way, Madison, Al 35758	14.68	5.37	5.35	4.83
ProMiles	1900 Texas Avenue, Bridge City, TX, 77611	17.49	6.02	6.01	6.86
Celtic	8961 E. Bell Road #101, Scottsdale, AZ 85260	13.72	4.72	3.51	3.31

Company	Company Address	Restriction Management Solution - 8 Points max	Vendor Company and Staffing Qualifications - 20 Points max	Total Cost of Solution Ownership	Solution Cost Points - 25 Pts Max	TOTAL 100 Pts Max
Hexagon	305 Intergraph Way, Madison, Al 35758	5.04	13.99	$5,664,983	12.42	61.68
ProMiles	1900 Texas Avenue, Bridge City, TX, 77611	6.09	15.87	$2,814,392	25.00	83.33
Celtic	8961 E. Bell Road #101, Scottsdale, AZ 85260	3.57	11.28	$3,631,724	19.37	59.49

Based on the RFP Selection Committee proposal review and oral presentation process, the Selection Committee has concluded that ProMiles Software Development Corporation's proposal meets each of the stated goals and requirements in the RFP. The system is highly configurable and adaptable which will reduce the potential for change orders over the course of the contract term. The ProMiles system provides financial controls allowing for the tracking, reconciliation, and reporting of the financial transaction of each permit. It provides the ability to interface with the Department's Financial System (Lawson) in an automated manner. The solution is user friendly for various users of the OSOW system to address state concerns, customer service matters, financials, ad-hoc reporting, and the mapping, routing, bridge evaluation, and restriction management functionality.
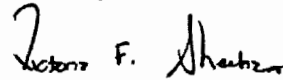
ProMiles demonstrated experience and references acknowledge their ability to excel in meeting the RFP requirements.

Based on the above-mentioned, the Department request approval to enter into a contract with ProMiles Software Development Corporation ending on October 29, 2025 with the option at the sole discretion of the State to extend for up to three 3-year terms up to but not beyond October 29, 2034.

The contract has been approved by the Attorney General as to form and execution, and the Department has verified that the necessary funds are available for FY 2017 and funding for FY 2018 through FY 2025 is contingent upon the availability and continued appropriations of funds. The Department of Information and Technology has reviewed and approved the contract. Copies of the fully executed contract are on file with the Secretary of State's Office and the Department of Administrative Services Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

It is respectfully requested that this resolution be approved.

Sincerely,

Victoria F. Sheehan
Commissioner

Attachment: Proposal Scoring summary

cc: D. Rodrigue
   C. Dobbins
   M. Kirouac

Denis Goulet
Commissioner

May 18, 2017

Victoria Sheehan, Commissioner
Department of Transportation
State of New Hampshire
7 Hazen Drive,
Concord, NH 03301

Dear Commissioner Sheehan:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with ProMiles Software Development Corporation, of Bridge City, TX as described below and referenced as DoIT No. 2016-043.

This is a request to enter into a contract with ProMiles Software Development Corporation for design, testing, installation and maintenance services for the Oversize/Overweight (OSOW) Permitting Software System for the Department of Transportation Division of Operations. This will enable the Department to reduce the amount of manual intervention to complete permitting and will also enhance the integrity, security, and reliability of the existing system.

The funding amount is not to exceed $2,814,392.00, and the contract shall become effective upon Governor and Council approval through October 29, 2025.

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

Sincerely,

Denis Goulet

DG/kaf
Contract #2016-043

cc: Gail Hambleton, DoIT, IT Leader

"Innovative Technologies Today for New Hampshire's Tomorrow"

Oversize/Overweight Permitting Software System
NHDOT -RFP 2016-43

PROPOSAL SCORING SUMMARY

2016-043 Oversize/Overweight Permitting Software System

Company	Company Address	Software Solution - 23 Points max	Mapping Solution - 8 Points max	Routing Solution - 8 Points max	Bridge Evaluation Solution - 8 Points max	
Hexagon	305Intergraph Way, Madison, Al 35758	14.68	5.37	5.35	4.83	
ProMiles	1900 Texas Avenue, Bridge City, TX, 77611	17.49	6.02	6.01	6.86	
Celtic	8961 E. Bell Road #101, Scottsdale, AZ 85260	13.72	4.72	3.51	3.31	

Company	Company Address	Restriction Management Solution - 8 Points max	Vendor Company and Staffing Qualifications - 20 Points max	Total Cost of Solution Ownership	Solution Cost Points - 25 Pts Max	TOTAL 100 Pts Max
Hexagon	305 Intergraph Way, Madison, Al 35758	5.04	13.99	$5,664,983	12.42	61.68
ProMiles	1900 Texas Avenue, Bridge City, TX, 77611	6.09	15.87	$2,814,392	25.00	83.33
Celtic	8961 E. Bell Road #101, Scottsdale, AZ 85260	3.57	11.28	$3,631,724	19.37	59.49

Oversize/Overweight Permitting Software System
NHDOT RFP 2016-43
PROPOSAL SCORING SUMMARY
Committee Member: 1

Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Software Solution	23	15.7	18.1	13.4
Mapping Solution	8	5.6	6.4	5.3
Routing Solution	8	6.5	7.4	4.3
Bridge Evaluation Solution	8	4.8	7.2	3.4
Restriction Management Solution	8	5.1	6.4	4.0
Vendor Company/Staff	20	14.1	17.4	11.1
Total Points	**75**	51.8	62.9	41.5

Oversize/Overweight Permitting Software System
NHDOT RFP 2016-43
PROPOSAL SCORING SUMMARY
Committee Member: 2

Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Software Solution	23	13.1	17.1	14.0
Mapping Solution	8	5.6	6.1	4.3
Routing Solution	8	6.5	6.7	5.0
Bridge Evaluation Solution	8	4.8	6.4	3.4
Restriction Management Solution	8	5.1	6.4	3.2
Vendor Company/Staff	20	14.0	14.5	11.8
Total Points	**75**	49.1	57.2	41.7

Oversize/Overweight Permitting Software System
NHDOT RFP 2016-43
PROPOSAL SCORING SUMMARY

Committee Member: 3

Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Software Solution	23	14.1	17.7	13.3
Mapping Solution	8	5.3	6.1	4.8
Routing Solution	8	6.7	7.4	2.9
Bridge Evaluation Solution	8	5.6	7.2	3.2
Restriction Management Solution	8	4.8	5.6	3.2
Vendor Company/Staff	20	14.0	16.3	10.2
Total Points	**75**	**50.5**	**60.3**	**37.6**

Oversize/Overweight Permitting Software System
NHDOT RFP 2016-43
PROPOSAL SCORING SUMMARY

Committee Member: 4

Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Software Solution	23	14.4	18.0	13.3
Mapping Solution	8	5.6	5.6	4.0
Routing Solution	8	5.8	7.4	4.1
Bridge Evaluation Solution	8	4.2	6.4	3.4
Restriction Management Solution	8	5.1	5.9	3.7
Vendor Company/Staff	20	14.4	17.2	10.3

Total Points	75	49.5	60.5	38.8

Oversize/Overweight Permitting Software System
NHDOT RFP 2016-43
PROPOSAL SCORING SUMMARY

Committee Member: **5**

Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Software Solution	23	14.5	15.8	13.6
Mapping Solution	8	5.3	5.9	5.1
Routing Solution	8	6.0	6.7	3.8
Bridge Evaluation Solution	8	4.8	6.4	3.2
Restriction Management Solution	8	4.9	6.4	3.2
Vendor Company/Staff	20	13.7	13.8	12.0
Total Points	75	49.2	55	40.9

Oversize/Overweight Permitting Software System
NHDOT RFP 2016-43
PROPOSAL SCORING SUMMARY

Committee Member: **6**

Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Software Solution	23	14.8	17.4	13.8
Mapping Solution	8	5.3	5.9	4.3
Routing Solution	8	6.7	7.0	5.3

Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Bridge Evaluation Solution	8	4.8	7.2	3.4
Restriction Management Solution	8	5.1	5.9	4.5
Vendor Company/Staff	20	13.9	16.3	11.3
Total Points	**75**	50.6	59.7	42.6

Oversize/Overweight Permitting Software System
NHDOT RFP 2016-43
PROPOSAL SCORING SUMMARY

Committee Member: 7

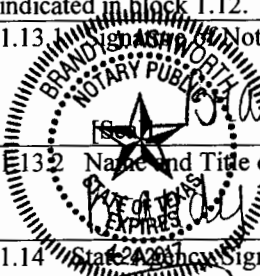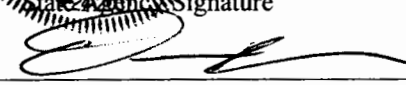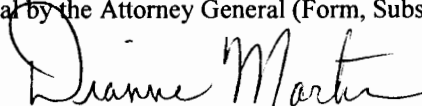| Scoring Category	Maximum Points	Hexagon	ProMiles	Celtic
Software Solution	23	16.2	18.4	13.6
Mapping Solution	8	5.3	6.1	5.1
Routing Solution	8	6.7	7.7	3.8
Bridge Evaluation Solution	8	5.6	7.2	3.2
Restriction Management Solution	8	5.4	5.9	3.2
Vendor Company/Staff	20	14.8	15.6	12.2
Total Points	**75**	54	60.9	41.1

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		1.2 State Agency Address	
Department of Transportation		7 Hazen Drive, Concord NH 03301	
1.3 Contractor Name		**1.4 Contractor Address**	
ProMiles Software Development Corporation		1900 Texas Avenue Bridge City, Texas 77611	
1.5 Contractor Phone Number 409-697-2587	**1.6 Account Number** 04-96-96-960030-8287 and 04-96-96-960515-5032	**1.7 Completion Date** October 29, 2025	**1.8 Price Limitation** $2,814,392
1.9 Contracting Officer for State Agency Victoria Sheehan		**1.10 State Agency Telephone Number** 603-271-1484	
1.11 Contractor Signature		**1.12 Name and Title of Contractor Signatory** Tim Pilcher, President of Development and Government Contracts	

1.13 Acknowledgement: State of _Texas_ , County of _Orange_

On _April 30, 2017_, 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

Brandy J Ashworth

1.13.2 Name and Title of Notary or Justice of the Peace

Brandy J Ashworth, Notary

1.14 State Agency Signature Date: 5/10/17	1.15 Name and Title of State Agency Signatory David Rodrigue **Director of Operations**

1.16 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*

By: Director, On:

1.17 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)*

By: _Dianne Martin_   On: 5/12/17

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 ⌐ontractor identified in block 1.3 ("Contractor") to perform, ₊ıd 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.

. 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 ʰall have no liability to the Contractor other than the contract ₊rice.

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

Contractor Initials _P_
Date 4 20 17

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 ̀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 ̀eriod 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 ̀hapter 91-A or other existing law. Disclosure of data ̀equires 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 $1,000,000per 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.

Contractor Initials ⁀IP

Date 4. 20. 17

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.

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Date 4. 20. 17

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25. General Information Technology Contract Terms and Requirements

This Contract is by and between the State of New Hampshire, acting through New Hampshire Department of Transportation ("State"), and ProMiles Software Development Corporation, a Texas Corporation, ("ProMiles"), having its principal place of business at 1900 Texas Avenue, Bridge City, Texas 77611 relating to the design, development, testing, and implementation of an Oversize/Overweight Permitting software system including a 1 year warranty and 6 years of support and maintenance. The system will be completely vendor hosted including software, hardware, and payment processing.

The State desires to have ProMiles provide the referenced Oversize/Overweight Permitting Software System and associated Services for the State and ProMiles wishes to provide said software and services to the State.

25.1   Contract Documents

25.1.1   Contract Documents
This Contract Agreement (2016-043) is comprised of the following documents:

A. Part 1 - Form P-37 General Provision
B. Part 2 - Information Technology Provisions
C. Part 3 - Exhibits
    Exhibit A - Deliverables
    Exhibit B - Price and Payment Schedule
    Exhibit C - Special Provisions
    Exhibit D - Implementation Services
    Exhibit E - Testing Services
    Exhibit F - Requirements
    Exhibit G – Training Services
    Exhibit H - Agency RFP with Addendums, by reference
    Exhibit I- Contractor Proposal, by reference
    Exhibit J- Certificates

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

a. State of New Hampshire Department of Transportation Contract Agreement 2016-043, including Parts 1, 2, and 3.
b. State of New Hampshire Department of Transportation RFP 2016-043.
c. Vendor Proposal Response to RFP 2016-043.

25.2 ProMiles Responsibilities

ProMiles shall be solely responsible for meeting all requirements, and terms and conditions specified in this agreement, the RFP, its Proposal regardless of whether or not it proposes to use any Subcontractor.

ProMiles may subcontract Services subject to the provisions of this Agreement. ProMiles shall remain wholly responsible for performance of the entire Contract regardless of whether a Subcontractor is used. The State will

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consider ProMiles to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from any Contract.

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

25.3 Project Budget/Price Limitation
The State has funds budgeted for this Project, subject to State of New Hampshire Terms and Conditions (Part 1, Form P-37 General Provisions), Section 4: Conditional Nature of Agreement and Section 5: Contract Price/Price Limitation/Payment.

25.4 State Contracts
The State of New Hampshire intends to use, wherever possible, existing statewide Software and hardware Contracts to acquire supporting Software and hardware.

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

25.5.1   Contract Project Manager

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

25.5.2   Project Manager Qualifications

ProMiles Project Manager must be qualified to perform the obligations required of the position under the Contract, shall have full authority to make binding decisions for ProMiles under the Contract, and shall function as ProMiles's representative for all administrative and management matters. ProMiles's Project Manager shall perform the duties required under the Contract. ProMiles's Project Manager must be available to promptly respond during Normal Business Hours within two (2) hours to inquiries from the State, and be at the site as needed. ProMiles's Project Manager must work diligently and use his/ her best efforts on the Project.

25.5.3 Change of Project Manager

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ProMiles shall not change its assignment of ProMiles Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of ProMiles's Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than ProMiles Project Manager being replaced; meet the requirements of the Contract; and be subject to reference and background checks described above in Section 25.5.1: *Contract Project Manager,* and in Section 25.5.4 *Reference and Background Checks*, below . ProMiles shall assign a replacement ProMiles Project Manager within ten (10) business days of the departure of the prior ProMiles Project Manager, and ProMiles shall continue during the ten (10) business day period to provide competent Project management Services through the assignment of a qualified interim ProMiles Project Manager.

25.5.4 Reference and Background Checks

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

The State may, at its sole expense, conduct reference and background screening of the Contracted Vendor Project Manager and ProMiles Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Contract Agreement.

25.5.5 Termination for Lack of Project Management

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

25.5.6 Identification of Project Manager

ProMiles Project Manager is:

Tim Pilcher
President
ProMiles Software Development Corporation
1900 Texas Avenue
Bridge City, Texas 77611
Tel: 409-697-2587 ext 1235
Email: Tim@ProMiles.com

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25.5.7 ProMiles KEY PROJECT STAFF

25.5.7.1 ProMiles shall assign Key Project Staff who meet the requirements of the Contract, and can implement the Software Solution meeting the requirements set forth in RFP Appendix C: *System Requirements and Deliverables*, Table C-1: *System Requirements Matrix and Vendor Response Checklist*. The State may conduct reference and background checks on ProMiles Key Project Staff. The State reserves the right to require removal or reassignment of ProMiles's Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with Section 25.5.4: Reference and *Background Checks*.

25.5.7.2 ProMiles shall not change any ProMiles Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of ProMiles Key Project Staff will not be unreasonably withheld. The replacement ProMiles Key Project Staff shall have comparable or greater skills than ProMiles Key Project Staff being replaced; meet the requirements of the Contract, including but not limited to the requirements set forth in RFP Appendix C: *System Requirements and Deliverables* and be subject to reference and background checks described in Section 25.5.4: *Reference and Background Checks*.

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

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

The State Project Manager is:

> Mark Kirouac
> Senior Engineer
> New Hampshire Department of Transportation
> 7 Hazen Drive
> P.O. Box 483
> Concord, New Hampshire 03302-0483

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Tel: 603-271-2693
Fax: 603-271-6084
Email: Mark.Kirouac@dot.nh.gov

25.6 Work Plan

A final Work Plan will be due five (5) business days after Contract award upon approval by Governor and Executive Council which shall follow the same format as the Work Plan submitted in the ProMiles proposal.

ProMiles shall update the Work Plan as necessary, but no less 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 updates to the Work Plan shall require the written approval of the State prior to final incorporation into the Contract.

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

In the event of a delay in the Schedule, ProMiles must immediately notify the State in writing. The written notification will identify the nature of the delay, i.e., specific actions or inactions of ProMiles or 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 affect the Project.

In the event ProMiles requires additional time 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 ProMiles'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 ProMiles's Work Plan or elements within the Work Plan.

25.7 Change Orders

NHDOT shall establish a Change Control Board (CCB) to oversee System change management. The function of this CCB shall be to:

- Assess the impact of a possible change to a system;
- Determining the fate of the proposed change;
- Execute the approved changes: and
- Ensure that the change is carried through to the proper documentation.

The CCB will include NHDOT and NHDoIT participants as well as additional subject matter experts as necessary.

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ProMiles is required to participate in the CCB. This will include, but not be limited to: prepare change request documentation including cost and risk attributes; coordinate activities with the CCB participants; and respond to technical requests as necessary.

Under the CCB, the State may make changes or revisions at any time by written Change Order. Within five (5) business days of a ProMiles's receipt of a Change Order, ProMiles shall advise the State, in detail, of any impact on cost (e.g., increase or decrease), the Schedule, or the Work Plan. The terms shall be modified, in writing, in accordance with any agreement reached by the parties on the Change Order.

ProMiles 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. For requests that NHDOT does not determine to require CCB action, NHDOT shall attempt to respond to a ProMiles's requested Change Order within five (5) business days. The State, which includes the requesting Agency and the Department of Information Technology IT Leader, 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 ProMiles to the State and the State acceptance of a ProMiles'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.

25.8 Deliverables

ProMiles shall provide the State with the Deliverables and Services in accordance with the time frames in the Work Plan. All Deliverables shall be subject to the State's Acceptance as set forth in Section 25.10: Testing and Acceptance herein. Upon its submission of a Deliverable, ProMiles represents that it has performed its obligations under the Contract associated with the Deliverable.

By unconditionally accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.

For each denial of Acceptance, the Acceptance Period may be extended, at the option of the State, by the corresponding time required to correct the Deficiency, retest or Review.

25.8.1 Written Deliverables Review

The State will Review the Written Deliverables for an Acceptance Period of five (5) business days after receiving written Certification from ProMiles that the Written Deliverable is final, complete, and ready for Review. The State will notify ProMiles in writing of its Acceptance or Non-Acceptance of a Deliverable by the end of the five (5) day Review Period. If any Deficiencies exist, the State will notify ProMiles in writing of the Deficiency and ProMiles must correct the Deficiency within five (5) business days of receiving notice from the State at no charge to the State. Upon receipt of the corrected Deliverable, the State will have five (5) business days to Review the corrected Written Deliverable and notify ProMiles in writing of its Acceptance or rejection thereof.

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25.8.2 Software Deliverables Review

Described in Section 25.10: Testing and Acceptance.

25.8.3 Non-Software Deliverables Review

The State will Review Non-Software Deliverables to determine whether any Deficiency exists and notify ProMiles in writing of its Acceptance or non-acceptance of the Non-Software Deliverable. ProMiles must correct the Deficiencies within five (5) business days, or within the period identified in the Work Plan, as applicable. Following correction of the Deficiency, the State will notify ProMiles in writing of its Acceptance or rejection of the Deliverable.

25.9 Licenses

The State has defined the Software license grant rights, terms and conditions, and has documented the evaluation criteria.

25.9.1 Software License Grant

The Software License shall grant the State a worldwide, perpetual, irrevocable, non-exclusive, non-transferable, limited license to use the Software and its associated Documentation, subject to the terms of the Contract.

The State may allow its agents and ProMiles to access and use the Software, and in such event, the State shall first obtain written agreement from such agents and ProMiles that each shall abide by the terms and conditions set forth herein.

25.9.2 Software and Documentation Copies

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

25.9.3 Restrictions

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

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

25.9.4 Title

ProMiles must hold the right to allow the State to use the Software or hold all title, right, and interest (including all ownership and intellectual property rights) in the Software and its associated Documentation.

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25.9.5 Third Party

ProMiles shall identify all third party contracts to be provided under the Contract with ProMiles's Proposal. The terms in any such contracts must be consistent with this Agreement.

25.10 Testing and Acceptance

The State requires that an integrated and coherent approach to complete System testing, Security Review and Testing, Deficiency correction, Acceptance, and training, and that Warranty Services be provided to ensure a successful Project.

ProMiles will be required to customize its proposed Test Plan methodology to reflect the needs of the Project and include the details of its Test Plan methodology in the detailed Work Plan (the first Project Deliverable). A separate Test Plan and set of test materials will be prepared for each Software function or module.

In addition, ProMiles will provide a mechanism for reporting actual test results vs. expected results and for the resolution and tracking of all errors and problems identified during test execution. ProMiles will also provide training as necessary to the State staff responsible for test activities.

See Part 3 – Exhibit E for Testing Requirements.

25.10.1 Remedies

If ProMiles fails to correct a Deficiency within the period of time allotted by the State, ProMiles shall be deemed to have committed an Event of Default, pursuant to State of New Hampshire Terms and Conditions (Part 1, Form P-37 General Provisions), Section 8 and 25.15, and the State Shall have the right, at its option, to pursue the remedies in Section 25.15.1 as well as to return ProMiles's product and receive a refund for all amounts paid to ProMiles, including but not limited to, applicable license fees, within ninety (90) days of notification to ProMiles of the State's refund request.

Notwithstanding any provision of the Contract, the State's option to terminate the Contract and pursue the stated remedies will remain in effect until ProMiles completes the Contract to the satisfaction of the State.

25.10.2 System Acceptance

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

25.11 Warranty

25.11.1 Warranty Period

The Warranty Period will initially commence upon the State issuance of a Letter of Acceptance for UAT and will continue for one (1) year. If within the last thirty (30) calendar days of the Warranty Period, the System Software fails to operate as specified, the Warranty Period will cease, ProMiles will correct the Deficiency, and a thirty (30) calendar day Warranty Period will begin. Any further Deficiencies with the Software must be corrected and run fault free for thirty (30) days.

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25.11.2 Warranties

25.11.2.1 System

ProMiles warrants that the System must operate to conform to the Specifications, terms, and requirements of the Contract.

25.11.2.2 Software

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

25.11.2.3 Non-Infringement

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

25.11.2.4 Viruses; Destructive Programming

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

25.11.2.5 Compatibility

ProMiles warrants that all System components, including any replacement or upgraded System Software components provided by ProMiles to correct Deficiencies or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

25.11.2.6 Professional Services

ProMiles warrants that all Services provided under the Contract will be provided in a professional manner in accordance with industry standards and that Services will comply with performance standards.

25.11.3 Warranty Services

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

Warranty Services shall include, without limitation, the following:

a. Maintain the System Software in accordance with the Specifications, terms, and requirements of the Contract;

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b. Repair or replace the System Software or any portion thereof so that the System operates in accordance with the Specifications, terms, and requirements of the Contract;

c. ProMiles shall have available to the State on-call telephone assistance, with issue tracking available to the State, between 700 AM and 500 PM weekdays, excluding state holidays with an email/telephone response within two (2) hours of request, with assistance response dependent upon issue severity;

d. On-site additional Services within four (4) business hours of a request;

e. Maintain a record of the activities related to Warranty Repair or maintenance activities performed for the State;

f. For all Warranty Services calls, ProMiles shall ensure the following information will be collected and maintained:
   1. nature of the Deficiency;
   2. current status of the Deficiency;
   3. action plans, dates, and times;
   4. expected and actual completion time;
   5. Deficiency resolution information;
   6. Resolved by;
   7. Identifying number i.e. work order number; and
   8. Issue identified by;

g. ProMiles must work with the State to identify and troubleshoot potentially large-scale Software failures or Deficiencies by collecting the following information:
   1. mean time between reported Deficiencies with the Software;
   2. diagnosis of the root cause of the problem; and
   3. identification of repeat calls or repeat Software problems.

h. All Deficiencies found during the Warranty Period and all Deficiencies found with the Warranty Releases shall be corrected by ProMiles no later than five (5) business days, unless specifically extended in writing by the State, at no additional cost to the State.

If in the Event of Default, ProMiles fails to correct the Deficiency within the allotted period of time (see above), the State shall have the right, at its option: 1) declare ProMiles in default, terminate the Contract, in whole or in part, without penalty or liability to the State; 2) return ProMiles's product and receive a refund for all amounts paid to ProMiles, including but not limited to, applicable license fees within ninety (90) days of notification to ProMiles of the State's intent to request a refund; 3) and to pursue its remedies available at law or in equity.

Notwithstanding any provision of the Contract, the State's option to terminate the Contract and pursue the remedies above will remain in effect until satisfactory completion of the full Warranty Period.

25.12 Ongoing Software Maintenance and Support Levels
ProMiles shall maintain and support the system in all material respects as described in the applicable program documentation after delivery, during the warranty period of one (1) year, and the Maintenance and Support services period through the completion of the contract term. The Software Maintenance and Support term may be extended ("Extended Term") at the sole option of the State, subject to the parties prior written agreement on applicable fees for each extended term.

ProMiles will not be responsible for maintenance or support for Software developed or modified by the State.

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25.12.1 Maintenance Releases

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

25.12.2 ProMiles Responsibility

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

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

> **a. Class A Deficiencies** - ProMiles shall have available to the State on-call telephone assistance, with issue tracking available to the State, eight (8) hours per day and five (5) days a week with an email / telephone response within two (2) hours of request; or ProMiles shall provide support on-site or with remote diagnostic Services, within four (4) business hours of a request;

> **b. Class B & C Deficiencies** –The State shall notify ProMiles of such Deficiencies during regular business hours and ProMiles shall respond back within four (4) hours of notification of planned corrective action.

ProMiles shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications, Terms and Requirements of the Contract;

ProMiles shall maintain a record of the activities related to warranty repair or maintenance activities performed for the State;

For all maintenance Services calls, ProMiles shall ensure the following information will be collected and maintained: 1) nature of the Deficiency; 2) current status of the Deficiency; 3) action plans, dates, and times; 4) expected and actual completion time; 5) Deficiency resolution information, 6) Resolved by, 7) Identifying number i.e. work order number, 8) Issue identified by; and

ProMiles must work with the State to identify and troubleshoot potentially large-scale System failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the Software; 2) diagnosis of the root cause of the problem; and 3) identification of repeat calls or repeat Software problems.

If ProMiles fails to correct a Deficiency within the allotted period of time Stated above, ProMiles shall be deemed to have committed an Event of Default, pursuant to Section 25.15, and the State shall have the right, at its option, to pursue the remedies in Section 25.15.1, as well as to return ProMiles's product and receive a refund for all amounts paid to ProMiles, including but not limited to, applicable license fees, within ninety (90) days of notification to ProMiles of the State's refund request

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Deficiencies/Defects	A failure, deficiency, or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications. **Class A Deficiency** – <u>Software - Critical</u>, does not allow System to operate, no work around, demands immediate action; <u>Written Documentation</u> - missing significant portions of information or unintelligible to State; <u>Non Software</u> - Services were inadequate and require re-performance of the Service. **Class B Deficiency** – <u>Software - important</u>, does not stop operation and/or there is a work around, and users can perform tasks; <u>Written Documentation</u> - portions of information are missing but not enough to make the document unintelligible; <u>Non Software</u> - Services were deficient, require reworking, but do not require re-performance of the Service. **Class C Deficiency** – <u>Software - minimal</u>, cosmetic in nature, minimal effect on System, low priority and/or users can use System; <u>Written Documentation</u> - minimal changes required and of minor editing nature; <u>Non Software</u> - Services require only minor reworking and do not require re-performance of the Service.

ProMiles's performance and compliance with the Scope of Services shall be continually evaluated by NHDOT.

On occurrences when ProMiles does not meet the response times established herein, NHDOT reserves the right to assess liquidated damages against ProMiles to be deducted from ProMiles's invoice.

The infractions that may activate the invoice payment reductions for non-performance include, but are not limited to:

- Not meeting the repair services response times – one thousand five hundred dollars ($1,500) per occurrence.
- Not meeting the on-call response times – one thousand five hundred dollars ($1,500) per occurrence.

In the event that the system is determined by NHDOT to be below the 99.9% availability, solely due to malfunctions in software, hardware, and services purchased under this contract, for a period of not less than 3 consecutive days, ProMiles may be liable to NHDOT in an amount equal to the daily value of the contract over its complete term. NHDOT reserves the right to enforce this liability.

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In the event that, due solely to ProMiles's delay, ProMiles is unable to deliver on time any of the agreed upon requirements under this Contract and an agreed to Project Schedule, ProMiles shall be liable to NHDOT. Such penalties shall be calculated by as the daily value of the Contract over its complete term for each day of ProMiles's delay. NHDOT reserves the right to terminate its contract with ProMiles in the event ProMiles's delay exceeds 30 days. Penalties for such termination shall be calculated as a cost incurred by NHDOT to replace ProMiles and the differential cost to implement a new ProMiles's system.

Application of these reductions in payment will not waive NHDOT's right to terminate the Agreement as outlined in Section 25.15. Final terms of any Liquidated Damages will be included in the negotiated resultant Contract.

25.13 Administrative Specifications

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

ProMiles 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.

25.13.2 Shipping and Delivery Fee Exemption
The State will not pay for any shipping or delivery fees unless specifically itemized in the Contract.

25.13.3 Project Workspace and Office Equipment
The State agency will work with ProMiles to determine the requirements for providing all necessary workspace and office equipment, including desktop computers for ProMiles's staff. If a ProMiles has specific requirements, they must be included in ProMiles's Proposal.

25.13.4 Work Hours
ProMiles's personnel shall work normal business hours between 8:00 am and 5:00 pm (Eastern Time), eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.

25.13.5 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 will provide ProMiles with access to all program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware as required to complete the contracted Services.

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

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25.13.6 State-Owned Documents and Data

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

25.13.7 Intellectual Property

The State shall hold all ownership, title, and rights in any Custom Software developed in connection with performance of obligations under the Contract, or modifications to the Software, and their associated Documentation including any and all performance enhancing operational plans and ProMiles' special utilities. The State shall have sole right to produce, publish, or otherwise use such Software, modifications, and Documentation developed under the Contract and to authorize others to do so.

25.13.8 IT Required Work Procedures

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

25.13.9 Computer Use

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

a. Every Authorized User has the responsibility to assure the protection of information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure;

b. That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use and that at no time shall ProMiles access or attempt to access any information without having the express authority to do so;

c. That at no time shall ProMiles access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and /or agreements relating to system entry/access;

d. That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times ProMiles must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State. Only equipment or software owned, licensed, or being evaluated by the State, can be used by ProMiles. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment; and

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    e.   That if ProMiles is found to be in violation of any of the above-stated rules, the User may face removal from the State Contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.

25.13.10 Email Use

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

25-13.11 Internet/Intranet Use

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

25.13.12 Regulatory/Governmental Approvals

ProMiles shall be responsible for obtaining all necessary and applicable regulatory or other governmental approvals to carry out the terms of the contract.

25.13.13 Force Majeure

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

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

25.13.14 Confidential Information

In performing its obligations under the Contract, ProMiles may gain access to information of the State, including 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). ProMiles 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 is directly connected to and necessary for ProMiles's performance under the Contract.

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

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

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

In the event of unauthorized use or disclosure of the State's Confidential Information, ProMiles shall immediately notify the State, and the State shall immediately be entitled to pursue any remedy at law and in equity, including, but not limited to injunctive relief.

Insofar as ProMiles seeks to maintain the confidentiality of its confidential or proprietary information, ProMiles must clearly identify in writing the information it claims to be confidential or proprietary. ProMiles acknowledges that the State is subject to the Right to Know Law, RSA Chapter 91-A. The State shall maintain the confidentiality of the identified Confidential Information insofar as it is consistent with applicable State or 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 ProMiles as confidential, the State shall notify ProMiles and specify the date the State will be releasing the requested information. At the request of the State, ProMiles shall cooperate and assist the State with the collection and review of ProMiles's information, at no additional expense to the State. Any effort to prohibit or enjoin the release of the information shall be

ProMiles's sole responsibility and at ProMiles's sole expense. If ProMiles 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 ProMiles without any State liability to ProMiles.

This Contract Agreement, Section 25.12.14: Confidential Information shall survive the termination or conclusion of a Contract.

25.13.15 Data Breach
In the event of a data breach, ProMiles shall comply with provisions of NHRSA 359 C:20.

25.14 Pricing

25.14.1 Activities/Deliverables/Milestones Dates and Pricing
ProMiles must include, within the fixed price for IT service activities, tasks, and preparation of required Deliverables, pricing for the Deliverables required based on the proposed approach, and methodology and tools. A fixed price must be provided for each Deliverable. Pricing worksheets are provided in Appendix F: Pricing Worksheets.

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25.14.2 Software Licensing, Maintenance, Enhancements, and Support Pricing

ProMiles must provide the minimum Software support and Services through Software licensing, maintenance, Enhancements, and support as detailed in Section 25.12 Ongoing Software Maintenance and Support Levels.

25.14.3 Invoicing

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

25.14.4 Overpayments to ProMiles

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

25.14.5 Credits

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

25.14.6 Records Retention and Access Requirements

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

ProMiles 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. ProMiles 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 appeals 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 will be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. ProMiles shall include the record retention and review requirements of this section in any of its subcontracts.

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The State agrees that books, records, documents, and other evidence of accounting procedures and practices related to ProMiles's cost structure and profit factors shall be excluded from the State's review unless the cost or any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

25.14.7 Accounting Requirements

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

25.15 Termination

This section 25.15 shall survive termination or Contract conclusion.

25.15.1 Termination for Default

Any one or more of the following acts or omissions of ProMiles 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. to perform any other covenant, term or condition of the Contract

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 ProMiles 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 ProMiles fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving ProMiles notice of termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.

b. Give ProMiles a written notice specifying the Event of Default and suspending all payments to be made under the Contract and ordering that the portion of the Contract price which would otherwise accrue to ProMiles during the period from the date of such notice until such time as the State determines that ProMiles has cured the Event of Default shall never be paid to ProMiles.

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

d. Treat the Contract as breeched and pursue any of its remedies at law or in equity, or both; and

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

In the event of default by the State, ProMiles shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days.

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.

25.15.2 Termination for Convenience

The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to ProMiles. In the event of such termination for convenience, the State shall pay ProMiles the agreed upon price, if separately stated, 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 will be paid, in whole or in part, generally in accordance with Appendix F: Pricing Worksheets.

During the thirty (30) day period, ProMiles shall wind down and cease its 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.

25.15.3 Termination for Conflict of Interest

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 ProMiles did not know, or reasonably did not know, of the conflict of interest.

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

25.15.4 Termination Procedure

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

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After receipt of a notice of termination, and except as otherwise directed by the State, ProMiles 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 ProMiles and in which State has an interest; ProMiles must transfer data belonging to the State in any open data source format. ProMiles must issue all instructions to the State which will enable the State to transform the data into a product which may be clearly understood and usable.

d. Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to State and which has been accepted or requested by the State; and

e. Provide written certification to the State that ProMiles has surrendered to the State all said property.

25.16 Limitation of Liability

25.16.1 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 ProMiles shall not exceed the total Contract price set forth in Contract Agreement Section 1.8 of the Contract Agreement – General Provisions.

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

25.16.2 ProMiles

Subject to applicable laws and regulations, in no event shall ProMiles be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and ProMiles's liability to the State shall not exceed two times (2X) the total Contract price set forth in the Contract Agreement, Section 1.8 of the Contract Agreement – General Provisions. Notwithstanding the foregoing, the limitation of liability shall not apply to ProMiles's indemnification obligations set forth in the State of New Hampshire Terms and Conditions (Part 1, Form P-37 General Provisions), Section 13: Indemnification and confidentiality obligations in Section 25.13.14: Confidential Information and data breach obligations in Section 25.13.15 Data Breach which shall be unlimited.

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25.16.3 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.

25.16.4 Survival

This Contract Agreement, Section 25.16: Limitation of Liability shall survive termination or Contract conclusion.

25.17 Change of Ownership

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

25.18 Assignment, Delegation and Subcontracts

ProMiles 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 will 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.

ProMiles shall remain wholly responsible for performance of the entire Contract regardless of whether 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 ProMiles of any of its obligations under the Contract nor shall it affect any remedies available to the State against ProMiles that may arise from any event of default of the provisions of the Contract. The State will consider ProMiles to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

25.19 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 by this Agreement. 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

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LEVEL	ProMiles	STATE	CUMULATIVE ALLOTTED TIME
Primary	Tim Pilcher President	Mark Kirouac State Project Manager (PM)	5 Business Days
First	Tim Pilcher President	Dave Rodrigue Director	10 Business Days
Second	Tim Pilcher President	Victoria Sheehan Commissioner	15 Business Days

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

25.20 Venue and Jurisdiction

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

25.21 Project Holdback

The State will withhold 10% of the agreed Deliverables pricing tendered by ProMiles in this engagement until successful completion of the Warranty Period as defined in Appendix H Section 25-11.1: Warranty Period.

25.22 Escrow of Code

ProMiles will enter into a source and configuration code escrow agreement, with a State approved escrow agent. The escrow agreement may be entered into after the execution of this agreement, but will be considered a material term of this agreement. ProMiles may use the proposed Software Escrow Agreement attached hereto or an alternate form that is approved by the State. At a minimum any such alternate form must include a clause indicating that the State will not be responsible for any liability or indemnification obligations for the actions of third parties. Further, the escrow agreement must be governed by the laws of the State of New Hampshire and include a choice of jurisdiction in New Hampshire. This agreement may not contain any arbitration provisions.

The escrow agreement will require ProMiles to put ProMiles Software source and configuration code in escrow. The source code shall be released to the State if one of the following events has occurred:

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

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whether due to its ceasing to conduct business generally or otherwise, except in cases where the termination or cessation is a result of the non-payment or other fault of the State;

e.   ProMiles defaults under the Contract; or

f.   ProMiles ceases its on-going business operations or that portion of its business operations relating to the licensing and maintenance of the Software.

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SOFTWARE ESCROW AGREEMENT

THIS AGREEMENT is entered into between State of New Hampshire ("**State**"), by and acting through its Department of Transportation with a location of 7 Hazen Drive, Concord, NH 03302 (the State) and ProMiles Software Development Corporation (**"Contractor"**) a corporation with a principal place of business at 1900 Texas Avenue, Bridge City, Texas 77611 and Guard-IT Corporation (**"Escrow Agent"**) a corporation with a principal place of business at 1250 S Capital of Texas Hwy, Bldg 3, Ste 400, Austin, Texas 78746.

WHEREAS Contractor has entered into a contract with the State entitled Oversize/Overweight Permitting Software System, Contract 2016-043, ("The Contract") which includes an agreement by contractor to license the use of certain materials and proprietary software (the "Materials") to the State in connection with its performance under the contract;

WHEREAS, Contractor wishes to protect the confidentiality of its Materials while providing the State with access to the Materials in the event that certain circumstances described in this Agreement occur; and

WHEREAS, Contractor wishes to deposit such Materials in escrow to be held by Escrow Agent in accordance with the terms and conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the promises, mutual covenants and agreements herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Effective Date:

The Parties recognize that this Agreement is derivative of and contingent upon the contract between the Contractor and the State. Accordingly, this Agreement shall not be effective until the date that the Contract is approved by the Governor & Executive Council of the State of New Hampshire and the Effective Date of the Software Implementation as set forth in the Contract.

2. Appointment of Escrow Agent and Escrow Fees

(a) Contractor and State hereby appoint Escrow Agent to hold the Materials as defined herein in accordance with the terms and conditions of this Agreement and Escrow Agent agrees to act in such capacity.
(b) In consideration for the services to be performed hereunder, Contractor shall pay to Escrow Agent an annual escrow fee of $2,000.00 dollars. In no event will the State be responsible for payment of the Escrow Fee. In the event of non-payment of escrow fees, Escrow Agent will give Contractor ninety (90) days notice of default. In the event that the ninety (90) day notice period elapses without Escrow Agent having received payment, Escrow Agent shall have the right, without further notice being required and without any liability to any party whatsoever, to terminate this Agreement and, at the request of the State, release and deliver the Materials to the State.

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3. Term of this Agreement

(a) The term of this Agreement shall commence on the Effective Date of the Software Implementation, as set forth in paragraph 1 and shall continue in full force and effect so long as the License remains in full force and effect, unless this Agreement is terminated as hereinafter set out.

4. Materials Deposited in Escrow

(a) Contractor agrees to deposit with Escrow Agent one copy of all the constituent elements of the proprietary software including but not limited to text, data, images, animation, graphics, video and audio segments and source and object code and user and system documentation of all software licensed to State in connection with the Contract (collectively, the "Materials")

5. Modifications to Materials to be Deposited

(a) Contractor may, from time to time, update, improve or modify the Materials used by the State in connection with the Contract. Contractor agrees to deposit or cause to be deposited with the Escrow Agent, at the time such updates, improvements or modifications are made, one copy of such modified Materials which shall be deemed part of the Materials deposited in escrow under this Agreement.

6. Release and Delivery of Materials by Escrow Agent

(a) The occurrence of any of the following events ("Release Events") shall provide to the State the right to request the Escrow Agent to release and deliver the Materials held in escrow to the State:
(i) Contractor ceases to carry on business;
(ii) Contractor becomes bankrupt, insolvent or the subject of receivership;
(iii) Contractor commits a material breach of the Contract.

7. Notice of Release Event

(a) Should State wish the Escrow Agent to release and deliver to the State the Materials held in escrow upon the occurrence of any of the Release Events, the State shall give thirty (30) days written notice to the Escrow Agent and Contractor specifying the Release Event in question. If Contractor wishes to refute the occurrence of the Release Event, it shall give written notice to Escrow Agent and State prior to the expiration of the thirty (30) day period and this Agreement will remain in full force and effect. If Contractor does not give written notice of its refutation to Escrow Agent and State prior to the expiration of the thirty (30) day period, Escrow Agent shall release and deliver the Materials held in escrow to State.

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8. Termination

(a) In the event that Contractor wishes to terminate this Agreement, Contractor shall give sixty (60) days written notice to Escrow Agent and State. If State wishes to object to the termination, it shall give written notice of its objection to Escrow Agent and Contractor prior to the expiration of the sixty (60) day period and this Agreement will remain in full force and effect. If State does not give written notice of its objection to Escrow Agent and Contractor prior to the expiration of the sixty (60) day period, this Agreement shall be deemed terminated and Escrow Agent shall release and deliver the Materials held in escrow to Contractor.

9. Representations, Warranties and Indemnifications

(a) Escrow Agent represents and warrants that:
(i) Other than being a party to this Agreement, it is an independent third party in respect to the Contractor and State and is not an affiliated, associated or related entity to Contractor or State;
(ii) It has the right and capacity to enter into this Agreement and fully perform all of its obligations and provide the services hereunder;
(iii) It shall use commercially reasonable efforts to keep the Materials in safe keeping and perform its obligations as Escrow Agent in accordance with the terms of this Agreement;
(iv) It shall not disclose to any third party or make use of the Materials without the express written approval of Contractor and State
(v) It shall takes such steps as are reasonably necessary and desirable to protect the confidentiality of the Materials and prevent the unauthorized disclosure thereof, including without limitation storing the Materials in such a way as to preserve the confidentiality of the Materials and restrict disclosure of and access to the Materials.
(b) Escrow Agent shall indemnify and save harmless Contractor and the State from any and all damages, costs, liability, expenses, including reasonable legal fees, suffered by Contractor and/or State as result of any breach of its representations and warranties. Notwithstanding the forgoing, Escrow Agent shall not be held responsible or liable for any acts of Contractor and/or State and Escrow Agent shall have no liability under this Agreement whatsoever except for its acts of negligence, misconduct or a material breach of this Agreement. Contractor shall indemnify and save harmless Escrow Agent from any and all damages, costs and liability suffered by Escrow Agent arising as result of the breach of this Agreement or the License or breach or infringement any law or right of any third party by Contractor.

10. Notice

(a) Any notice required or permitted to be given hereunder shall be in writing and shall be deemed given (i) when delivered personally to any officer of the party being notified; or (ii) on the third business day after being sent by registered or certified mail, postage prepaid, addressed as follows:

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To Contractor:
ProMiles Software Development Corporation
1900 Texas Avenue
Bridge City, Texas 77611
409-697-2587
Tim@ProMiles.com

To State:
New Hampshire Department of Transportation
7 Hazen Drive
PO Box 383
Concord, New Hampshire 03302-0483
603-271-2693

To Escrow Agent:

Guard-IT Corporation
Attn: Jim Ford, CEO
1250 S Capital of Texas Hwy
Bldg 3, Ste 400
Austin, Texas 78746
512-282-1995
jford@guard-it.com

11. Force Majeure

(a) No party hereto shall be responsible for any losses or damages to any other party occasioned by delays in the performance or non-performance of any of its obligations when caused by Acts of God, strike, acts of war, inability of supplies or material or labor or any other cause beyond the reasonable control of the non-performing party.

12. Severability

(a) In the event any portion of this Agreement is deemed to be invalid or unenforceable, such portion shall be deemed severed and the parties agree that the remaining portions of this Agreement shall remain in full force and effect.

13. Assignment

(a) Neither party may assign or otherwise transfer this Agreement without the written consent of the other parties. This Agreement shall inure to the benefit of and bind the parties hereto and their respective legal representatives, successors and assigns.

14. Governing Law/Forum

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(a) This Agreement shall be governed by and construed in accordance with the laws of the
State of New Hampshire. Any legal action taken with respect to this Agreement shall be filed in Merrimack
County Superior Court in Concord, New Hampshire.

15. Entire Agreement

(a) This Agreement, including the recitals, sets forth the entire agreement between the
parties with respect to the subject matter hereof and shall be amended only by a writing
signed by the parties.

16. Counterparts

(a) This Agreement may be executed in counterparts in the same form and such parts so
executed shall together form one original document and be read and construed as if one

IN WITNESS WHEREOF the parties hereto have executed this Agreement
effective this ___11th___ day of __May_____, 20_17_.

State of New Hampshire

Per: _____
Authorized Signatory

[Contractor]
Per: _____
Authorized Signatory

[ESCROW AGENT]
Per: _____
Authorized Signatory

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TERMS AND DEFINITIONS

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

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance 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 ProMiles and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables.
Acceptance Test and Review	Tests performed to determine that no Defects exist in the application Software or the System
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
Best and Final Offer (BAFO)	For negotiated procurements, a ProMiles's final offer following the conclusion of discussions.
Breach or Breach of Security	Unlawful and unauthorized acquisition of unencrypted computerized data that materially compromises the security, confidentiality or integrity of personal information maintained by a person or commercial entity
CCP	Change Control Procedures
CR	Change Request
COTS	Commercial Off-The-Shelf Software
CM	Configuration Management
Certification	ProMiles's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that ProMiles has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Change Control	Formal process for initiating changes to the proposed solution or proces0s 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 under the Contract

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Contract	This Agreement between the State of New Hampshire and a ProMiles, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
Contract Documents	Documents that comprise this Contract
Contract Managers	The persons identified by the State and ProMiles 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.
Contracted ProMiles	ProMiles whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
Conversion Test	A test to ensure that a data conversion process correctly takes data from a legacy system and successfully converts it to form that can be used by the new system.
COTS	Commercial off the Shelf
Cure Period	The thirty (30) day period following written notification of a default within which a contracted ProMiles must cure the default identified.
Custom Code	Code developed by ProMiles specifically for this project for the State of New Hampshire
Custom Software	Software developed by ProMiles 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 ProMiles during the Contract Term
DBA	Database Administrator
Deficiencies/Defects	A failure, deficiency, or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications. **Class A Deficiency** – Software - Critical, does not allow System to operate, no work around, demands immediate action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require re-performance of the Service. **Class B Deficiency** – Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require re-performance of the Service.

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	Class C Deficiency – Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service.
Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by ProMiles 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.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
Digital Signature	Guarantees the unaltered state of a file
Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract.
Encryption	Supports the transformation of data for security purposes
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
Event of Default	Any one or more of the following acts or omissions of a ProMiles 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
Firm Fixed Price Contract	A Firm-Fixed-Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of ProMiles's cost experience in performing the Contract
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
GAAP	Generally Accepted Accounting Principles
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Harvest	Software to archive and/or control versions of software
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users
Implementation	The process for making the System operational for processing the Data.

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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 that the value entered by users or provided by other applications meets the size, type and format expected. Protecting the application from cross site scripting, SQL injection, buffer overflow, etc.
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Invoking Party	In a dispute, the party believing itself aggrieved
Key Project Staff	Personnel identified by the State and by the contracted ProMiles as essential to work on the Project.
Licensee	The State of New Hampshire
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 4th, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided
Notice to Proceed (NTP)	The State Contract Manager's written direction to ProMiles to begin work on the Contract on a given date and time
Open Data Formats	A data format based on an underlying Open Standard.
Open Source Software	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
Open Standards	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
Operating System	System is fully functional, all Data has been loaded into the System, is available for use by the State in its daily operations.
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.

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Project Team	The group of State employees and contracted ProMiles'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 ProMiles to ensure a successful project.
Project Managers	The persons identified who shall function as the State's and ProMiles'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 ProMiles on the project
Proposal	The submission from a ProMiles 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
SaaS	Software as a Service- Occurs where the COTS application is hosted but the State does not own the license or the code.
Service Level Agreement (SLA)	A signed agreement between ProMiles and the State specifying the level of Service that is expected of, and provided by, ProMiles during the term of the Contract.
Services	The work or labor to be performed by ProMiles on the Project as described in the Contract.
Software	All custom Software and COTS Software provided by ProMiles under the Contract
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 ProMiles 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

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	standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
State	Reference to the term "State" shall include applicable agencies as defined in Section 1: INTRODUCTION of this RFP.
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 requirements, the roles and responsibilities of the State and ProMiles. The SOW defines the results that ProMiles 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 RSA Chapter 91-A
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 1st through June 30th 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, ProMiles, which is performing Services under this Contract under a separate Contract with or on behalf of ProMiles
System	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
TBD	To Be Determined
Technical Authorization	Direction to a ProMiles, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the SOW.
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	The duration of the Contract.
Transition Services	Services and support provided when the contracted ProMiles is supporting system changes.
UAT	User Acceptance Test

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Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
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
ProMiles	The contracted individual, firm, or company that will perform the duties and Specifications of the contract.
Verification	Supports the confirmation of authority to enter a computer system, application or network
Walk Through	A step-by-step review of a specification, usability features or design before it is handed off to the technical team for development
Warranty Period	A period of coverage during which the contracted ProMiles 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 ProMiles during the Warranty Period.
Work Hours	ProMiles personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager. However, the State requires an unpaid lunch break of at least thirty (30) minutes be taken after five (5) consecutive hours of work.
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 ProMiles either in paper or electronic format.

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a. Problem Statement

Provide Oversize/Overweight (OSOW) permitting software system.

b. Goals

Replace 14 year old OverHaul program currently maintained by NH DoIT. New software will automatically issue a majority of the permits and include automated route selection, route validation, bridge evaluation, and restriction management modules.

c. Project Overview

New Hampshire Department of Transportation (NHDOT) is procuring a Commercial-Off-The-Shelf (COTS) OSOW permitting software system configured and customized as required to meet NHDOT requirements and associated services for NHDOT. NHDOT requires a vendor hosted solution including all hardware, software, and payment processing. In addition to development, testing, and implementation of the system, the Contractor (ProMiles) will provide a 1-year system warranty after final system acceptance and ongoing software maintenance and support services for 6 years after completion of the warranty.

d. Statement of Work

The objective of this contract is to configure, integrate, test, install, and maintain a comprehensive OSOW permitting software system (the "System") that will facilitate the exchange of information between OSOW permitting partners, permit applicants, and the permit payment processing module. The services include, but are not limited to: coordination, configuration, data migration, interfacing/integrating with State and Federal Agency systems, training, testing, reporting, and system support.

The System will be a Vendor hosted industry standard system that meets NHDOT specific requirements for functionality, security, and interoperability with other systems. The System will be open in nature, mature, and capable of performing the specific tasks outlined herein. The System will consist of hardware and software as well as supporting communications and interaction with internal, external, and third party systems necessary to provide the required system functionality outlined herein.

The new solution will automate certain daily activities of OSOW permitting operations and streamline the permit processing. Daily activities include, but are not limited to: application review, routing evaluation, bridge load capacity analysis, restriction management, permit payment processing, financial management, and reporting. With a Vendor hosted web-based solution, state staff and the carrier community will be able to use the automated solution to quickly apply for a permit, analyze the roadway network for an appropriate path, and pay for and receive the OSOW permit with limited state staff involvement. The solution will utilize configurable business rules and parameters to decide if a vehicle/load qualifies for an auto-issued permit. Ideally, a carrier will be able to obtain an auto-issued permit in less than 15 minutes after submission if all requirements and rules are met. If a manual review

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is required, the permit will be placed in the OSOW Permit staff's queue for review where additional workflows will be in place to process the permit.

The OSOW System will be a modular based software application that will include, at a minimum:

- Vendor hosted 100 % web based;
- 24 hours a day/ 7 days a week operation except for during scheduled maintenance;
- Integration with state and federal databases;
- Configurable work flow and work queue approval;
- Robust performance management system for submitting, reporting, managing, and reviewing permits;
- Account management for state, permit services, and customers;
- Automated issuance of routine permits;
- Issuance of multi-state permits, if required by the State;
- Rules engine to configure and set new regulations, guidelines, permit fees, and vehicle weights and dimensions;
- Permit fee payment processing including compliance with PCI Credit Card security requirements for credit card transactions;
- Finance/accounting management and reporting;
- Web based mapping;
- Turn by turn driving instructions;
- Intelligent route routing and analysis option;
- Self-routing including address to address or point to point based routing;
- GIS database to support routing;
- Bridge load capacity analysis/evaluation;
- Integration with NHDOT sources for restriction management; and
- Restriction management and notifications.

The OSOW shall encompass all systems and devices (i.e., hardware and software) to deliver a fully functional System. All components of the System shall be fully tested according to all NHDOT and NHDoIT standards as referenced herein. Any testing under this contract will be completed such that NHDOT can maintain full operation of their existing OverHaul permitting system at all times.

ProMiles will develop a structured training program that includes formal instruction on all components of the System. Select NHDOT, NHDOS, and NHDoIT, staff will be fully trained on the System prior to "going live".

The System will be fully warranted and maintained according to the terms of the contract. During the System Warranty and Maintenance periods, the System will receive all necessary corrective, adaptive, perfective, and preventive maintenance, repairs, troubleshooting, security patches, software upgrades, performance, and reliability enhancements necessary for the System to meet or exceed its specified performance standards at no additional charge to NHDOT.

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e. General Project Assumptions

1. ProMiles will provide project tracking tools and templates to record and manage Issues, Risks, Change Requests, Requirements, Decision Sheets, and other documents used in the management and tracking of the project. The State of New Hampshire and ProMiles Project Managers will review these tools and templates and determine which ones will be used for the project. Training on these tools and templates will be conducted at the start of each phase in which they will be used.

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

3. ProMiles shall ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of the State's Information Technology resources, information, and services. Security requirements are defined in the Contract Agreement and Exhibit E Testing Services. ProMiles shall provide the State resources, information, and Services on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and to safeguard the confidentiality and integrity of State networks, Systems and Data.

4. The Deliverables are set forth in the Schedule described below. By unconditionally accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.

   Pricing for Deliverables set forth in Exhibit B: *Price and Payment Schedule*. Pricing will be effective for the Term of this Contract, and any extensions thereof.

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DELIVERABLES, MILESTONES, AND ACTIVITIES SCHEDULE

	Activity, Deliverable, or Milestone	**Projected Delivery Date (days from NTP)**
1	Project Kickoff Meeting	19
2	Business Process Review/Requirements Validation	110
3	Updated System Requirements Matrix	92
4	Site Acceptance Test Plan	194
5	System Training Plan	425
6	System Maintenance Plan	441
7	OSOW System Software/Integration	348
8	User Acceptance Test Plan	439
9	Training	478
10	Security Review	439
11	PCI DSS Attestation of Compliance (annually)	467 and annually thereafter
12	Software Modifications for Requirements	467
13	Licensing	509 and annually thereafter
14	Ongoing Hosting	Ongoing after implementation
15	Ongoing Support & Maintenance	Ongoing after implementation

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1. PAYMENT SCHEDULE

1.1   Firm Fixed Price

This is a Firm Fixed Price (FFP) Contract totaling $2,814,392 for the period between the Effective Date through October 29, 2025. ProMiles shall be responsible for performing its obligations in accordance with the Contract. This Contract will allow ProMiles to invoice the State for the following activities, Deliverables, or milestones at fixed pricing/rates appearing in the price and payment tables below:

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	Activity, Deliverable, or Milestone	Projected Delivery Date (days from NTP)	Price
1	Project Kickoff Meeting	19	$4,950
2	Business Process Review/Requirements Validation	110	$17,920
3	Updated System Requirements Matrix	92	$9,430
4	Site Acceptance Test Plan	194	$8,530
5	System Training Plan	425	$1,230
6	System Maintenance Plan	441	$4,780
7	OSOW System Software/Integration	348	$380,217
8	User Acceptance Test Plan	439	$3,190
9	Training	478	$5,820
10	Security Review	439	$7,490
11	PCI DSS Attestation of Compliance (initial and annually thereafter)	467 and annually thereafter	$495,880
12	Software Modifications for Requirements	467	$179,700
13	Licensing	509 and annually thereafter	$1,122,700
14	Ongoing Hosting	Begins at launch. Ongoing quarterly payments with first payment due on date of launch	$263,350
15	Ongoing Support & Maintenance	Begins at anniversary of implementation. Ongoing quarterly payments with first payment due on anniversary of implementation	$309,205
	Total		$2,814,392

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ProMiles								
Years from Implementation	0-1	1-2	2-3	3-4	4-5	5-6	6-7	total
Initial Cost	$623,617							$694,097
Licensing	$870,100	$42,100	$42,100	$42,100	$42,100	$42,100	$42,100	$1,122,700
Hosting	$36,490	$36,490	$37,310	$37,710	$38,040	$38,500	$38,810	$263,350
Maintenance and Support		$49,290	$50,150	$51,030	$52,005	$52,890	$53,840	$309,205
PCI	$70,480	$70,840	$70,840	$70,840	$70,840	$70,840	$70,840	$425,040
Total	$1,600,687	$198,720	$200,400	$201,680	$202,985	$204,330	$205,590	$2,814,392
Cumulative Total	$1,600,687	$1,799,407	$1,999,807	$2,201,487	$2,404,472	$2,608,802	$2,814,392	

1.3 Proposed Vendor Staff, Resource Hours and Rates Worksheet

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Table 1.3: Proposed Vendor Staff, Resource Hours and Rates Worksheet

Title	Name	Initiation	Configuration	Implementation	Project Close out	Hourly Rate	Hours X Rate
Project Manager	Tim Pilcher	36	24	230	26	142	$44,872
Project Lead	Amanda Foster	44	268	310	58	102	$69,360
Chief Software Architect	Bill Scheifer	0	8	102	0	138	$15,180
Lead Developer	Troy Berg, Brian Fuller, and Duane Boldt	0	48	592	0	118	$75,520
Developer	Jon Blackburn and Chris Scheifer	0	0	580	0	94	$54,520
Lead GIS Specialist and GIS Team	Jessica Self and GIS Team	0	0	920	0	72	$66,240
Documentation Team	Documentation Team	24	24	212	0	85	$22,100
Tester	Brian Murphy and Testing Team	0	40	275	0	75	$23,625
Trainer	Brian Murphy and Training Team	0	0	110	0	80	$8,800
IT	Eddie Moore	0	20	60	0	100	$8,000
TOTALS		104	432	3,391	84		$388,217

1.4 Future Vendor Rates Worksheet

The State may request additional Services from the selected Vendor and requires rates in the event that additional Service is required. Additional services, if requested and approved, shall be billed at the rates set out below.

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Table 1.4: Future Vendor Rates Worksheet

Position Title	SFY 2017	SFY 2018	SFY 2019	SFY 2020	SFY 2021
Project Manager	$142.00	$143.70	$145.40	$147.00	$148.00
Project Lead	$102.00	$103.20	$104.20	$105.40	$106.50
Chief Software Architect	$138.00	$139.00	$140.00	$141.70	$143.20
Lead Developer	$118.00	$119.40	$120.70	$122.00	$123.30
Developer	$94.00	$95.00	$96.00	$97.10	$98.20
Lead GIS Specialist and GIS Team	$72.00	$72.80	$73.50	$74.30	$75.00
Documentation Team	$85.00	$86.00	$87.00	$88.00	$89.00
Tester	$75.00	$75.90	$76.80	$77.70	$78.50
Trainer	$80.00	$81.50	$82.00	$83.00	$84.00
IT	$100.00	$101.20	$102.40	$103.50	$104.70

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Position Title	SFY 2022	SFY 2023	SFY 2024	SFY 2025
Project Manager	$149.80	$150.70	$152.10	$153.20
Project Lead	$107.80	$108.90	$110.00	$111.20
Chief Software Architect	$145.00	$146.60	$148.30	$150.10
Lead Developer	$124.60	$125.80	$126.90	$128.00
Developer	$99.40	$100.50	$110.60	$111.80
Lead GIS Specialist and GIS Team	$75.80	$76.50	$77.30	$78.00
Documentation Team	$90.00	$91.00	$92.00	$93.00
Tester	$79.40	$80.20	$81.00	$81.80
Trainer	$85.00	$86.00	$87.00	$88.00
	$105.90	$107.10	$108.30	$109.60

1.5 Software Licensing, Maintenance, and Support Pricing

ProMiles will provide software licensing, maintenance and support services based on pricing in the following table.

Table 1.5: Software Licensing, Maintenance, and Support Pricing Worksheet

Software Name	Initial Cost		Maintenance Support and Upgrades					
		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Initial Cost	$623,617						
Licensing	$870,100	$42,100	$42,100	$42,100	$42,100	$42,100	$42,100
Maintenance and Support	$0	$49,290	$50,150	$51,030	$52,005	$52,890	$53,840
PCI Compliance	$70,480	$70,480	$70,480	$70,480	$70,480	$70,480	$70,480

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1.6 Web Site Hosting
ProMiles will provide web site hosting based on pricing in the following table.

Table 1.6: Web Site Hosting

HOSTED SERVICES	Initial Cost	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Web Site Hosting Fee	$36,490	$36,490	$37,310	$37,710	$38,040	$38,500	$38,810

2. INVOICING

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

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

Invoices shall be sent to:

> Mark Kirouac
> DEPARTMENT OF TRANSPORTATION
> 7 Hazen Drive
> P.O. Box 483
> Concord, New Hampshire 03302-0483

3. PAYMENT ADDRESS

All payments shall be sent to the following address:

> ProMiles Software Development Corporation
> 1900 Texas Avenue
> Bridge City, Texas 77611

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4. OVERPAYMENTS TO ProMiles

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

5. CREDITS

The State may apply credits due to the State arising out of this Contract, against ProMiles's invoices with appropriate information attached. See Section H-25.12.2 of the RFP for definition of credits.

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SPECIAL PROVISIONS

No changes.

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1. STATE MEETINGS AND REPORTS

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

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

a. **Introductory Meeting:** Participants will include ProMiles Key Project Staff and State Project leaders from both Department of Justice and the Department of Information Technology. This meeting will enable leaders to become acquainted and establish any preliminary Project procedures.

b. **Kickoff Meeting:** Participants will include the State and ProMiles Project Team and major stakeholders. This meeting is to establish a sound foundation for activities that will follow.

c. **Status Meetings:** Participants will include, at the minimum, the ProMiles Project Manager and the State Project Manager. These meetings will be conducted at least bi-weekly and address overall Project status and any additional topics needed to remain on schedule and within budget. A status and error report from ProMiles shall serve as the basis for discussion.

d. **The Work Plan:** must be reviewed at each Status Meeting and updated, at minimum, on a bi-weekly basis, in accordance with the Contract.

e. **Special Meetings:** Need may arise for a special meeting with State leaders or Project stakeholders to address specific issues.

f. **Exit Meeting:** Participants will include Project leaders from ProMiles and the State. Discussion will focus on lessons learned from the Project and on follow up options that the State may wish to consider.

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

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The ProMiles Project Manager or ProMiles Key Project Staff shall submit monthly status reports in accordance with the Schedule and terms of this Contract. All status reports shall be prepared in formats approved by the State. The ProMiles's Project Manager shall assist the State's Project Manager, or itself produce reports related to Project Management as reasonably requested by the State, all at no additional cost to the State. ProMiles shall produce Project status reports, which shall contain, at a minimum, the following:

1. Project status related to the Work Plan;
2. Deliverable status;
3. Accomplishments during weeks being reported;
4. Planned activities for the upcoming two (2) week period;
5. Future activities; and
6. Issues and concerns requiring resolution.
7. Report and remedies in case of falling behind Schedule

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

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Application Security

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.

This shall include but is not limited to:

- Develop software applications based on industry best practices and incorporating information security throughout the software development life cycle;
- Follow change control process and procedures relative to release of code;
- Develop applications following security-coding guidelines as set forth by organizations such as, but not limited to Open Web Application Security Project (OWASP) Top 10, SANS Common Weakness Enumeration (CWE) Top 25 or CERT Secure Coding; and

PCI DSS Payment Application Data Security Standard (PA DSS)

Whereas ProMiles provides a Commercial Off the Shelf (COTS) product used by the NHDOT), which transmits, processes or stores cardholder data and therefore must meet PCI-DSS validation requirements.

Whereas ProMiles's access to the production environment which transmits, processes or stores cardholder data and therefore is considered a "service provider" under Requirement 12.8 of the PCI DSS, ProMiles agrees to the following provisions:

1. PCI DSS Requirement 12.8, Service Provider – If ProMiles provides services on the production environment used in the processing, transmission and/or storage of cardholder data, it is hereby agreed that:
    a. Vendor agrees that it is responsible for the security of all cardholder data that it obtains or possesses, including but not limited to the functions relating to storing, processing, and transmitting the cardholder data;
    b. Vendor attests that, as of the effective date of this Contract, it has complied with all applicable requirements to be considered PCI DSS compliant, and has performed the necessary steps to validate its compliance with the PCI DSS;
    c. Vendor agrees to supply the current status of Vendor's PCI DSS compliance, and evidence of its most recent validation of compliance upon execution of this Contract to NHDOT. Vendor must supply to Agency an attestation of compliance (AOC) at least annually. The AOC shall be prepared by a Qualified Security Assessor;
    d. Vendor will immediately notify NHDOT if it learns that it is no longer PCI DSS compliant and will immediately provide NHDOT the steps being taken to remediate the non-compliance status. In no event shall Vendor's notification to NHDOT be later than seven (7) calendar days after Vendor learns it is no longer PCI DSS compliant; and
    e. Vendor acknowledges that any indemnification provided for under the Contract applies to the failure of ProMiles to be and to remain PCI DSS compliant.

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Testing Requirements

All testing and acceptance addressed herein shall apply to testing the System. This shall include planning, test scenario development, Data, and System preparation for testing, and execution of unit testing, System integration testing, conversion/migration testing, installation testing, performance, and stress testing, Security review and testing, and support of the NHDOT during user Acceptance Testing (UAT).

Test Planning and Preparation

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

It is crucial that client training and testing activities not be abbreviated in order to meet Project Implementation Schedules. Therefore, the State requires that the testing activities be represented both in terms of effort and duration.

Vendors must disclose in their proposals the scheduling assumptions used in regard to the Client resource efforts during testing.

State testing will commence upon ProMiles Project Manager's certification, in writing, that ProMiles's own staff has successfully executed all prerequisite Vendor testing, along with reporting the actual testing results, prior to the start of any testing executed by State staff.

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

Testing

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

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

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Unit Testing

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

The goal is to find errors in the smallest unit of Software. If successful, subsequent integration testing should only reveal errors related to the integration between application components.

System Integration Testing

a.) Validates the integration between the individual unit application components and verifies that the new System meets defined requirements and supports execution of interfaces and business processes. The Systems Integration Test is performed in a test environment.
b.) Emphasizes end-to-end business processes and the flow of information across applications. It includes all key business processes and interfaces' being implemented, confirms data transfers with external parties, and includes the transmission or printing of all electronic and paper documents.
c.) NHDOT will conduct System Integration Testing, utilizing scripts developed, as identified in the Test Plan, to validate the functionality of the System and its interfaces. NHDOT will also use System Integration Testing to validate modifications, fixes, and other System interactions with ProMiles supplied Software Solution.

Conversion/Migration Validation Testing

The Conversion/Migration Validation Testing should replicate the entire flow of the converted data through the Software Solution. As the Software Solution is interfaced to legacy or third-party applications, the testing verifies that the resulting converted legacy data performs correctly.

User Acceptance Testing (UAT)

The User Acceptance Test (UAT) is a verification process performed in a copy of the production environment. The User Acceptance Test verifies System functionality against predefined Acceptance criteria that support the successful execution of approved business processes.
a.) ProMiles's Project Manager must certify in writing, that ProMiles's own staff has successfully executed all prerequisite Vendor testing, along with reporting the actual testing results prior to the start of any testing executed by NHDOT staff.
b.) NHDOT will be presented with a State approved Test Plan, test scenarios, test cases, test scripts, test data, and expected results, as well as written Certification of ProMiles's having completed the prerequisite tests, prior to NHDOT staff involvement in any testing activities
c.) UAT will also serve as a performance and stress test of the System. It may cover any aspect of the new System, including administrative procedures such as backup and recovery. The results of the UAT provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.

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d.) Upon successful conclusion of UAT and successful System deployment, NHDOT will issue a letter of UAT Acceptance and the respective Warranty Period shall commence as described in Section H-25.11.1: Warranty Period.

Performance Tuning and Stress Testing

Vendor shall develop and document hardware and software configuration and tuning of System infrastructure as well as assist and direct NHDOT's System Administrators and Database Administrators in configuring and tuning the infrastructure to support the software throughout the project

Performance Tuning and Stress Testing Scope

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

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

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

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

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

Test types

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

Baseline Tests: Baseline tests shall collect performance data and load analysis by running scripts where the output is broken down into business transactions or functions. The test is like a single user executing a defined business transaction. During baseline testing, each individual script is run to establish a baseline for transaction response time, throughput and other user-based metrics. Usually each business transaction is executed multiple times during a single test run to obtain an

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average for the user-based metrics required for the performance testing evaluations. It must be noted that changes made to the code after baseline testing is completed will skew the results collected to date. All effort will be made to provide a code test base that is tested in the environment for problems prior to the establishment of the baseline, which are used in future testing and tuning efforts. Any changes introduced into the environment after performance testing has started can compromise the accuracy of the results and will force a decision to be made whether baseline results need to be recreated.

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

Tuning

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

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

Implementing Performance and Stress Test

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

Scheduling Performance and Stress Testing

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

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

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

Initial tests shall be used to establish a baseline from which all subsequent tests will be compared. Tests will be considered for baseline status once two of them have been run within 2% of each other in key and overall performance areas. No changes to the test scripts or data sets (with the exception of restores after each test) can be done to the test environment once tuning has begun so as to not damage the comparison to baseline results. The systems must be restarted prior to each test run to assure all cache is cleaned out. All effort will be made to run these tests at a time when system and network infrastructure utilization doesn't impact the results. Tests will be run in close proximity to our infrastructure to eliminate the public network from our environment.

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

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

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

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

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

Regression Testing

As a result, of the user testing activities, problems will be identified that require correction. NHDOT will notify ProMiles of the nature of the testing failures in writing. ProMiles will be required to perform additional testing activities in response to NHDOT and/or user problems identified from the testing results.

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Regression testing means selective re-testing to detect faults introduced during the modification effort, both to verify that the modifications have not caused unintended adverse effects, and to verify that the modified and related (possibly affected) System components still meet their specified requirements.

a.) For each minor failure of an Acceptance Test, the Acceptance Period shall be extended by corresponding time defined in the Test Plan.

b.) ProMiles shall notify NHDOT no later than five (5) business days from ProMiles's receipt of written notice of the test failure when ProMiles expects the corrections to be completed and ready for retesting by NHDOT. ProMiles will have up to five (5) business days to make corrections to the problem unless specifically extended in writing by NHDOT.

c.) When a programming change is made in response to a problem identified during user testing, a regression Test Plan should be developed by ProMiles based on the understanding of the program and the change being made to the program. The Test Plan has two objectives:

1. Validate that the change/update has been properly incorporated into the program; and
2. Validate that there has been no unintended change to the other portions of the program.
d.)   ProMiles will be expected to:
1. Create a set of test conditions, test cases, and test data that will validate that the change has been incorporated correctly;
2. Create a set of test conditions, test cases, and test data that will validate that the unchanged portions of the program still operate correctly; and
3. Manage the entire cyclic process.
 e.)   ProMiles will be expected to execute the regression test, provide actual testing results, and certify its completion in writing to the State prior to passing the modified Software application to the users for retesting.

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

In their Proposals Vendors must acknowledge their responsibilities for regression testing as described in this section.

Security Review and Testing

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

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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.

Service Component	Defines the set of capabilities that:
Identification and Authentication	Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users
Access Control	Supports the management of permissions for logging onto a computer or network
Encryption	Supports the encoding of data for security purposes
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Verification	Supports the confirmation of authority to enter a computer system, application or network
Digital Signature	Guarantees the unaltered state of a file
User Management	Supports the administration of computer, application and network accounts within an organization.
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system
Input Validation	Ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.

ProMiles acknowledges its responsibilities for security testing. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability. Tests shall, at a minimum, cover each of the service components. Test procedures shall include 3rd party Penetration Tests (pen test) or code analysis and review.

Prior to the System being moved into production, ProMiles shall provide results of all security testing to the Department of Information Technology for review and acceptance. All Software and hardware shall be free of malicious code (malware).

Penetration Testing shall include:

1 Implement a methodology for penetration testing that includes the following:
· Is based on industry-accepted penetration testing approaches (for example, NIST SP800-115)
· Includes coverage for the entire CDE perimeter and critical systems

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· Includes testing from both inside and outside the network
· Includes testing to validate any segmentation and scope-reduction controls
· Defines application-layer penetration tests to include, at a minimum, the vulnerabilities listed in Requirement 6.5
· Defines network-layer penetration tests to include components that support network functions as well as operating systems
· Includes review and consideration of threats and vulnerabilities experienced in the last 12 months
· Specifies retention of penetration testing results and remediation activities results.

1.1 Perform *external* penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade, a sub-network added to the environment, or a web server added to the environment).

1.2 Perform *internal* penetration testing at least annually and after any significant infrastructure or application upgrade or modification (such as an operating system upgrade, a sub-network added to the environment, or a web server added to the environment).

1.3 Exploitable vulnerabilities found during penetration testing are corrected and testing is repeated to verify the corrections.

1.4 If segmentation is used to isolate the CDE from other networks, perform penetration tests at least annually and after any changes to segmentation controls/methods to verify that the segmentation methods are operational and effective, and isolate all out-of-scope systems from in-scope systems.

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F-1 SCOPE OF WORK

ProMiles shall define a solution that provides for the design, delivery, integration, testing, training, and implementation of an OSOW System that is in accordance with the requirements contained herein.

F-1.1 OSOW Solution

The purpose of the OSOW software solution is to provide improved operator and applicant efficiency by consolidating and automating many of the functions that currently are performed manually and/or utilize separate software applications. The OSOW will provide a fully integrated solution, as well as improved permitting operations currently not available. The OSOW will have a comprehensive database from which to generate a full suite of performance measure and data reports.

The OSOW shall be an industry standard environment that includes modules that can be deployed and/or discontinued as needed. The system shall be scalable and provide an easy-to-use, interactive, browser based user interface that provides real-time user feedback. The OSOW solution shall be in accordance with the System Requirements Matrix located in Table C-1 of Appendix C of the RFP.

The goal of the OSOW software system is to meet the following operational needs including but not limited to:

- 100 % web based solution;
- 24 hours a day/7 days a week operation;
- Configurable work flow and work queue approval;
- Integration and Interfacing with state and federal databases;
- Account management by state and applicants/customers;
- Permitting module that provides automated issuance of routine permits;
- Ability to issue multi-state permits, if required by the State;
- Permit fee payment processing options, including but not limited to: checks, cash, escrow accounts, and credit cards Vendor required to be Merchant of Record; System must be in compliance with PCI Credit Card Security requirements for credit card transactions, Vendor shall provide a PCI Attestation of Compliance (AOC) annually. The AOC shall be prepared by a Qualified Security Assessor;
- Rules engine to configure and set regulations, guidelines, permit fees, and vehicle weights and dimensions;
- Comprehensive database from which to generate a full suite of performance measure and data reports. A robust performance management system to report, manage, and review permits;
- Finance/accounting management and reporting. Reporting shall include documentation of fund transfers to state bank account and process for reconciliation;
- Web based mapping;
- GIS database to support route routing;

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- Turn by turn driving instructions;
- Intelligent route routing and analysis;
- Self-routing including address or point to point based routing;
- Bridge load capacity analysis/evaluation;
- Restriction management and notifications;
- Integration with NHDOT sources for restriction management;
- Security Management; and
- Support Internal/External Partners

ProMiles shall deliver and integrate an OSOW solution that meets the basic operational objectives outlined above. In addition to the base OSOW platform, ProMiles shall include the following "Core" OSOW functionality described within Section F-1.2.

As applicable, and subject to the applicable laws and regulations, the State will provide ProMiles with access to all NHDOT program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware and office locations as required.

F-1.2 "Core" OSOW Functionality

The OSOW shall include a centralized, robust, GIS mapping solution that interfaces with the existing NHDOT ArcGIS mapping system. The GIS mapping system should provide a standardized mapping protocol for all components of the new System. ProMiles shall process NHDOT ArcGIS data to create a mapping solution with a geo-coded database for use within the OSOW system. The unified mapping solution shall enable NHDOT to create restrictions within state and across state boundaries.

The OSOW shall include a routing solution that includes applicant route definition and system automated capabilities. The routing solution shall include consideration of vehicle/load configuration, bridge crossing criteria, restrictions, and transportation infrastructure geometric conditions.

The OSOW shall include a bridge load capacity evaluation performed based on NHDOT Bureau of Bridge Design analysis criteria. The bridge analysis and review criteria shall be configurable by the State without the need for Vendor support. Bridge load capacity analysis procedures shall be in accordance with NHDOT approved procedures.

The OSOW shall include an advanced restriction management solution. The restriction management solution options shall include manual input of restriction and restriction data feeds from NHDOT's ATMS software.

F-1.3 NHDOT OSOW Solution

ProMiles shall provide a hosted solution for the NHDOT OSOW Permitting Software System. The State requires a vendor hosted OSOW solution including all software, hardware, and payment processing.

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ProMiles hosted solution is required to conform to all applicable NHDoIT IT Standards and State security requirements.

F-1.4 System Reporting:

F-1.4.1 OSOW Performance Measures/Data Reporting

Performance Measures are helpful to quantify how well NHDOT is accomplishing overall goals. These include both quantitative evidence (such as the measurement of permit issuance times) and qualitative evidence (such as the measurement of applicant satisfaction and perceptions). This might include data on how quickly permits are issued, how quickly permit reviews are completed, the number of permits issued, and the overall time required to issue a permit. These performance measures are a critical data output of the OSOW that will benefit internal partners within NHDOT and also external agencies.

Other Data Reporting capabilities of the OSOW should include operational evaluation data including permit review timelines, permit clerk action reports, OSOW System status, and maintenance reports. All of this data should be available to the Operator in the form of a dashboard application for real-time monitoring.

The OSOW performance reporting system will be a centralized service that will provide for the   generation of both custom and ad-hoc reports.

In this Software Solution, NHDOT seeks the capability to produce both standard OSOW Performance Measure reports and ad hoc Performance Measure reports from the production System. Requirements for OSOW Performance Measure Reports/Data Reporting are included in Appendix C – Table C-1, System Requirements Matrix, of the RFP. A summary of typical reports required in the OSOW software solution is presented in Appendix N of the RFP. The System Software shall also provide the ability to create custom reports using industry standard tools.

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F-1.4.2 System Health Reporting

In addition to the performance measures related to the OSOW, the software shall support extensive system health reporting capabilities. System health monitoring will provide performance measures on the system performance and availability.

The System Software shall provide the capability to filter data and generate reports by selecting and prioritizing any combination of data elements as described in Appendix C – Table C-1, System Requirements Matrix, of the RFP.

The System Software shall include both default System Health Reports and ad-hoc System Health reporting capabilities. The System Software shall provide the ability to create custom reports using industry standard tools. The OSOW health monitoring system shall provide email notification to appropriate NHDoIT and NHDOT staff when issues occur. ProMiles shall provide an OSOW System Health Dashboard.

F-1.5 NHDOT Escort

ProMiles and any subcontractor will require an escort for all on-site activities. The escort will arrange access to the facility and monitor contractor activities. NHDOT will provide this escort at no fee to ProMiles for activities that will occur during normal business hours. Vendors are required to conform to NHDOT/NHDoIT policies as described in Sections 25.13.8, IT Required Work Procedures, and 25.13.14 Confidential Information. The selected Vendor's staff will be required to complete a Non-Disclosure form for NHDOT/NHDoIT.

NHDoIT's hours of operation are 8:00 AM to 4:00 PM Monday through Friday excluding holidays.

F-1.6 Disruption of Operations

NHDOT will cooperate with ProMiles to facilitate the System installation and Acceptance testing. NHDOT operations take precedent over Vendor activities. Therefore:

- NHDOT reserves the right to deny an escort/facility access to ProMiles/project subcontractors due to staff availability or disruption of NHDOT Operations.
- NHDOT reserves the right to direct ProMiles or its subcontractors to cease activities and restore the network to a previous condition in response to a disruption of NHDOT Operations.

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ProMiles shall not be compensated by NHDOT for failure to provide an escort/allow facility access or cease operations.

F-1.7 Criminal Record Request

ProMiles shall identify all individuals that will be working on this project and submit detailed background information for approval by NHDOT. No person shall work in the secured areas of NHDOT TMC facility without prior written approval by NHDOT. All personnel (Vendor and any subcontractors) will be required to submit to a Criminal Record Request "background check". The results of this check for each person requiring on-site access shall be submitted by the designated Vendor Project Manager to NHDOT for approval at least fourteen (14) days prior to any on-site activities.

NHDOT reserves the right to deny facility access to Vendor or its subcontractor personnel based on the results of the background check or changes to the criminal record. ProMiles shall not file a claim against the NHDOT for failure to provide facility access.

All costs associated with conducting Vendor or its subcontractor Criminal Record Requests shall be the responsibility of ProMiles and shall be considered incidental to the project cost.

Information and application forms for a Criminal Record Request are available on the NHDOS website:

http://www.nh.gov/safety/divisions/nhsp/ssb/crimrecords/index.html

F-1.8 Electrical Service

All electrical and HVAC cost shall be included in the cost proposal for ProMiles hosted solution.

F-1.9 System Reliability

ProMiles shall demonstrate that the System meets the System availability and reliability performance requirements prior to and during the start-up period. ProMiles shall demonstrate the system availability to the NHDOT Project. The System shall achieve a minimum overall System availability of 99.99% during operations following the final Acceptance of the System by the NHDOT Project Manager. The overall system reliability excludes approved Vendor planned maintenance periods for system upgrades.

The solutions that address automated failover without vendor intervention to provide 99.99 % uptime in NH are encouraged.

ProMiles shall conduct an availability and reliability assessment of the entire System to establish its reliability and to identify areas of potential vulnerability. ProMiles shall submit detailed results of this assessment, along with details of the assumptions made and sources used in the derivation of results, for approval by the NHDOT Project Manager (in a format approved by the NHDOT Project Manager). The

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availability and reliability assessment plan shall be incorporated in the System Design with the analysis procedures included in the Testing Plan.

F-2   REQUIREMENTS

System Requirements Matrix and Vendor Response Checklist

See Appendix C Table C-1 of the RFP for the System Requirements Matrix and Vendor Response checklist.

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F-3   CURRENT INTERFACES

Table F-3: OSOW Interfaces

AGENCY NAME	SYSTEM/SUBSYSTEM NAME	FUNCTION	FREQUENCY
NHDOT	Advanced Transportation Management System (ATMS II)	Restriction Data	Real time
NHDOT	BrM (replaces PONTIS in future)	Bridge Data	Daily
NH Secretary of State	Corporation Search	NH Business Registry and Good Standing	Real time
NHDOS - Division of Motor Vehicles	MAAP (VISION in future)	IRP/cab card/registration data	Real time
NHDOT	GIS	State and Local Transportation System Network	daily
FMSCA	CVISN	Carrier and vehicle safety and credential information	Real time
FMCSA	CVIEW	Safety enforcement, credentials	Real time
FMCSA	ASPEN (INSPECT in future)	IT Reporting Systems	Real time
FMCSA	SAFER	Legal Registered Owner	Real time
NHDOS Bureau of Road Toll	IFTA/IRP	IFTA and IRP requirements	Real time

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The transfer of technical knowledge is important for operations, configuration /development, workflow, business setup, maintenance, and management. NHDOT, NHDoIT, and NHDOS understand the importance of training for a successful Software Implementation.

ProMiles shall develop a structured training program that includes formal instruction on all components of the System. Training may include the following topics:

- System Operation Overview;
- OSOW Administration;
- System User;
- Maintenance;
- IT and Network;
- Business office training for reconciliation; and
- Permit Applicant.

ProMiles shall train NHDOT operations staff, NHDoIT personnel, and any other relevant operator/user of the new system.

The Training Plan shall be delivered to the NHDOT Project Manager in a format approved by the NHDOT Project Manager at least forty-five (45) days prior to the proposed training dates. The Training Plan shall include who within NHDOT requires training, the duration of the classes, a draft outline of the training materials, and the maximum number of people in each class. ProMiles shall provide training convenient to NHDOT personnel at no additional cost to NHDOT.

As part of the Training Plan, ProMiles shall recommend appropriate staffing levels for personnel required to operate and maintain the system upon Final System Acceptance.

A.   Training General Requirements

By means of training classes, augmented by individual instruction as necessary, ProMiles shall fully instruct NHDOT designated staff in the operation, adjustment, and maintenance of all products, equipment, and systems.

The training program shall cover the operation and maintenance of all equipment and software associated with the System. The training program shall instruct NHDOT personnel in the operation of the fully implemented and integrated System once all components are in place and functioning.

Each training program shall be divided into sessions to instruct NHDOT personnel with various responsibilities. Different sessions are required for OS/OW Permit Section staff, NHDoIT staff, administration, and applicants.

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ProMiles shall provide one instructor for the duration of each program. The instructor shall speak fluent English in a clear and precise manner. Class content shall be coordinated and developed with NHDOT so that all procedures are covered. The class material shall include schematics, overview descriptions, complete user manuals, and other guides as necessary to ensure NHDOT staff is fully capable of operating the deployed System. NHDOT reserves the right to videotape all training sessions for future training purposes.

ProMiles shall provide training for permit applicants. This may include on-line tutorials, User Manuals, videos, and helpdesk support.

B.   **Training Materials**

ProMiles shall provide all documentation required for training State personnel and permit applicants. Documentation shall be provided for each student in the form of workbooks, lecture notes, and manuals for students. The NHDOT Project Manager shall approve system manuals prior to commencement of training. Any identified deficiencies shall be corrected prior to System acceptance.

An instructional notebook or user's manual shall accompany every training course. ProMiles shall submit a printed copy of the user's manual to NHDOT thirty (30) days before beginning the training courses. NHDOT will review the structure and contents of the user's manuals. NHDOT will return comments to ProMiles within fifteen 15 business days, and ProMiles shall incorporate all comments into a revised user's manual before training.

ProMiles shall supply ten (10) copies in three-ring binders for each type of user's manual. In addition, all manuals and classroom training materials shall be submitted in electronic format on CD-ROM (two CD-ROMs shall be supplied), as required by the NHDOT Project Manager. The user's manuals shall be written in common English with appropriate photos, diagrams, and schematics to supplement the text. The training materials shall include at a minimum multimedia training materials for self-study to be approved by the NHDOT Project Manager.

ProMiles shall provide system manuals and drawings for maintaining the System. Five (5) copies of system manuals shall be provided. In addition, all manuals, schematics, and drawings shall be submitted in electronic format on zip drives (two zip drives shall be supplied.) The system-level manuals shall identify all equipment and network communications. The system manuals shall include maintenance aids at the systems level. Parts list for the subsystem or

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electronics (at which level the manufacturer's manual takes over) shall be included.

Where manuals for commercially available equipment and/or software are provided, ProMiles shall produce supplemental information to ensure the commercial manuals accurately reflect the deployed System. The System is not considered delivered until documentation is delivered.

All training documentation provided in the above requirements will become the property of the State of NH for use by its staff in the operation of the provided systems.

C.   Classes

ProMiles shall include a "Train the Trainer" plan within each of the training courses. The NHDOT trainers shall participate in the instruction of the various classes.

- OSOW System Operator

Operators shall be instructed in the use of controls and features of the System to aid in the operations of the System. Instruction shall cover all aspects of operations and report generation. For purposes of this contract, ProMiles may anticipate that a minimum of 5 Operators shall receive operational instruction per class.

- Training During Warranty and Maintenance Periods

ProMiles shall provide training classes, as requested by NHDOT, for new state agency employees or state agency employees with new roles.

NHDOT seeks a detailed discussion of training in addition to a recommended training approach.

- Address training curriculum, training priorities and prerequisites, specific commercial and custom courses, and one-on-one learning opportunities for State staff.
- Describe the process for an assessment of needs; identifying different users; developing a curriculum for each audience; and conducting, evaluating, and refining training courses.
- Address your technical training curriculum, documentation for administration, installation and configuration of the system. It is critical for NHDoIT staff to be completely trained in all aspects of the

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system, including but not limited to system administration, installation, and configuration. Please discuss your technical training plan for NHDoIT staff including the technical documentation provided.

The training description should include, but is not limited to, the following:

- What type of training (instructor led vs. computer based) will be used for each purpose and why?
- What type of training (Operator, Administrator, Applicant, and Technical) and documentation do you provide?
- What methods will be employed to evaluate training activities?
- How will training be coordinated with other user support activities?
- Will manuals be adequate to enable trained users to research answers to their own questions?
- If the perception is that they are not adequate, can those manuals be quickly revised?
- How will NHDOT be prepared to conduct ongoing training after Implementation is completed?
- Are training manuals on-line and maintained as part of a maintenance agreement?

Identify where recommended training will be provided. Use specific examples from past system implementations to explain how its approach to technical training and knowledge transfer would allow NHDOT to operate independently when the implementation ends.

NHDOT will evaluate whether the training approach is likely to prepare users adequately to use and maintain the new System, including maximum knowledge transfer to allow the state to conduct their own training in the future.

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Agency RFP with Addenda, by Reference

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CONTRACTOR PROPOSAL, BY REFERENCE

ProMiles Proposal to New Hampshire Department of Transportation RFP 2016043, Oversize/Overweight Permitting Software is hereby incorporated by reference as fully set forth herein.

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CERTIFICATES

Attached are:

        A. Contractor's Certificate of Vote/Authority
        B. Contractor's Certificate of Good Standing
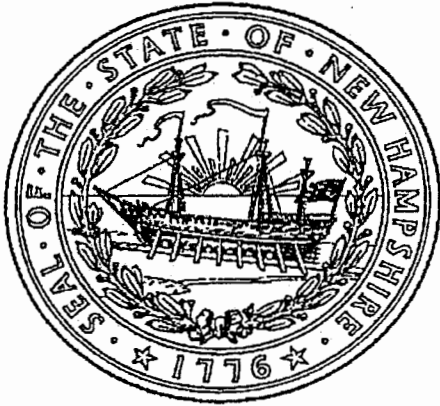   **C.** Contractor's Certificate of Insurance

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 PROMILES SOFTWARE DEVELOPMENT CORPORATION is a Texas Profit Corporation registered to transact business in New Hampshire on March 03, 2017. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **765545**

IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 13th day of April A.D. 2017.

William M. Gardner
Secretary of State

2017 MEETING
OF THE BOARD OF DIRECTORS AND SHAREHOLDERS
OF
PROMILES SOFTWARE DEVELOPMENT CORPORATION

A meeting of the Board of Directors of ProMiles Software Development Corporation was held in Bridge City, TX, on April 20, 2017, at which a quorum was present in person and via telephone, whereby a resolution was passed authorizing Tim Pilcher, President of Development and Government Contracts, by his signature, to execute and sign on April 20, 2017, and deliver for and on behalf of ProMiles, the Bureau of Highway Maintenance Contract pertaining to the Request for Proposal dated August 20, 2016.

I further certify that Tim Pilcher is duly qualified and acting on behalf of ProMiles and that said vote has not been repealed, rescinded or amended.
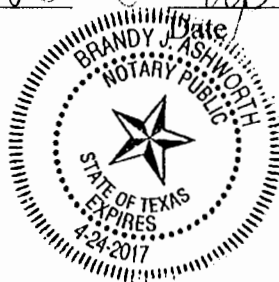
A true copy of the record,

Jody Michelle Hudson (signature)

Jody Michelle Hudson, Corporate Secretary and Treasurer

April 20, 2017 (handwritten)

Date

This instrument was acknowledged before this 20th of April of 2017 by Jody Michelle Hudson, Corporate Secretary and Treasurer of ProMiles Software Development Corporation, a Texas company, on behalf of said company.

State of Texas
County of Orange

Brandy J Ashworth (signature)   _April 20, 2017_

Notary Public, State of Texas   Date

ACORD® CERTIFICATE OF LIABILITY INSURANCE

	DATE (MM/DD/YYYY)
	4/19/2017

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

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

PRODUCER	CONTACT NAME: Shane Johns	
Mann Insurance Agency	PHONE (A/C, No. Ext): (409)886-4411	FAX (A/C, No): (409)886-3736
1505 W Park Ave	E-MAIL ADDRESS: shane@mannins.com	
PO Box 188		
Orange TX 77631	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A :American Casualty Co of Reading, PA	20427
INSURED	INSURER B :Continental Casualty Company	20443
ProMiles Software Development Corp.	INSURER C :Valley Forge Insurance Co.	20508
PO Box 398	INSURER D :	
	INSURER E :	
Bridge City TX 77611-0398	INSURER F :	

COVERAGES   CERTIFICATE NUMBER:CL174301871   REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE X OCCUR	X	Y	5085054408	5/8/2017	5/8/2018	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY ☐ PRO-JECT X LOC ☐ OTHER:						GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS	X	Y	5085054408	5/8/2017	5/8/2018	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
B	X UMBRELLA LIAB X OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED X RETENTION $ 10,000	X	Y	5085063920	5/8/2017	5/8/2018	EACH OCCURRENCE	$ 5,000,000
							AGGREGATE	$ 5,000,000
								$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	5085054425	5/8/2017	5/8/2018	X PER STATUTE ☐ OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
A	Technology E & O Cyber Liability	X	Y	5085054408	5/8/2017	5/8/2018	Occurence Limit	1,000,000
							Aggregate Limit	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Additional Insured and Waiver of Subrogation in favor of State of New Hampshire Department of Transportation applies under general liability form SB146932E, Workers Compensation under form G 20472A, and the excess under form G 140428A. 30 Day NOC applies

CERTIFICATE HOLDER	CANCELLATION
State of New Hampshire Department of Transportation 7 Hazen Drive Concord, NH 03302	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Shane Johns/SHANE _(signature)_