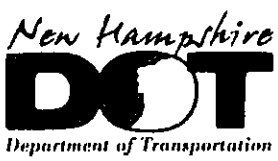


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THE STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan Commissioner

William Cass, P.E. Assistant Commissioner

Asset Management Performance and Strategies (AMPS) January 2, 2020

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

REQUESTED ACTION

- 1. Authorize the Department of Transportation to enter into an Agreement with Deighton Associates Limited (Vendor #176559) of Ontario, Canada for an amount not to exceed \$975,599.00, for the procurement of SaaS services to provide and configure an Asset Analytics and Forecasting System for the period of Governor and Council approval through January 31, 2026. 100% Federal Funds.
2. Further authorize the Department of Transportation to allow the option to renew the agreement for one (1) four (4) year period, effective upon Governor and Council approval.

Funding is available as follows for Fiscal Year 2020 and Fiscal Year 2021 and is contingent upon the availability and continued appropriation of funds for FY 2022, FY 2023, FY 2024 and FY 2025, with the ability to adjust encumbrances through the Budget Office between each Fiscal Year if needed and justified:

Table with 7 columns: Item ID, FY 2020, FY 2021, FY 2022, FY 2023, FY 2024, FY 2025. Rows include SPR Planning Funds, Software, Consultants, and EE Training with corresponding dollar amounts.

EXPLANATION

The Department of Transportation (DOT), Commissioner's Office of Asset Management, Performance, and Strategy (AMPS), seeks to procure services to acquire a new Asset Analytics and Forecasting System (AAFS) with associated maintenance, training, support, and implementation services. The department currently has outdated Pavement Management System software.

The new software will allow the Department to replace older systems used in Federal reporting and provide in-house support of the Department's programs. The replacement of the older system will result

in time savings and improved asset analytics, thus, providing project recommendations based upon forecasts utilizing the Department's data.

The vendor selection process for this contract was initiated by a solicitation for information technology services through a Request for Proposals (RFP #2019-075), which was posted on the State's Department of Administrative Services (DAS) website from April 12, 2019 to June 17, 2019. Answers to vendor's questions regarding clarification of the solicitation were posted to the DAS website on May 10, 2019. Three addendums were published on the DAS website to clarify issues raised by the vendor questions, to correct formatting inconsistencies, and to extend the submittal period by two weeks.

As a result of the solicitation, three firms submitted proposals: AgileAssets Inc., Austin, TX; Deighton Associates Limited, Ontario, Canada; Data Transfer Solutions, LLC, Orlando, FL

The selection process for this contract consisted of review and ranking of the solicited written technical proposals and cost proposals by a selection panel comprised of four members representing the Department of Transportation and the Department of Information Technology. The selection panel consisted of: 2 Business Systems Analysts, (Commissioner's Office); Asset Management Engineer (Bureau of Turnpikes); IT Project Manager (Department of Information Technology).

The selection panel members reviewed the proposals individually and met on Thursday, September 12, 2019 to recommend a vendor. The Committee, by consensus, rated each firm based on the following three factors: 1) Requirements, Qualifications, and Responses, 2) Proposal Cost, and 3) Oral Interviews and Product Demonstrations. Having assessed all of the aforementioned factors, the selection panel scored and ranked Deighton Associated Limited the highest of the three firms. The Scoring Summary is as follows:

<b>Firm</b>	<b>Score 350 Points (%)</b>	<b>Overall Rank</b>
Deighton Associates Limited	295 (84%)	1
Data Transfer Solutions LLC	237 (68%)	2
AgileAssets	207 (59%)	3

Deighton Associates Limited was selected and is highly regarded in the field of Asset Management. Their software has been implemented by 22 State Department of Transportations, including Maine, Massachusetts, and Connecticut. The selection panel's ranking was submitted to the DOT Asset Analytics and Forecasting Oversight Committee: Nicholas Alexander, Administrator of AMPS; Peter Stamnas, Director of Project Development; William Cass, Assistant Commissioner, DOT, for consideration and approval.

Deighton Associates Limited has agreed to furnish the required implementation and maintenance services in a six (6) year agreement for a total amount not to exceed \$975,599.00. The contract has a completion date of January 31, 2026, with a State option to extend for one (1) Four (4) year extension, up to, but not beyond January 31, 2030, for ongoing software support, maintenance, and hosting. The

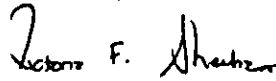
hourly rates, software, and annual software maintenance and technical support expenses are commensurate with the complexity and technical services to be furnished.

The project funding is 80% Federal with 20% State match. Turnpike Toll Credit is being utilized for match requirements, effectively using 100% Federal funds. The Capital Budget Overview Committee approved the use of Turnpike Toll Credits on June 5, 2019.

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

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan". The signature is written in a cursive style with a large initial "V".

Victoria F. Sheehan  
Commissioner

Attachments



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**  
27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
[www.nh.gov/doit](http://www.nh.gov/doit)

**Denis Goulet**  
Commissioner

December 6, 2019

Victoria F. Sheehan  
Commissioner  
State of New Hampshire  
Department of Transportation  
John O. Morton Bldg., 7 Hazen Drive  
Concord, NH 03302-0483

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 Deighton Associates Limited, Vendor #176559, of Ontario Canada, as described below and referenced as DoIT No. 2019-075.

The purpose of this contract is to provide and configure an Asset Analytics and Forecasting System. This system will replace the current Pavement Management System with an updated, state of the art, asset management system that will support multiple types of assets. The vendor will also be responsible for ongoing maintenance, training, support, and implementation services.

The contract total is \$975,599.00 and shall become effective upon Governor and Executive Council approval through January 31, 2026.

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/tv  
DoIT #2019-075  
cc: Charles Burns, IT Manager, DoIT


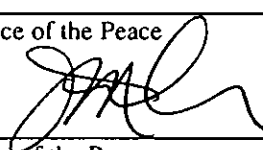
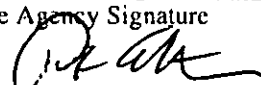
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name Department of Transportation		1.2 State Agency Address 7 Hazen Drive PO Box 483 Concord, NH 03302	
1.3 Contractor Name Deighton Associates Ltd		1.4 Contractor Address 223 Brock St. N. Unit 7 Whitby, ON CANADA L1N4H6	
1.5 Contractor Phone Number 1-905-665-6605	1.6 Account Number 04-96-96-962515-2944	1.7 Completion Date January 31, 2026	1.8 Price Limitation \$975,599.00
1.9 Contracting Officer for State Agency Nick Alexander		1.10 State Agency Telephone Number 603-271-1620	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory ROBERT PIANE, PRESIDENT	
1.13 Acknowledgement: State of <u>Ontario</u> , County of <u>Regina</u> <u>Durham</u> On <u>Dec 16, 2019</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 			
1.13.2 Name and Title of Notary or Justice of the Peace Tina Mintsinkas Executive Administrator			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Peter E. Stannas Director of Project Development	
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: <u>Emily C. Gair</u> On: <u>11/27/2020</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT:**

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

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

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

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

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

Agreement. This provision shall survive termination of this Agreement.

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

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

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 14. INSURANCE.

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

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

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

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

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

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

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

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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

Contractor Initials   
Date Dec 16/19



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

<b>Name of Agency/Division:</b> Department of Transportation, Office of Asset Management, Performance & Strategy	
<b>Contract Number/Name:</b> Asset Analytics & Forecasting System 2019-075	
<b>Contract Purpose:</b> To provide the New Hampshire Department of Transportation with Asset Analytics & Forecasting software with associated implementation, maintenance, training and support.	
<b>Name of Contractor:</b> Deighton Associates Limited	<b>Who Negotiated the Contract:</b> Nicholas Alexander
<b>Amount of Contract:</b>	<b>Funding Source:</b>
<b>Term of Contract:</b> 6 years, optional 4 year Extended Term	<b>Is this an amendment?</b> No
<b>Competitive Bid Process: (Explain if "No")</b> Yes, best value via RFP process	
<b>Background Information:</b> This SaaS will replace existing Pavement Management software at DOT; dTIMS. It will use non-sensitive, non-personal data that has been placed in a Microsoft Azure cloud environment from other NHDOT system including IPD, GIS, ProMIS, and BrM.	
<b>Special Concerns:</b>	
<b>Amendment History (if applicable):</b>	
<b>Submitted By: David Gaylord</b>	<b>Current Date:</b>
<b>Phone: 603-271-0785</b>	<b>Email: David.Gaylord@dot.nh.gov</b>

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 2 - INFORMATION TECHNOLOGY PROVISIONS

### RFP/CONTRACT BEST PRACTICES CHECKLIST

DolT IT Leaders: This checklist includes a list of key concerns and frequent comments made by DolT Technical Reviewers. Before posting an RFP or contract for technical review on the "S" Drive, please complete this checklist and post it along with your documents for DolT Technical Review.

If questions are not applicable, respond N/A.

Y/N	Comments or Page Reference	Project Management
Y		Does the RFP provide enough information for the Contractor to be able to identify the staffing effort that will be required to quote the project as accurately as possible?
Y		Have you specified both State and Contractor roles during the project?
Y		Have you engaged all divisions in an early DolT project discussion/notification to identify potential roles/responsibilities?
Y		Have you considered using an Open Source solution and open data formats?
Y		Have you included a payment holdback?
Y		Have you identified and addressed the intellectual property requirements including but not limited to?
	USAGE	Will the Contractor own the SW code and license it to the State or will the State pay for usage of the software for the duration of the contract?
NA		Which party will own the title to custom modifications of the code?
N		Are there any requirements imparted by funding authorities such as the federal government?
Y		Will the state own the data collected by the application?
N		Will the Contractor have any rights to the data?
NA		Does this contract have contingency funds for future deliverables under the contract?
NA		If the contract has contingency fund, does your agency know that any project change orders will require DolT Technical Review?
Y/N	Comment	System Development and Licensing
Y		Have you specified the licensing requirements for all software to be acquired?
NA		Who owns the software licenses?
NA		Do all Contractor and third party licenses co-terminate so there is no interruption in services?

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Y/N	Comment	Implementation
NA		Have you specified the server and network topology?
NA		Where will devices reside?
NA		What versions of Operating System (OS), Internet Explorer (IE) or other software is required?
NA		Does existing hardware support the system?
NA		Will new hardware be required, including desktop systems?
NA		Is there an implementation plan for the server environment?
Y		Does the contract specific roles/responsibilities for management of the DEV, TEST, and PRODUCTION environments?
Y		Have you included the minimum specifications for the devices that will need to run the application?
N		Does this application require client software to be installed on the desktop or does it have any other impact to desktop devices? If so, is it clearly described in the requirements?
NA		Is there an implementation or rollout plan for desktops?
NA		Have the required Contractor database administrator services been specified for the implementation phase of the project and on-going maintenance?
Y		Does the contract clearly indicate that testing of all applications provided by the Contractor must take place during UAT?
Y		Has Performance Testing and Tuning been clearly noted as a Contractor responsibility in the contract.
Y		Is there a deliverable to share ALL testing results with the State Project Team?
Y/N	Comment	DoIT Hosted solution
NA		Have you had the "Contractor recommended" configuration reviewed by the appropriate DoIT technical team?
NA		Is it mandatory that promotion through the environments follow DoIT standards?
NA		Has the Contractor provided justification for server settings that are not in compliance with State Standards?
NA		Has the Contractor provided full networking requirements about ports and services required to use the application?
NA		Does the Contractor require remote access via VPN to any of the environments?
Y/N	Comment	Contractor Hosted Solutions
Y		Have you included provisions for State data to be transferred at the end of the contract? Have you specified the format?
Y		Have you specified data center requirements?
Y		Have you made any changes to the requirements for hosted solutions? If yes, please provide details?
Y		Have you identified how SoNH staff access the hosted environment?

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

Y		Have you specified up time metrics for hosted applications? These should be (at a minimum) 99.9% (43 minutes outage a month outside the maintenance window)?
Y		If data is breached, is it clear that the Contractor is liable for all costs associated with the breach?
Y		Have you defined a strategy for determining hardware infrastructure for disaster recovery?
<b>Y/N</b>	<b>Comment</b>	<b>Interfaces</b>
NA		Is there a financial component (accounts receivable, billing, and inventory) that could be performed by the NH FIRST Lawson system?
NA		If yes, has the agency business office and DAS Bureau of Accounts been part of the requirements?
N		Are there interfaces or data exchanged with other entities, internal and external applications, to/from State of NH application? Have you included provisions for interface development and data security?
NA		Have you included an adequate description of any hardware or software that the new solution will be interfacing with?
<b>Y/N</b>	<b>Comment</b>	<b>Back Up, Disaster Recovery, COOP</b>
Y		Have you specified backup requirements?
NA		If data backup or archiving is required, what is the time period to cover?
NA		Are there any special tape requirements?
Y		If this is a database application, have you determined how those files, which are usually open, will be backed up?
NA		If this is a database, have you spoken to the DBA's about transaction logging?
Y		Have you specified disaster recovery/fail-over requirements?
Y		Has volume analysis been performed for the information that will be generated?
Y		Has usage analysis been performed for the information that will be generated?
Y		Does the agency have business processes in place in the event the application is unavailable?
<b>Y/N</b>	<b>Comment</b>	<b>Security</b>
NA		If the data includes any personal, financial, medical or other sensitive data, please identify security standards by referencing where it listed.
Y		Do your requirements include a provision for independent penetration testing of the system?

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Y		Have you specified user access requirements - authorization and authentication?
Y		Have you included a requirement and deliverable for independent security verification and validation?
NA		If internal (SoNH employees) and external users will be logging into the system what mechanism will be used for authentication of both?
Y		Have you specified the use of complex passwords and other security related "best practices" as described in DoIT Standard <b>NHS - 08.27.2009 - v.6.?</b>
NA		Do other security considerations need to be taken into account; IE: PCI, HIPAA, FISMA, CJIS and etc?
<b>Y/N</b>	<b>Comment</b>	<b>Support and Maintenance</b>
Y		What type of maintenance is required? Will normal next day during business hours suffice or is 7x24x365 coverage required?
Y		Have you specified the desired maintenance windows for the server environment?
Y		If the software requires updates, can this be done using an automated mechanism?
NA		If there are desktop clients, can updates be managed by the enterprise distribution team?
	<b>NORMAL BUSINESS</b>	What are the hours you expect the system to be in use?
	<b>INTERNAL</b>	Is the system internal only or are their external users?
NA		If there are external users, is there a business process in place to provide support and training?
N		Will the DoIT Help Desk intake support calls for the system?
Y		Have you included a requirement for "knowledge transfer" training, not just training for end-users?

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**TERMS AND DEFINITIONS**

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

<b>Acceptance</b>	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
<b>Acceptance Letter</b>	An Acceptance Letter provides notice from the State that a Deliverable has satisfied User Acceptance Testing or Review.
<b>Acceptance Period</b>	The timeframe during which the Acceptance Test is performed
<b>Access Control</b>	Supports the management of permissions for logging onto a computer or network
<b>Agreement</b>	A contract duly executed and legally binding.
<b>Analyst</b>	Users with access to full functionality allowing for creating, editing, saving, and deleting data, reports, analyses, or other products created by or stored within the system.
<b>Appendix</b>	Supplementary material that is collected and appended at the back of a document
<b>Audit Trail Capture and Analysis</b>	Supports the identification and monitoring of activities within an application or system
<b>Authorized Persons</b>	The Contractor's employees, contractors, subcontractors or other agents who need to access the State's personal data to enable the Contractor to perform the services required.
<b>Business Continuity Plan</b>	A plan describing practices used to ensure the Solution will continue to operate during a time of emergency or disaster, which would include any case where the Solution is not able to operate under normal conditions.
<b>Certification</b>	The Contractor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Contractor has completed development of the Deliverable and certified its readiness for applicable User Acceptance Testing or Review.
<b>Change Order</b>	Formal documentation prepared for a proposed change in the Specifications.
<b>Completion Date</b>	End date for the Contract (See Contract Agreement, P-37 General Provisions, Block 1.7)
<b>Concurrent Users</b>	Users who can access the software at the same time under a single license.
<b>Confidential Information</b>	Information required to be kept Confidential from unauthorized disclosure <i>under the Contract</i>
<b>Contract</b>	This Agreement between the State of New Hampshire and a Contractor, which creates binding obligations for each party to perform as specified in the Contract Documents.

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<b>Contract Agreement</b>	Part 1, 2, and 3.. The documentation consisting of both the General Provisions and the Exhibits which represents the understanding and acceptance of the reciprocal legal rights and duties of the parties with respect to the Scope of Work
<b>Contract Conclusion</b>	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
<b>Contract Documents</b>	Documents that comprise this Contract (See Contract Agreement, Section 1.1)
<b>Contract Managers</b>	The persons identified by the State and the Contractor who shall be responsible for all contractual authorization and administration of the Contract. These responsibilities shall include but not be limited to processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities. (See Section 4: <i>Contract Management</i> )
<b>Contract Price</b>	The total, not to exceed amount to be paid by the State to the Contractor for product and services described in the Contract Agreement. This amount is listed in the General Provisions Section 1.8 (P-37).
<b>Contractor</b>	The Contractor and its employees, subcontractors, agents and affiliates who are responsible for the the Services and Deliverables agreed to under the contract.
<b>Configuration</b>	Modifications, arrangements, alterations, or other set ups made to Software specifically for this project for the State of New Hampshire
<b>Conversion Validation</b>	A test to ensure that a Data conversion process correctly takes Data from a legacy system and successfully converts it to a form that can be used by the new System.
<b>COTS</b>	Configurable Off the Shelf
<b>Cure Period</b>	The thirty (30) day period following written notification of a default within which a contracted Contractor must cure the default identified.
<b>Data</b>	State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used /converted by the Contractor during the Contract Term
<b>Data Breach</b>	The unauthorized access by a non-authorized person(s) that results in the use, disclosure or theft of a the State's unencrypted non-public data.
<b>DBA</b>	Database Administrator
<b>Deficiencies/Defects</b>	A failure, deficiency or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.



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	<p><b>Class A Deficiency</b> – <i>Software</i> - Critical, does not allow System to operate, no work around, demands immediate action; <i>Written Documentation</i> - missing significant portions of information or unintelligible to State; <i>Non Software</i> - Services were inadequate and require re-performance of the Service.</p> <p><b>Class B Deficiency</b> – <i>Software</i> - important, does not stop operation and/or there is a work around and user can perform tasks; <i>Written Documentation</i> - portions of information are missing but not enough to make the document unintelligible; <i>Non Software</i> - Services were deficient, require reworking, but do not require re-performance of the Service.</p> <p><b>Class C Deficiency</b> – <i>Software</i> - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; <i>Written Documentation</i> - minimal changes required and of minor editing nature; <i>Non Software</i> - Services require only minor reworking and do not require re-performance of the Service.</p>
<b>Deliverable</b>	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by the Contractor to the State or under the terms of a Contract requirement.
<b>Department of Information Technology (DoIT)</b>	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
<b>Digital Signature</b>	Certification that guarantees the unaltered state of a file, also known as “code signing.”
<b>Documentation</b>	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
<b>Effective Date</b>	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract
<b>Encryption</b>	Supports the transformation of data for security purposes
<b>Enhancements</b>	Updates, additions, modifications to, and new releases for the Software, and any changes to associated Documentation as a result of any Enhancements, including, but not limited to, Enhancements produced by Change Orders.
<b>Firm Fixed Price Contract</b>	A Firm-Fixed-Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Contractor’s cost experience in performing the Contract
<b>Fully Loaded</b>	Rates are inclusive of all allowable expenses, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses
<b>GAAP</b>	Generally Accepted Accounting Principles
<b>Governor and Executive Council</b>	The New Hampshire Governor and Executive Council.
<b>Identification and</b>	Supports obtaining information about those parties attempting to

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<b>Authentication</b>	log on to a system or application for security purposes and the validation of those users
<b>Implementation</b>	The process for making the System fully operational for processing the Data.
<b>Implementation Plan</b>	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
<b>Information Technology (IT)</b>	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.
<b>Infrastructure Plan</b>	A plan which includes servers, software, desktop, security, and network configuration requirements.
<b>Initial Configuration</b>	The configuration initially set up by the Contractor. It will be designed specifically for TAMP purposes by analyzing NHS pavements and bridges treated by work types. Testing is to be described through User Acceptance Testing (UAT). Training to operate is to be described in the Training Plan.
<b>Input Validation</b>	Ensure that the values entered by users or provided by other applications meets the size, type and format expected. Protecting the application from cross site scripting, SQL injection, buffer overflow, etc.
<b>Intrusion Detection</b>	Supports the detection of illegal entrance into a computer system
<b>Investment Program Manager</b>	The individual responsible for recommending investment alternatives for NHDOT regarding the asset.
<b>Invoking Party</b>	In a dispute, the party believing itself aggrieved.
<b>Key Project Staff</b>	Personnel identified by the State and by the Contractor as essential to work on the Project.
<b>Licensee</b>	The State of New Hampshire
<b>NHS</b>	National Highway System
<b>Non Exclusive Contract</b>	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
<b>Non-Public Information</b>	Data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.
<b>Non-Software Deliverables</b>	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other
<b>Normal Business Hours</b>	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year’s Day, Martin Luther King Day,

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	President's Day, Memorial Day, July 4 <sup>th</sup> , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided
<b>Notice to Proceed (NTP)</b>	The State Contract Manager's written direction to the Contractor to begin work on the Contract on a given date and time
<b>Open Data Formats</b>	A data format based on an underlying Open Standard.
<b>Open Source Software</b>	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
<b>Open Standards</b>	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
<b>Operating System</b>	The software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
<b>Operational</b>	The System is operating and fully functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
<b>Order of Precedence</b>	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence
<b>Personal Data</b>	Data that includes information relating to a person that identifies the person by name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or protected health information (PHI) relating to a person.
<b>Project</b>	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.
<b>Project Team</b>	The group of State employees and contracted Contractor's personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality
<b>Project Management</b>	Processes and methodology to be employed by the Contractor to ensure a successful Project.
<b>Project Managers</b>	The persons identified who shall function as the State's and the Contractor's representative with regard to Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Orders.
<b>Project Staff</b>	Personnel assigned to work on the Project
<b>Proposal</b>	The submission from a Contractor in response to the Request for a Proposal or Statement of Work
<b>Regression Test Plan</b>	A plan integrated into the Work Plan used to ascertain whether fixes to Defects have caused errors elsewhere in the

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	application/process.
<b>Review</b>	The process of reviewing Deliverables for Acceptance
<b>Review Period</b>	The period set for review of a Deliverable. If none is specified then the Review Period is ten (10) business days.
<b>RFP (Request for Proposal)</b>	A Request For Proposal solicits Proposals to satisfy State functional requirements by supplying data processing product and/or Service resources according to specific terms and conditions
<b>Role/Privilege Management</b>	Supports the granting of abilities to users or groups of users of a computer, application or network
<b>Schedule</b>	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract
<b>Security Incident</b>	The potentially unauthorized access by non-authorized persons to personal data or non-public data the Contractor believes could reasonably result in the use, disclosure or theft of a State's unencrypted personal data or non-public data within the possession or control of the Contractor. A security incident may or may not turn into a data breach.
<b>Service</b>	The work or labor to be performed by the Contractor on the Project as described in the Contract.
<b>Service Level Agreement (SLA)</b>	A signed agreement between both the State and the Contractor that is subject to the terms and conditions in this document that unless otherwise agreed to includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.
<b>Software</b>	All custom Software and COTS Software provided by the Contractor under the Contract
<b>Software-as-a-Service (SaaS)</b>	The capability provided to the State to use the Contractor's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser. The State does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.
<b>Software Configuration Plan</b>	A plan, integrated within the Work Plan, used to identify roles and responsibilities pertaining to configuration as well as associated tasks used for determining the validity of the output from the Solution.
<b>Software Deliverables</b>	Software and Enhancements
<b>Software License</b>	License provided to the State under this Contract

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<b>Solution</b>	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Contract Specifications. The off-the-shelf Software and configured Software customized for the State provided by the Contractor in response to this RFP.
<b>Specifications</b>	The written provisions that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
<b>State</b>	STATE is defined as: State of New Hampshire Department of Transportation 7 Hazen Drive Concord, NH, 03301 Reference to the term "State" shall include all state agencies
<b>State's Confidential Records</b>	State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to <u>RSA Chapter 91-A</u>
<b>State Data</b>	For SaaS applications means all data created or in any way originating with the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Contractor.
<b>State Fiscal Year (SFY)</b>	The New Hampshire State Fiscal Year extends from July 1 <sup>st</sup> through June 30 <sup>th</sup> of the following calendar year
<b>State Identified Contact</b>	The person or persons designated in writing by the State to receive security incident or breach notification.
<b>State's Project Manager (PM)</b>	State's representative with regard to Project management and technical matters. Agency Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Proposal (CP).
<b>Statement of Work (SOW)</b>	A Statement of Work clearly defines the basic requirements and objectives of a Project. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Contractor. The Contract Agreement SOW defines the results that the Contractor remains responsible and accountable for achieving.
<b>Subcontractor</b>	A person, partnership, or company not in the employment of, or

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	owned by, the Contractor, which is performing Services under this Contract under a separate Contract with or on behalf of the Contractor
<b>System</b>	All Software, specified hardware, and interfaces and extensions, integrated and functioning together in accordance with the Specifications.
<b>System Administrator</b>	User of the system with administrative control over user access, global configuration settings, and other administrative type controls.
<b>TAMP</b>	Transportation Asset Management Plan
<b>TBD</b>	To Be Determined
<b>Technical Authorization</b>	Direction to a Contractor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the Contract Agreement
<b>Term</b>	Period of the Contract from the Effective Date through termination.
<b>Testing Plan</b>	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
<b>Training Plan</b>	A plan that describes the curriculum used fro training Analysts to operate or configure the system.
<b>Transition Services</b>	Services and support provided when Contractor is supporting System changes.
<b>Unit Test</b>	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
<b>User Acceptance Testing (UAT)</b>	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
<b>User Management</b>	Supports the administration of computer, application and network accounts within an organization
<b>Verification</b>	Supports the confirmation of authority to enter a computer system, application or network
<b>Work Hours</b>	Contractor personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.
<b>Work Plan</b>	The overall plan of activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the

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	Project as specified in Appendix C. The Work Plan shall include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.
<b>Written Deliverables</b>	Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Contractor either in paper or electronic format.

**INTRODUCTION**

This Contract is by and between the State of New Hampshire, acting through New Hampshire Department of Transportation ("State"), and Deighton Associates Ltd, a Canada Corporation, ("Contractor"), having its principal place of business at 223 Brock St. N., Unit 7, Whitby, ON Canada, L1N4H6.

The Contractor shall provide Asset Analytic and Forecasting System software with associated implementation, maintenance, training, and support for a period of 6 years. The Software as a Service (SaaS) solution will replace the analysis and forecasting portion of the Departments Pavement Management System while incorporating bridge assets. Implementation will initially focus on Federal Highway Administration requirements and will scale to include other assets for State purposes. The Contractor shall also provide training which will allow Analysts at the Department to operate and manage the system as well as participate in configuration tasks.

**RECITALS**

Whereas the State desires to have the Contractor provide a Asset Analytics & Forecasting software with implementation, maintenance, training, support, and associated Services for the State;  
Whereas the Contractor wishes to provide Asset Analytics & Forecasting software with implementation, maintenance, training, support.

The parties therefore agree as follows:

**1. CONTRACT DOCUMENTS**

**1.1 CONTRACT DOCUMENTS**

This Contract Agreement (2019-075) is comprised of the following documents:

- A. Part 1 - Form P-37 General Provision
- B. Part 2 - Information Technology Provisions
- C. Part 3 - Exhibits
  - Exhibit A- Contract Deliverables
  - Exhibit B- Price and Payment Schedule

2019-075 IT Provisions – Part 2  
Contractor Initials: RP  
Date: 12/16/2019

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Exhibit C- Special Provisions  
Exhibit D- Administrative Services  
Exhibit E- Implementation Services  
Exhibit F- Testing Services  
Exhibit G- Maintenance and Support Services  
Exhibit H- Requirements  
Exhibit I- Work Plan  
Exhibit J- Software Agreement  
Exhibit K- Warranty and Warranty Services  
Exhibit L- Training Services  
Exhibit M- Agency RFP with Addendums, by reference  
Exhibit N- Contractor Proposal, by reference  
Exhibit O- Certificates and Attachments

**1.2 ORDER OF PRECEDENCE**

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

- a. General Provisions, P37 (as may be modified in Exhibit C),
- b. Part 2 – Information Technology Provisions,
- c. State of New Hampshire, Department of Transportation; Addendum No. 1, Addendum No. 2, Addendum No. 3, Asset Analytics & Forecasting System RFP 2019-075.
- d. Contractor Proposal Response to RFP 2019-075 dated May 31, 2019.

**2. CONTRACT TERM**

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

The Contract shall begin on the Effective Date and extend through 6 years. The Term may be extended for another 4 years, (“Extended Term”) at the sole option of the State, subject to the parties prior written agreement on applicable fees for each extended term.

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

**Time is of the essence in the performance of the Contractor’s obligation under the Contract.**

**3. COMPENSATION**

**3.1 CONTRACT PRICE**

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

2019-075 IT Provisions – Part 2  
Contractor Initials: RP  
Date: 12/16/2019



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**3.2 NON-EXCLUSIVE CONTRACT**

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

**4. CONTRACT MANAGEMENT**

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

**4.1 THE CONTRACTOR'S CONTRACT MANAGER**

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

Gary Ruck, P. Eng., PMP. - Director of Business Development  
Deighton Associates Ltd.  
223 Brock St. N. Unit 7  
Whitby, ON CANADA, L1N4H6  
Tel:605.665.6605  
Email:gary.ruck@deighton.com

**4.2 THE CONTRACTOR'S PROJECT MANAGER**

**4.2.1 Contract Project Manager**

The Contractor shall assign a Project Manager who meets the requirements of the Contract. The Contractor's selection of the Contractor's Project Manager shall be subject to the prior written approval of the State. The State's approval process may include, without limitation, at the State's discretion, review of the proposed Contractor's Project Manager's resume, qualifications, references, and background checks, and an interview. The State may require removal or reassignment of the Contractor's Project Manager who, in the sole judgment of the State, is found unacceptable or is not performing to the State's satisfaction. In his/her absence, a designee, who is qualified and approved by the State, must be available to promptly respond during Normal Business Hours within two (2) hours to inquiries from the State, and be at the site as needed.

The Contractor's Project Manager must be qualified to perform the obligations required of the position under the Contract, shall have full authority to make binding decisions under the Contract, and shall function as the Contractor's

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

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

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

4.2.4 **CONTRACTOR Project Manager is:**  
Gary Ruck, P. Eng., PMP. - Director of Business Development  
Deighton Associates Ltd.  
223 Brock St. N. Unit 7  
Whitby, ON CANADA, L1N4H6  
Tel:605-665-6605  
Email:gary.ruck@deighton.com

**4.3 CONTRACTOR KEY PROJECT STAFF**

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- 4.3.1 The Contractor shall assign Key Project Staff who meet the requirements of the Contract, and can implement the Software Solution meeting the requirements set forth in Exhibit H: *Requirements*. The State may conduct reference and background checks on the Contractor's Key Project Staff. The State reserves the right to require removal or reassignment of the Contractor's Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with General Provisions Section 4.6: *Background Checks*.
- 4.3.2 The Contractor shall not change any of the Contractor's Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Contractor's Key Project Staff will not be unreasonably withheld. The replacement of the Contractor's Key Project Staff shall have comparable or greater skills than of the Contractor's Key Project Staff being replaced; meet the requirements of the Contract and be subject to reference and background checks described in Contract Agreement- General Provisions, Section 4.6: *Reference and Background Checks*,
- 4.3.3 Notwithstanding any other provision of the Contract to the contrary, the State shall have the option to terminate the Contract, declare the Contractor in default and to pursue its remedies at law and in equity, if the Contractor fails to assign Key Project Staff meeting the requirements and terms of the Contract or if it is dissatisfied with the Contractor's replacement Project staff.
- 4.3.3.1 The Contractor Key Project Staff shall consist of the following individuals in the roles identified below:

The Contractor's Key Project Staff:

Key Member(s)	Title
Jeff Zavitski	Implementation Lead
Dave Penney	Integration Specialist
Chris Chau	System Architect

**4.4 STATE CONTRACT MANAGER**

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

Nicholas Alexander - AMPS Administrator  
Department of Transportation  
PO BOX 483 | 7 Hazen Drive  
Concord, NH, 03302-0483  
Tel: 603-271-1620

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Fax: 603-271-3914  
Email: Nicholas.Alexander@dot.nh.gov

**4.5 STATE PROJECT MANAGER**

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

- a. Leading the Project;
- b. Engaging and managing all Contractors;
- c. Managing significant issues and risks.
- d. Reviewing and accepting Contract Deliverables;
- e. Invoice sign-offs;
- f. Review and approval of change proposals; and
- g. Managing stakeholders' concerns.

The State Project Manager is:

David Gaylord - Business Systems Analyst  
Department of Transportation  
PO BOX 483 | 7 Hazen Drive  
Concord, NH, 03302-0483  
Tel: 603-271-0785  
Fax: 603-271-3914  
Email: David.Gaylord@dot.nh.gov

**4.6 REFERENCE AND BACKGROUND CHECKS**

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

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

**5. DELIVERABLES**

**5.1 CONTRACTOR RESPONSIBILITIES**

The Contractor shall be solely responsible for meeting all requirements, and terms and conditions specified in this Contract, regardless of whether or not a subcontractor is used.

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

**5.2 DELIVERABLES AND SERVICES**

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

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

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

**5.4 SOFTWARE REVIEW AND ACCEPTANCE**

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

**6. SOFTWARE**

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

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**7. SERVICES**

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

**7.1 ADMINISTRATIVE SERVICES**

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

**7.2 IMPLEMENTATION SERVICES**

The Contractor shall provide the State with the Implementation Services set forth in the Contract, and particularly described in Exhibit E: Implementation Services.

**7.3 TESTING SERVICES**

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

**7.4 TRAINING SERVICES**

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

**7.5 MAINTENANCE AND SUPPORT SERVICES**

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

**7.6 WARRANTY SERVICES**

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

**8. WORK PLAN DELIVERABLE**

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

The initial Work Plan shall be a separate Deliverable and is set forth in Contract Exhibit I: *Work Plan*. The Contractor shall update the Work Plan as necessary, 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 such updates to the Work Plan must be approved by the State, in writing.

Routine management of the *Work Plan*, including revisions to the schedule, shall not relieve the Contractor from liability to the State for damages resulting from the Contractor's failure to perform

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its obligations under the Contract, including, without limitation, performance in accordance with the Schedule.

In the event of any delay in the Schedule, the Contractor must immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inactions of the Contractor or the State causing the problem; its estimated duration period to reconciliation; specific actions that need to be taken to correct the problem; and the expected Schedule impact on the Project.

In the event additional time is required by the Contractor to correct Deficiencies, the Schedule shall not change unless previously agreed in writing by the State, except that the Schedule shall automatically extend on a day-to-day basis to the extent that the delay does not result from the Contractor's failure to fulfill its obligations under the Contract. To the extent that the State's execution of its major tasks takes longer than described in the Work Plan, the Schedule shall automatically extend on a day-to-day basis. Schedule changes may not extend past the end of the contract term.

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

**9. CHANGE ORDERS**

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

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

All Change Order requests from the Contractor to the State, and the State acceptance of the Contractor's estimate for a State requested change, will be acknowledged and responded to, either acceptance or rejection, in writing. If accepted, the Change Order(s) shall be subject to the Contract amendment process, as determined to apply by the State.

**10. INTELLECTUAL PROPERTY**

**10.1 SOFTWARE TITLE**

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

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

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

**10.2 STATE'S DATA AND PROPERTY**

All rights, title and interest in State Data shall remain with the State. All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demandor upon termination of this Agreement for any reason. The Contractor shall not access State user accounts or State data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the State's written request.

**10.3 CONTRACTOR'S MATERIALS**

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

Without limiting the foregoing, the parties agree that the general knowledge referred to herein cannot include information or records not subject to public disclosure under New Hampshire RSA Chapter 91-A, which includes but is not limited to the following: records of grand juries and petit juries; records of parole and pardon boards; personal school records of pupils; records pertaining to internal personnel practices, financial information, test questions, scoring keys and other examination data use to administer a licensing examination, examination for employment, or academic examination and personnel, medical, welfare, library use, video tape sale or rental, and other files containing personally identifiable information that is private in nature.



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**10.4 STATE WEBSITE COPYRIGHT**

**WWW Copyright and Intellectual Property Rights**

All right, title and interest in the State WWW site <NH.GOV, etc.>, including copyright to all Data and information, shall remain with the State. The State shall also retain all right, title and interest in any user interfaces and computer instructions embedded within the WWW pages. All WWW pages and any other Data or information shall, where applicable, display the State's copyright.

**10.5 CUSTOM SOFTWARE SOURCE CODE**

In the event that the State purchases software development services, which results in Custom Software, the Contractor shall provide the State with a copy of the source code for the Custom Software, which shall be subject to the License rights. The State shall receive a worldwide, perpetual, irrevocable, non-exclusive paid –up right and license to use, copy, modify and prepare derivative works of any custom developed software. This section does not apply to the Contractor's proprietary software code.

**10.6 SURVIVAL**

This Contract Agreement Section 10: *Intellectual Property* shall survive the termination of the Contract.

**11 USE OF STATE'S INFORMATION, CONFIDENTIALITY**

**11.1 USE OF STATE'S INFORMATION**

In performing its obligations under the Contract, the Contractor may gain access to information of the State, including State Confidential Information. "State Confidential Information" shall include, but not be limited to, information exempted from public disclosure under New Hampshire RSA Chapter 91-A: *Access to Public Records and Meetings* (see e.g. RSA Chapter 91-A: 5 *Exemptions*). The Contractor shall not use the State Confidential Information developed or obtained during the performance of, or acquired, or developed by reason of the Contract, except as directly connected to and necessary for the Contractor's performance under the Contract.

**11.2 STATE CONFIDENTIAL INFORMATION**

The Contractor shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "release"), all State Confidential Information that becomes available to the Contractor in connection with its performance under the Contract, regardless of its form.

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

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disclosure of such information made by the disclosing party; or (iv) is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction.

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

In the event of the unauthorized release of State Confidential Information, the Contractor shall immediately notify the State, and the State may immediately be entitled to pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

**11.3 CONTRACTOR CONFIDENTIAL INFORMATION**

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

**11.4 SURVIVAL**

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

**12 LIMITATION OF LIABILITY**

**12.1 STATE**

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

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applicable laws and regulations, the State's liability to the Contractor shall not exceed the total Contract price set forth in Contract Agreement – General Provisions, Block 1.8.

**12.2 CONTRACTOR**

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

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

**12.3 STATE'S IMMUNITY**

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

**12.4 SURVIVAL**

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

**13 TERMINATION**

This Section 13 shall survive the termination or Contract Conclusion.

**13.1 TERMINATION FOR DEFAULT**

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

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

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

- a. Unless otherwise provided in the Contract, the State shall provide the Contractor written notice of default and require it to be remedied within, in the absence of a greater or lesser specification of time, within thirty (30) days from the date of notice, unless otherwise indicated within by the State ("Cure Period"). If the Contractor fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving the Contractor notice of

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termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.

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

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

**13.2 TERMINATION FOR CONVENIENCE**

13.2.1 The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to the Contractor. In the event of a termination for convenience, the State shall pay the Contractor the agreed upon price, if separately stated in this Contract, for Deliverables for which Acceptance has been given by the State. Amounts for Services or Deliverables provided prior to the date of termination for which no separate price is stated under the Contract shall be paid, in whole or in part, generally in accordance with Contract Exhibit B, *Price and Payment Schedule*, of the Contract.

13.2.2 During the thirty (30) day period, the Contractor shall wind down and cease Services as quickly and efficiently as reasonably possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services.

**13.3 TERMINATION FOR CONFLICT OF INTEREST**

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- 13.3.1** The State may terminate the Contract by written notice if it determines that a conflict of interest exists, including but not limited to, a violation by any of the parties hereto of applicable laws regarding ethics in public acquisitions and procurement and performance of Contracts.

In such case, the State shall be entitled to a pro-rated refund of any current development, support, and maintenance costs. The State shall pay all other contracted payments that would have become due and payable if the Contractor did not know, or reasonably did not know, of the conflict of interest.

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

**13.4 TERMINATION PROCEDURE**

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

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

- a. The State shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the SLA.
- b. Stop work under the Contract on the date, and to the extent specified, in the notice;
- c. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
- d. Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession of the Contractor and in which the State has an interest;
- e. During any period of service suspension, the Contractor shall not take any action to intentionally erase any State data.
  1. In the event of termination of any services or agreement in entirety, the Contractor shall not take any action to intentionally erase any State data for a period of:

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

**14 CHANGE OF OWNERSHIP**

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

**15 ASSIGNMENT, DELEGATION AND SUBCONTRACTS**

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

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SAAS CONTRACT 2019-075**

**PART 2 - INFORMATION TECHNOLOGY PROVISIONS**

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

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

**16 DISPUTE RESOLUTION**

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or Confidential Information), the party believing itself aggrieved (the “Invoking Party”) shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party’s right to any other remedy permitted under the Contract.

The parties shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

**Dispute Resolution Responsibility and Schedule Table**

<b>LEVEL</b>	<b>DEIGHTON</b>	<b>STATE</b>	<b><u>CUMULATIVE ALLOTTED TIME</u></b>
<b>Primary</b>	Chris Chau, P. Eng. System Architect	David Gaylord State Project Manager (PM)	5 Business Days
<b>First</b>	Gary Ruck, P. Eng., PMP Director of Business	Peter Stamnas Director	10 Business Days

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	Development		
<b>Second</b>	Robert Piane, P. Eng. 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.

**17 GENERAL TERMS AND CONDITIONS**

**17.1 COMPUTER USE**

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

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

**17.2 EMAIL USE**

2019-075 IT Provisions – Part 2  
Contractor Initials: RP  
Date: 12/16/2019



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

**17.3 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).

**17.4 REGULATORY GOVERNMENT APPROVALS**

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

**17.5 INSURANCE CERTIFICATE**

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

**17.6 EXHIBITS**

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

**17.7 VENUE AND JURISDICTION**

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

**17.8 SURVIVAL**

The terms, conditions and warranties contained in the Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the Contract shall so survive, including, but not limited to, the terms of the Exhibit E Section 3: Records Retention and Access Requirements, Exhibit E Section 4: Accounting Requirements, and General Provisions-Section 11: Use of State's Information, Confidentiality and General Provisions- Section 14: Termination which shall all survive the termination of the Contract.

**17.9 FORCE MAJEURE**

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

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

**17.10 NOTICES**

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

TO THE CONTRACTOR:  
DEIGHTON ASSOCIATES LTD  
223 BROCK ST. N. UNIT 7  
WHITBY, ON CANADA, L1N4H6  
TEL: (888) 219-6605  
E.MAIL:  
GARY.RUCK@DEIGHTON.COM

TO STATE:  
STATE OF NEW HAMPSHIRE  
NHDOT  
7 HAZEN DRIVE  
CONCORD, NH, 03302  
TEL: (603) 271-11620

**17.11 DATA PROTECTION**

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

- a. The Contractor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Contractor applies to its own personal data and non-public data of similar kind.
- b. All data obtained by the Contractor in the performance of this contract and all personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Contractor is responsible for encryption of the personal data.
- c. Unless otherwise stipulated, the Contractor shall encrypt all non-public data at rest and in transit. The State shall identify data it deems as non-public data to the Contractor. The level of protection and encryption for all non-public data shall be identified and made a part of this contract.
- d. At no time shall any data or processes — that either belong to or are intended for the use of the State or its officers, agents or employees — be copied, disclosed or retained by the the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
- e. The Contractor shall not use any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.

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**17.12. DATA LOCATION**

The Contractor shall provide its Services to the State and its end users solely from data centers within the Continental United States. All storage, processing and transmission of State data shall be restricted to information technology systems within the Continental United States. The Contractor shall not allow its personnel or sub-contractors to store State data on portable devices, including personal computers, except as specified and allowed by the contract, and then only on devices that are used and kept at its data centers within the Continental United States. The Contractor shall permit its personnel and Contractors to access State data remotely only to provide technical support and as specified or required by the contract.

**17.13. SECURITY INCIDENT OR DATA BREACH NOTIFICATION**

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

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

b. Security Incident Reporting Requirements: the Contractor shall report a security incident to the appropriate State identified contact immediately if it reasonably believes there has been a security incident.

c. Breach Reporting Requirements: If the Contractor has actual knowledge of a confirmed data breach that affects the security of any State content that is subject to applicable data breach notification law, the Contractor shall (1) promptly notify the appropriate State identified contact within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the data breach in a timely manner.

**17.14. BREACH RESPONSIBILITIES**

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

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

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

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

- (1) the investigation and resolution of the data breach;
- (2) notifications to individuals, regulators or others required by State law;
- (3) a credit monitoring service required by State (or federal) law;
- (4) a website or a toll-free number and call center for affected individuals required by State law NH RSA 359-C:19-C:20, all not to exceed the average per record per person cost calculated for Data Breaches in the United States (currently \$148 per record/person) in the most recent "Cost of a Data Breach Study: Global Overview" published by the Ponemon Institute at the time of the Data Breach; and
- (5) complete all corrective actions as reasonably determined by the Contractor based on root cause; all [(1) through (5)] subject to this Contract's limitation of liability.

**17.15. NOTIFICATION OF LEGAL REQUESTS**

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

**17.16. ACCESS TO SECURITY LOGS AND REPORTS**

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

**17.17. CONTRACT AUDIT**

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

**17.18. DATA CENTER AUDIT**

The Contractor shall perform an independent audit of its data centers at least annually at its expense, and provide a redacted version of the audit report upon request. the Contractor may remove its proprietary information from the redacted version. A Service Organization

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Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.

**17.19. ADVANCE NOTICE**

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

**17.20. SECURITY**

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

**17.21. NON-DISCLOSURE AND SEPARATION OF DUTIES**

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

**17.22. IMPORT AND EXPORT OF DATA**

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

**17.23. RESPONSIBILITIES AND UPTIME GUARANTEE**

The Contractor shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the Contractor. The system shall be available 24/7/365 (with agreed-upon maintenance downtime), and provide service to customers as defined in this agreement.

**17.24. RIGHT TO REMOVE INDIVIDUALS**

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

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**Problem Statement**

The New Hampshire Department of Transportation (NHDOT) requires new Asset Analytics & Forecasting software with associated maintenance, training, support, and implementation services. The software and services must replace an existing Pavement Management System, incorporate bridge management analysis, and be scalable to incorporate additional components as the Department's asset management needs grow over time. An Initial Configuration must be made by the supplier of the software to focus on Pavement and Bridge assets on the National Highway System in support of federally mandated asset management requirements. Training and support must establish the expertise at NHDOT required to configure additional Asset Analytics and Forecasting models independently. Investment Program Managers must progress to use this software to develop iterative multi-year project schedules by comparing outputs from optimized scenarios to others involving various real world constraints.

**Goals**

- A system for analyzing asset data that produces condition forecasts for different funding levels and investment decisions.
- Full implementation of the system within 1 year for pavements and bridges on the National Highway System in NH.
- Intuitive and user friendly software that can be leveraged to analyze additional asset information as asset management needs progress at the Department.
- Clear guidance regarding enhancements to Department data and processes that will benefit modeling accuracy and ease.
- Current documentation, clearly accessible to stakeholders, that is efficient to update.
- Training for NHDOT personnel that will enable them to be proficient with the software.

**Project Overview**

The general scope of the project is to provide a system and support that allows the Department to integrate Asset Analytics and Forecasting into routine decision making. The system will be a Configurable Off-The-Shelf (COTS) application provided as Software as a Service (SaaS). The data will also be cloud hosted. Cloud hosting and SaaS facilitate efficient maintenance and troubleshooting. Support begins with developing a model for Pavements and Bridges on the National Highway System (NHS), titled The Initial Configuration. Long term support will include system maintenance, developing new or expanding existing models, and assistance operating models as needed.

Two analysts from the Asset Management Performance and Strategies section of NHDOT will be trained to operate, manage, and develop the system. Decision making that leverages the Asset Analytics and Forecasting System (AAFS) outputs will increase during the duration of the contract. Unlimited licensing will allow the two trained Analysts to provide direct access to Program Managers throughout the Department.

Improvements will be made to expand the capabilities of the AAFS throughout the contract. The first improvements will incorporate State-Owned pavements and bridges that are not on the NHS.

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Subsequently improvements will mature the analysis of pavements and bridges and incorporate other assets. Analysts will contribute at the beginning of the contract by providing data, information, and access that is required for the Initial Configuration. The contribution will grow to include;

- Importing data directly,
- Adjusting analysis parameters,
- Managing user roles,
- Maintaining interfaces,
- Developing Reports

Ongoing Configuration Support (OCS) tasks will be documented in the regularly updated Work Plan. The Work Plan will describe 1 year of OCS tasks to a high level of detail, including; task or subtask name, task and subtask relationships, expected durations, expected starts and finishes, resources (either State Analysts or Deighton personnel), and associated deliverables. OCS tasks in remaining years will be described using a summary level of detail that includes asset, duration, and resource. As with other deliverables, OCS tasks will be invoiced by Firm Fixed Price, as described in section 1.2 of part 3 of this contract, and will be paid for using the budget for Ongoing Configuration Support at rates described in the proposal.

**Statement of Work**

Contractor shall provide a SaaS Asset Analytic & Forecasting System with associated implementation, maintenance, training, and support including;

**1. Software**

Deighton shall provide the Deighton Total Infrastructure Management System (dTIMS) Business Analytics Software as a Service through the duration of the contract.

The Software shall continuously operate except in the cases of emergencies and temporary shut downs for maintenance or upgrades. Impacts from disruptions must be minimized through risk mitigation and through scheduling downtime when the Software is not in frequent use. Deighton is not responsible for resolving issues with equipment or software operated by the State that may limit access to dTIMS.

**2. Licenses**

Deighton shall provide a license for unlimited concurrent users (State employees) for dTIMS.

**3. System Maintenance**

Deighton shall maintain and support the AAFS in all material respects as described in the applicable Documentation through the contract end date. Deighton will not be responsible for maintenance or support for software developed or modified by the State without written approval.

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

**4. Hosting Support**

Deighton is responsible for hosting the Software and data in a redundant remote locations that perform according to technical and security specifications in the applicable documentation. Any changes to hosting shall have no impact to the State. Documentation regarding the hosting company or infrastructure must be made available upon request.

**5. Configuration Support**

Deighton shall provide an Initial Configuration that forecasts pavement and bridge assets on the National Highway System to meet Federal Target Setting obligations. Configuration support will be used to expand the function of the Software after the Initial Configuration is provided through collaborative Ongoing Configuration Support (OCS) Tasks.

**6. Training**

Deighton shall provide onsite, remote, and offsite training to State Analysts to use the Software and the Initial Configuration.

**7. Project Management**

Deighton shall manage the deployment and implementation of software, the initial configuration, OCS tasks, and any associated upgrades using best practices in project management. Documentation will be current, clear, and concise. The State will support project management by responding to contractor requests and reviewing documentation in reasonable time frames.

The execution of this work is further detailed in these Contract Documents.

**General Project Assumptions**

1. The Contractor will provide project tracking tools and templates to record and manage Issues, Risks, Change Orders, Requirements, and other documents used in the management and tracking of the project. The State of New Hampshire and the Contractor's Project Managers will review these tools and templates and determine which ones will be used for the project. Training on these tools and templates will be conducted at the start of each phase in which they will be used.
2. Prior to the commencement of work on Non-Software and Written Deliverables, the Contractor shall provide to the State a template, table of contents, or agenda for Review and prior approval by the State.



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3. The Contractor shall ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of the State's Information Technology resources, information, and services. Security requirements are defined in Appendix C-2 of the Request for Proposal. The Contractor shall provide the State resources, information, and Services on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and to safeguard the confidentiality and integrity of State networks, Systems and Data. This shall include but not be limited to a copy of the hosting provider's annual SOC 3 reports.
4. The Deliverables are set forth in the Schedule described below in Section 2. By unconditionally accepting a Deliverable, the State reserves the right to reject any and all Deliverables in the event the State detects any Deficiency in the System, in whole or in part, through completion of all Acceptance Testing, including but not limited to, Software/System Acceptance Testing, and any extensions thereof.
5. 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.

**DELIVERABLES, MILESTONES, AND ACTIVITIES SCHEDULE**

The schedule of activities, Deliverables, and milestones is included in Exhibit B.

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PRICE AND PAYMENT SCHEDULE**

**1. PAYMENT SCHEDULE**

**1.1 Firm Fixed Price**

This is a Firm Fixed Price (FFP) Contract for the period between the Effective Date through 6 years. The Contractor shall be responsible for performing its obligations in accordance with the Contract. The Contractor shall invoice the State for the following activities, Deliverables, or milestones at fixed pricing/rates appearing in the following price and payment tables:

**Table 1.1: Pricing for Activities, Deliverables, and Milestones\*\***

Activity, Deliverable, or Milestone	Deliverable Type	Deliverable Due**	Cost	Holdback
<b>DOCUMENTATION</b>				
1*	Project Status Reports	Written	Monthly SFY 2020-2025 \$ 43,450	
2*	Work Plan	Written	Monthly SFY 2020-2025 \$ 15,897	
3	Infrastructure Plan	Written	18 \$ 2,706	
4	Software Configuration Plan	Written	18 \$ 1,125	
5	Systems Interface Plan	Written	18 \$ 1,581	
6	Testing Plan	Written	18 \$ 4,076	
7	Training Plan	Written	18 \$ 2,038	
8	End User Support Plan	Written	22 \$ 1,125	
9	Business Continuity Plan	Written	22 \$ 1,125	
<b>INSTALLATION</b>				
10	Provide required licenses	Software	27 \$ -	

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11 *	Provide access to all software and tools	Software	27	\$ 369,460	
12	Load data required for the Initial Configuration	Software	81	\$ 29,754	
13	Establish automate interfaces (if any)	Non-Software	131	\$ 5,720	
14	Provide Initial Configuration	Non-Software	356	\$ 94,409	Yes
<b>TESTING</b>					
15 *	Conduct security and technical testing	Non-Software	264	\$ 14,879	
16	Conduct User Acceptance Testing of software performance	Non-Software	265	\$ 3,619	
17	Conduct User Acceptance Testing of Initial Configuration	Non-Software	272	\$ 5,236	
<b>SYSTEM DEPLOYMENT</b>					
18	Conduct Project Kickoff Meeting	Non-Software	6	\$ 10,803	
19 *	Conduct Training	Non-Software	321	\$ 55,408	
20 *	Ongoing Hosting Support	Non-Software	Annual SFY 2020-2025	\$ 107,267	
21 *	Ongoing Software Support & Maintenance	Non-Software	Annual SFY 2020-2025	\$ -	
22 *	Ongoing Configuration Support	Non-Software	Annual SFY 2020-2025	\$ 178,908	Yes
23 *	Ongoing Document Management	Non-Software	Annual SFY 2020-2025	\$ 27,405	
Total Price				\$ 975,599	

\* Prices for Deliverables, activities, or milestones with reoccurrences are detailed in section 1.2

\*\* Deliverables, activities, or milestones duration in days from Effective Date.

State of NH Contract 2019-075

Exhibit B – Price and Payment Schedule – Part 3

Date: 12/16/2019

Contractor's Initials RP

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**1.2 Reoccurring Prices**

Annual prices are shown in Table 1.2: *Annual Pricing Detail*. Note that in the event of the Contract extension, a rate of 5.0% will be used to increase price of Ongoing Hosting Support beyond Fiscal Year 2025. A rate of 2.4% will be used to increase all other annual prices.

Reoccurring prices shall be billed as followed;

Project management costs, which include prices for Project Status Reports, Work Plan, and Ongoing Document Management shall be invoiced quarterly throughout the year after costs incur.

Software and associated support, which include Provide Access to all Software and Tools, Ongoing Hosting Support, and Ongoing Software Support and Maintenance shall be invoiced at the beginning of the Contract and on the 1 year anniversary of the Effective Date for costs in advance.

Service costs, which include Conduct Security & Technical Testing, Conduct Training, and Ongoing Configuration Support shall be invoiced after the services are provided.

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 PRICE AND PAYMENT SCHEDULE

**Table 1.2: Annual Pricing Detail**

ANNUAL PRICE	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	TOTAL
Project Status Reports	\$6,819	\$6,983	\$7,150	\$7,322	\$7,498	\$7,678	\$43,450
Work Plan	\$2,495	\$2,555	\$2,616	\$2,679	\$2,743	\$2,809	\$15,897
Provide access to all software and tools	\$59,020	\$60,060	\$61,750	\$62,270	\$63,050	\$63,310	\$369,460
Conduct Security and Technical Testing	\$9,632	\$1,000	\$1,024	\$1,049	\$1,074	\$1,100	\$14,879
Conduct Training	\$17,806	\$7,168	\$7,340	\$7,516	\$7,697	\$7,881	\$55,408
Ongoing hosting support	\$15,770	\$16,559	\$17,387	\$18,256	\$19,169	\$20,127	\$107,267
Ongoing Software Support and Maintenance	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Ongoing configuration Support	\$0	\$34,068	\$34,886	\$35,703	\$36,521	\$37,338	\$178,516
Ongoing Document Management	\$20,205	\$1,372	\$1,405	\$1,439	\$1,474	\$1,510	\$27,405
<b>Grand Total</b>	<b>\$115,842</b>	<b>\$132,797</b>	<b>\$136,663</b>	<b>\$139,413</b>	<b>\$142,481</b>	<b>\$145,086</b>	<b>\$812,282</b>

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PRICE AND PAYMENT SCHEDULE**

**1.3 Configuration Support Tasks**

As configuration needs develop, the Department will issue specific Ongoing Configuration Support (OCS) task orders to Deighton. These OCS task orders will be initiated by written request that will include a detailed description of the work, an outline of the services required, responsibilities of the parties, materials to be supplied by the Department (e.g. asset condition data) and other information necessary to complete the work for the OCS task. Deighton shall then submit to the Department for approval a proposal that includes the scope of work, the names of all Contractor's personnel to be assigned to the OCS task, a tentative work schedule in relation to all OCS tasks assigned, and a FFP fee. The Department will review Deighton's proposal and schedule negotiations, if necessary, to clarify the proposed scope of work, discuss personnel proposed, the number of work hours needed, and any other associated proposed costs in order to establish the final FFP fee. Upon approval of Deighton's proposal by the Department written authorization to proceed will be issued. Costs associated with Deighton's preparation of a proposal for OCS tasks are non-reimbursable.

FFP fees for OCS tasks shall include all labor, overhead, and direct expenses required to complete the OCS task. The FFP amount may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the Department. Any change to a FFP fee shall be documented in writing by the State's Contract Manager.

**2. CONTRACT PRICE**

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

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

**3. INVOICING**

The Contractor shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State's prior written approval, which shall not be unreasonably withheld. The Contractor shall only submit invoices for Services or Deliverables as permitted by the 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:

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State of NH Contract 2019-075  
Exhibit B – Price and Payment Schedule – Part 3  
Date: 12/16/2019  
Contractor's Initials RP

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NICHOLAS ALEXANDER  
OFFICE OF ASSET MANAGEMENT, PERFORMANCE & STRATEGY  
DEPARTMENT OF TRANSPORTATION  
PO BOX 483  
CONCORD, NH, 03302-0483

**4. PAYMENT ADDRESS**

Payments shall be made via ACH. Use the following link to enroll with the State Treasury for ACH payments: <https://www.nh.gov/treasury/state-vendors/index.htm>

**5. OVERPAYMENTS TO THE CONTRACTOR**

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

**6. CREDITS**

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

**7. PROJECT HOLDBACK**

The State shall withhold ten percent (10%) of fees for a period of 60 days for testing configured items as noted in Table 1.1.

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SPECIAL PROVISIONS**

Exhibit C does not include any special provisions.



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EXHIBIT D  
ADMINISTRATIVE SERVICES**

**1. TRAVEL EXPENSES**

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

**2. SHIPPING AND DELIVERY FEE EXEMPTION**

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

**3. ACCESS/COOPERATION**

As applicable, and subject to the applicable laws and regulations, the State will provide the Contractor with access to all program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware as required to complete the contracted Services.

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

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

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

**5. RECORDS RETENTION AND ACCESS REQUIREMENTS**

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

The Contractor and its Subcontractors shall maintain books, records, documents, and other evidence of accounting procedures and practices, which properly and sufficiently reflect all direct and indirect costs invoiced in the performance of their respective obligations under the Contract. The Contractor and its Subcontractors shall retain all such records for three (3) years following termination of the Contract, including any extensions. Records relating to any litigation matters regarding the Contract

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shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.

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

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

**6. ACCOUNTING REQUIREMENTS**

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

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EXHIBIT E  
IMPLEMENTATION SERVICES**

**1. PROJECT MANAGEMENT**

Effective reporting and communication shall be used to manage this project.

**1.1 MEETINGS**

The Contractor Key Project Staff shall participate in meetings as requested by the State, in accordance with the requirements and terms of this Contract. Requirements for meetings are described in the following table:

<b>MEETING</b>	<b>DESCRIPTION</b>	<b>FREQUENCY &amp; LOCATION</b>	<b>PRODUCTS</b>	<b>PARTICIPANTS</b>
Kickoff Meeting	Used to establish sound foundation for activities	1-time at NHDOT	<ul style="list-style-type: none"> <li>● Agenda</li> <li>● Meeting Minutes</li> </ul>	<ul style="list-style-type: none"> <li>● Project Team</li> <li>● Other Major Stakeholders</li> <li>● NHDOT Executives</li> </ul>
Status Meetings	Address overall project status and discuss any additional topics needed to remain on schedule and within budget	Monthly Web-based	<ul style="list-style-type: none"> <li>● Status Report</li> <li>● Meeting Minutes</li> </ul>	<ul style="list-style-type: none"> <li>● Contractor Project Manager &amp; State Project Manager</li> </ul>
Working Meetings	Collaborative discussion and review of deliverables, needs, testing, and results	As Needed Web-Based	<ul style="list-style-type: none"> <li>● Agenda</li> <li>● Meeting Minutes</li> </ul>	<ul style="list-style-type: none"> <li>● Project Team</li> </ul>
Special Meetings	To address specific issues, typically web-based except in exceptional circumstances	As needed	<ul style="list-style-type: none"> <li>● Agenda</li> <li>● Meeting Minutes</li> </ul>	<ul style="list-style-type: none"> <li>● Project Team</li> <li>● Other Major Stakeholders</li> </ul>
Presentation Meeting	Presentation of Initial Configuration made after acceptance to major stakeholders and executives	1-time at NHDOT	<ul style="list-style-type: none"> <li>● Agenda</li> <li>● Meeting Minutes</li> </ul>	<ul style="list-style-type: none"> <li>● Project Team</li> <li>● Other Major Stakeholders</li> <li>● NHDOT Executives</li> </ul>

**1.2 IMPLEMENTATION PRODUCTS**

The Contractor shall prepare agendas and minutes for meetings. Meetings will be used to discuss requirements and responsibilities for developing additional products that are required for Implementation that are not specifically described by this contract. Drafting of formal presentations, such as a presentation for the kickoff meeting, will also be the Contractor's responsibility.

**1.3 MONTHLY STATUS REPORTS**

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The Contractor's Project Manager or the Contractor's Key Project Staff shall submit monthly Project Status Reports in accordance with Exhibit I: *Work Plan* and terms of this Contract. All Project Status Reports shall be prepared in formats approved by the State. Project Status Reports, shall contain, at a minimum, the following:

1. Project status related to the Work Plan;
2. Deliverable status;
3. Accomplishments since previous reporting;
4. Planned activities for the upcoming month;
5. Future activities; and
6. Issues and concerns requiring resolution.
7. Report and remedies in case of falling behind Schedule

#### 1.4 PROJECT REPORTING

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

## 2. IMPLEMENTATION STRATEGY

### 2.1 Key Components

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

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

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

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

### 2.2 Timeline

The timeline is set forth in the Work Plan. During the initial planning period Project task and resource plans will be established for: the preliminary training plan, the change management

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plan, communication approaches, Project standards and procedures finalized, and team training initiated. Timing will be structured to recognize interdependencies between applications and structure a cost effective and timely execution. Processes will be documented, training established, and the application will be ready for Implementation in accordance with the Work Plan.

**2.3 Change Management and Training**

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

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PART 3 - EXHIBIT F  
TESTING SERVICES**

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

**1. TESTING AND ACCEPTANCE**

The Contractor shall bear all responsibilities for the full suite of test planning and preparation throughout the Project. The Contractor will also provide training as necessary to the State staff responsible for test activities. The testing methodology shall be described in the Testing Plan and reflect the needs of the Project. The Contractor shall be responsible for all aspects of security testing, technical testing, and User Acceptance Testing except where specifically noted in the Testing Plan or associated materials. Testing shall be included in the finalized Work Plan. Separate testing will be prepared for each installation or configuration milestone. Configuration milestones occur when Initial Configuration is completed and at the completion of Ongoing Configuration Support Tasks.

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

**1.1 Test Planning and Preparation**

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

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

The State will commence its testing within 10 business days of receiving Certification from the Contractor that the State's personnel have been trained and the System is installed, configured, complete, and ready for State testing. The testing will be conducted by the State in an environment independent from the Contractor's development environment. The Contractor must assist the State with testing in accordance with the Test Plan and the Work Plan, utilizing test and live Data to validate reports, and conduct stress and performance testing, at no additional cost.

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

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

**1.2 System Integration Testing (as Interfaces are established)**

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

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

<b>Activity Description</b>	Systems Integration Testing validates the integration between the target application modules and other systems, and verifies that the new System meets defined interface requirements and supports execution of business processes. This test emphasizes end-to-end business processes and the flow of information across the application. It includes all key business processes and interfaces being implemented, confirms data transfers with external parties, and includes the transmission or printing of all electronic and paper documents.
<b>Contractor Team Responsibilities</b>	<ul style="list-style-type: none"> <li>• Take the lead in developing the Systems Integration Test Specifications.</li> <li>• Work jointly with the State to develop and load the data profiles to support the test Specifications.</li> <li>• Work jointly with the State to validate components of the test scripts.</li> </ul>
<b>State Responsibilities</b>	<ul style="list-style-type: none"> <li>• Work jointly with the Contractor to develop the Systems Integration Test Specifications.</li> <li>• Work jointly with the Contractor to develop and load the data profiles to support the test Specifications.</li> <li>• Work jointly with the Contractor to validate components of the test scripts, modifications, fixes and other System interactions with the Contractor supplied Software Solution.</li> </ul>
<b>Work Product Description</b>	<ul style="list-style-type: none"> <li>• The Integration-Tested System indicates that all interfaces between the application and the legacy and third-party systems, interfaces, and applications are functioning properly.</li> </ul>

**1.3 Conversion Validation Testing**

In Conversion Validation Testing, target application functions are validated.

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<b>Activity Description</b>	The conversion validation test should replicate the entire flow of the converted data through the Software Solution. As the Software Solution is interfaced to legacy or third-party applications/interfaces, testing verifies that the resulting flow of the converted data through these interface points performs correctly.
<b>Contractor Team Responsibilities</b>	For conversions and interfaces, the Contractor's team will execute the applicable validation tests and compare execution results with the documented expected results. The Contractor will also extract and cleanse, if necessary, the legacy data to be converted in the data conversions.
<b>State Responsibilities</b>	Provide access to subject matter experts as needed to identify parameters of the legacy system and data including the source, quality, and decision making purpose.
<b>Work Product Description</b>	Validation-Tested Conversion Programs. These programs include conversion programs that have been tested to verify that the resulting converted legacy data performs correctly in the entire suite of the Application.

**1.4 User Acceptance Testing (UAT)**

UAT begins upon completion of configurations as required. Testing ends upon issuance of a letter of UAT Acceptance by the State. It may cover any aspect of the new System, including administrative procedures such as backup and recovery. The results of the UAT provide evidence that the new System meets the User Acceptance criteria as defined in the Work Plan.

The 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.

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

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



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	• Provide Acceptance of the validated Systems.
<b>Work Product Description</b>	The Deliverable for User Acceptance Tests is the User Acceptance Test Results. These results provide evidence that the new System meets the User Acceptance criteria defined in the Work Plan.

**1.7 Performance Tuning and Stress Testing**

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. 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.

**1.7.1 Test Types**

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

- a) **Baseline Tests:** Baseline tests shall collect performance data and load analysis by running scripts where the output is broken down into business transactions or functions. The test is like a single user executing a defined business transaction. During baseline testing, each individual script is run to establish a baseline for transaction response time, throughput and other user-based metrics.
- b) **Load Tests:** Load testing will determine if the behavior of the System can be sustained over a long period of time while running under expected conditions. Load test 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.

**1.7.2 Tuning**

Tuning will be Contractor led and 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.

**1.8 Regression Testing**

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

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In designing and conducting such regression testing, the Contractor 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, the Contractor will be expected to design and conduct regression tests that will identify any unintended consequences of the modification while taking into account Schedule and economic considerations.

**1.9 Security Review and Testing**

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

All components of the Software shall be reviewed and tested to ensure they protect the State's hardware and software and its related Data assets. Tests shall focus on the technical, administrative and physical security controls that have been designed into the System architecture in order to provide the necessary confidentiality, integrity and availability. Tests shall, at a minimum, cover each of the service components. Test procedures shall include penetration tests and application vulnerability scanning. A Service Organization Control (SOC) 3 audit report shall serve as the approved equivalent Data Center Audit to be supplied to the State by the Contractor annually. The State will coordinate with the Contractor regarding any authorization required to exchange audits at no additional cost to the State.

<b>Service Component</b>	<b>Defines the set of capabilities that:</b>
Identification and Authentication	Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users
Access Control	Supports the management of permissions for logging onto a computer or network
Encryption	Supports the encoding of data for security purposes
Intrusion Detection	Supports the detection of illegal 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.

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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.

Prior to the System being moved into production the Contractor 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). A 3<sup>rd</sup> party Service Organization Control (SOC) 3 report, deemed satisfactory by the State, shall be provided by the Contractor to comply with Security Review and Testing requirements. The Contractor shall assist the State in retrieving associated SOC2 reports as requested by the State.

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PART 3 - EXHIBIT G  
MAINTENANCE AND SUPPORT SERVICES**

**1. SYSTEM MAINTENANCE**

The Contractor shall maintain and support the System in all material respects as described in the applicable program Documentation through the Contract Completion Date. The Contractor must provide maintenance and support of the software as described here:

**1.1 Contractor's Responsibility**

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

**1.1.1 Maintenance Releases**

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

**1.1.2 Standard Agreement**

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

**2. SUPPORT OBLIGATIONS AND TERM**

**2.1** The Contractor shall repair or replace Software, and provide maintenance of the Software in accordance with the Specifications and terms and requirements of the Contract, including but not limited to S1.1 through S1.8 of the Support and Maintenance Requirements in Exhibit H *Requirements*.

**2.2** If the Contractor fails to correct a Deficiency within the allotted period of time stated above, the Contractor shall be deemed to have committed an Event of Default, and the State shall have the right, at its option, to pursue the remedies available in Part 1 Section 4 and Part 2 Section 13, as well as to return the Contractor's product and receive a refund for all amounts paid to the Contractor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Contractor of the State's refund request

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REQUIREMENTS**

Attachment 1: Project Requirements is hereby incorporated within.....

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PART 3 - EXHIBIT I  
WORK PLAN**

The Contractor's Project Manager and the State Project manager shall finalize the Work Plan for Implementation within 30 days of the Notice to Proceed and further refine the tasks required to implement the Project. The elements of the preliminary Work Plan are documented in accordance with the Contractor's plan to implement the System. Continued development and management of the Work Plan is a joint effort on the part of the Contractor and State Project Managers.

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

In conjunction with the Contractor's Project Management methodology, which shall be used to manage the Project's life cycle, the Contractor team and the State shall finalize the Work Plan at the onset of the Project. This plan shall identify the **tasks, Deliverables, major milestones, task dependencies, and a payment Schedule** required to implement the Project. It shall also address intra-task dependencies, resource allocations (both State and Contractor's team members), refine the Project's scope, and establish the Project's Schedule.

## **1. ASSUMPTIONS**

### **A. General**

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

### **B. Project Management**

- The State shall approve the Project Management Methodology used for the Project.
- The State shall provide the Project Team with reasonable access to Analysts as needed to complete Project tasks.
- The State will maintain the official project file on the State system. The Contractor will have no direct access to this folder or to the State system. Analysts will make available, as appropriate, copies of information contained in the project file to the Contractor upon request.
- The Contractor will provide a safe and secure electronic file sharing solution for the transfer of large files between the State and the Contractor. The solution shall include upload and download capabilities to personnel of both the State and the Contractor.
- The Contractor assumes that an Alternate Project Manager may be appointed from time to time to handle reasonable and ordinary absences of the Project Manager.

### **C. Conversions**

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- The Contractor Team's proposal is based on the assumption that the State's technical team is capable of implementing, with assistance from the Contractor's technical team, a subset of the conversions. The Contractor's Team shall lead the State with the mapping of the legacy Data to the Contractor's applications.
- Additionally, the Contractor's Team shall:
  1. Provide the State with Contractor's application data requirements and examples, of data mappings, conversion scripts, and data loaders. The Contractor's Team shall identify the APIs the State should use in the design and development of the conversion.
  2. Provide guidance and assistance with the use of the data loaders and conversion scripts provided.
  3. Lead the review of functional and technical Specifications.
  4. Assist with the resolution of problems and issues associated with the development and Implementation of the conversions.

**D. Project Schedule**

- Deployment will occur as described in Table 7.1 Changes to the Project Schedule shall be documented in an updated Work Plan.

**E. Reporting**

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

**F. User Training**

- The Contractor's Team shall lead the development of the end-user training plan.
- The Contractor will provide training through a variety of means and at progressive stages of the project to include:
  - On-Site Training upon deployment of the Initial Configuration.
  - Remote Training through access through a variety of online resources.
  - Off-Site Training at User's Conferences or other events aimed at furthering the expertise of Analysts on use of the Software.

**G. Performance and Security Testing**

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

**2. ROLES AND RESPONSIBILITIES**

**A. Contractor Team Roles and Responsibilities**

**1) Contractor Team Project Executive**

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

**2) Contractor Team Project Manager**

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

- Maintain communications with the State's Analysts;
- Plan and conduct a kick-off meeting with assistance from the State;
- Maintain the Work Plan;
- Assign the Contractor Team consultants to tasks in the Implementation Project according to the scheduled staffing requirements;
- Define roles and responsibilities of all the Contractor Team members;
- Provide monthly updated progress reports to the State Project Manager;
- Notify State Analysts of requirements for State resources in order to provide sufficient lead time for resources to be made available;
- Review task progress for time, quality, and accuracy in order to achieve progress;
- Review requirements and scheduling changes and identify the impact on the Project in order to identify whether the changes may require a change of scope;
- Implement scope and Schedule changes as authorized by the State Project Manager and with appropriate Change Control approvals as identified in the Implementation Plan;
- Inform Analysts of any urgent issues if and when they arise;
- Provide the State completed Project Deliverables and obtain sign-off from the State's Analysts.
- Manage handoff to the Contractor operational staff;
- Manage Transition Services as needed.

**3) Contractor Team Analysis**

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

- Construct and confirm application test case scenarios;
- Produce application configuration definitions and configure the applications;
- Conduct testing of the configured application;
- Produce functional Specifications for extensions, conversions, and interfaces;
- Assist the State in the testing of extensions, conversions, and interfaces;



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- Assist the State in execution of the State's User Acceptance Testing;
- Conduct follow-up meetings to obtain feedback, results, and concurrence/approval from the State;
  - Assist with the correction of configuration problems identified during system, integration and User Acceptance Testing; and
  - Assist with the transition to production.

**4) Contractor Team Tasks**

The Contractor team shall assume the following tasks:

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

**B. State Roles and Responsibilities**

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

**1) State Project Manager**

The State Project Manager represents the State in all decisions on Implementation Project matters, provides all necessary support in the conduct of the Implementation Project, and provides necessary State resources, as defined by the Work Plan and as otherwise identified throughout the course of the Project. The State Project Manager has the following responsibilities:

- Assist the Contractor Project Manager in the development of a detailed Work Plan;
- Identify and secure the State Project Team members in accordance with the Work Plan;
- Define roles and responsibilities of all State Project Team members assigned to the Project;
- Manage State staff during Transition Services as needed.

**2) State Analysts**

The State Analysts shall work side-by-side with the Contractor Team. The role of State Analysts is to manage State resources (IF ANY), facilitate completion of all tasks assigned to State staff, and communicate Project status on a regular basis. The State Analysts have the following responsibilities;

- Assist the Contractor in planning and conducting a kick-off meeting;

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- Identify and secure access to additional State end-user staff as needed to support specific areas of knowledge if and when required to perform certain Implementation tasks;
- Communicate issues to State management as necessary to secure resolution of any matter that cannot be addressed at the Project level;
- Inform the Contractor Project Manager of any urgent issues if and when they arise; and
- Assist the Contractor team staff to obtain requested information if and when required to perform certain Project tasks.
- Coordinate State responsibilities on testing efforts including approving test materials, carrying out test procedures, coordinating training associated with testing, and tracking deficiencies and resolutions

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

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

- Be the key user and contact for their Agency or Department;
- Attend Project Team training and acquire in-depth functional knowledge of the relevant applications;
- Assist in validating and documenting user requirements, as needed;
- Assist in mapping business requirements;
- Assist in constructing test scripts and data;
- Assist in System Integration, and User Acceptance Testing;
- Assist in performing conversion and integration testing and Data verification;
- Attend Project meetings when requested; and

**4) State Technical Lead and Architect**

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

- Attend technical training as necessary to support the Project;
- Assist the State and the Contractor Team Project Managers to establish the detailed Work Plan;
- Manage the day-to-day activities of the State's technical resources assigned to the Project;
- Work with State IT management to obtain State technical resources in accordance with the Work Plan;
- Work in partnership with the Contractor and lead the State technical staff's efforts in documenting the technical operational procedures and processes for the Project! This is a Contractor Deliverable and it will be expected that the Contractor will lead the overall effort with support and assistance from the State; and
- Represent the technical efforts of the State at monthly Project meetings.

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### **3. SOFTWARE APPLICATION**

The Contractor does not require any additional software to perform the deliverables of the contract. If any additional software is or will be required, it will be at the sole cost of the Contractor and must have approval from the Department of Information Technology prior to the use of such software.

The Software requires that the State and Authorized Users be able to access the Contractor's website for such Software access. The State understands that the Contractor does not require any information for the performance of the Services hereunder, including the provisions of the Software.

### **4. CONVERSIONS**

Conversions occur when data is placed into the system or retrieved by the system. Conversions performed by the contractor must be validated.

#### **A. Conversion Validation Responsibilities**

- The Contractor Team and the State, based on their assigned conversion responsibilities, as set forth in Contract Exhibit F: *Testing Services* shall identify applicable test scripts and installation instructions, adapt them to the Project specifics, test the business process, and compare with the documented expected results.
- The Contractor Team and the State, based on their assigned conversion responsibilities, shall execute the applicable test scripts that complete the conversion and compare execution results with the documented expected results.
- The State is responsible for documenting the technical Specifications of all programs that extract and format Data from the legacy systems for use by the conversion processes.
- The Contractor Team and the State, based on their assigned conversion responsibilities, shall develop and unit test their assigned conversions.
- The State and the Contractor Teams shall jointly conduct System and Integration Testing, verifying and validating the accuracy and completeness of the conversions.
- The State and the Contractor Teams shall jointly verify and validate the accuracy and completeness of the conversions for Acceptance Testing and production.

### **5. INTERFACES**

Interfaces shall be implemented in cooperation with the State. The following list identifies the responsibilities of the Contractor and State when establishing interfaces.

- The Contractor Team shall provide the State Contractor Application Data requirements and examples, of data mappings and interfaces implemented on other Projects. The Contractor Team shall identify the APIs the State should use in the design and development of the interface.
- The Contractor Team shall lead the State with the mapping of legacy Data to the Contractor Application.
- The Contractor Team shall lead the review of functional and technical interface Specifications.

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- The Contractor Team shall assist the State with the resolution of problems and issues associated with the development and Implementation of the interfaces.
- The Contractor Team shall document the functional and technical Specifications for the interfaces.
- The Contractor Team shall create the initial Test Plan and related scripts to Unit Test the interface. The State shall validate and accept.
- The Contractor Team shall develop and Unit Test the interface.
- The State and the Contractor Team shall jointly verify and validate the accuracy and completeness of the interface.
- The State is responsible for documenting the procedures required to run the interfaces in production.
- The State shall document the technical changes needed to legacy systems to accommodate the interface.
- The State shall develop and test all legacy application changes needed to accommodate the interface.
- The State and the Contractor Teams shall jointly construct test scripts and create any data needed to support testing the interfaces.
- The State is responsible for all data extracts and related formatting needed from legacy systems to support the interfaces.
- The State is responsible for the scheduling of interface operation in production.

**6. PRELIMINARY WORK PLAN**

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

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Table 7.1: Preliminary Project Plan

Phase	Task	Task Name	Prior	Begin	End	Days	Resource	Deliverable
Phase 1: Project Initiation (20 days)	1.1	Initialization Meeting		0	6	5	Deighton, NHDOT	Meeting agenda, meeting minutes, revised project plan, GAP Analysis
	1.2	Provide NHDOT dev environment access to Deighton		7	13	5	NHDOT	Dev environment access/credentials
	1.3	Deploy software to dev environment with a sample database		14	27	10	Deighton	dTIMS software deployed on dev environment
	1.4	Work Plan		14	27	10	Deighton, NHDOT	Develop the work plan
	1.5	Infrastructure Plan		18	19	2	Deighton	Develop the infrastructure plan
	1.6	Software Configuration Plan		18	19	2	Deighton	Develop the software configuration plan
	1.7	System Interface Plan		18	19	2	Deighton	Develop the system interface plan
	1.8	Testing Plan		18	22	5	Deighton	Develop the testing plan
	1.9	Training Plan		18	22	5	Deighton	Develop the training plan
	1.1	End User Support Plan		22	22	1	Deighton	Develop the end user support plan
	1.11	Business Continuity Plan		23	27	5	Deighton	Develop the business continuity plan

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Phase	Task	Task Name	Prior	Begin	End	Days	Resource	Deliverable
Phase 2: Database Implementation (83 days)	2.1	Provide data sources	1.1	28	34	5	NHDOT	Data files/access to data files
	2.2	Review existing data sources	2.1	35	48	10	Deighton	Understanding of the raw data
	2.3	Define network data	2.2	49	50	2	Deighton	Define the base table in dTIMS
	2.4	Define database schema from data sources	2.3	53	57	5	Deighton	Define the database schema and data references
	2.5	Structure the database	2.4	60	71	10	Deighton	Creating tables/attributes in dTIMS
	2.6	Load inventory & condition data	2.5	74	81	6	Deighton	Importing data into dTIMS
	2.7	Source System Analysis	2.6	82	84	3	Deighton, NHDOT	Data Mapping/Data Sources Discussion
	2.8	Integration Design	2.7	85	98	10	Deighton	Design document for integration design
	2.9	Integration Development	2.8	99	119	15	Deighton	Integration development
	2.1	Integration Acceptance Testing	1.1	120	126	5	Deighton, NHDOT	QA
	2.11	Integration Deployment	2.1	127	131	3	Deighton	Deployment
	2.12	Deliver database for review	2.11	132	133	2	Deighton	dTIMS database
	2.13	Database Review Meeting	2.12	134	134	1	Deighton, NHDOT	Discussion of the database setup; Business Process Improvement
	2.14	Database changes/adjustments	2.13	137	141	5	Deighton	Adjustments to the database setup
	2.15	Phase 2 sign off	2.14	144	144	1	NHDOT	NHDOT sign off approval, Project status update

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Phase	Task	Task Name	Prior	Begin	End	Days	Resource	Deliverable
<b>Phase 3a: Pavement Analysis Parameter Development (41 days)</b>	3.1	Parameter Development Meeting	2.15	145	145	1	Deighton, NHDOT	Meeting agenda and meeting minutes document
	3.2	Document analysis parameter template	3.1	146	148	3	Deighton	Documentation on analysis parameters
	3.3	Establish indices from condition data	3.2	151	152	2	Deighton	Design various indices from condition data
	3.4	Pavement family and performance curve development	3.3	153	166	10	Deighton	Performance curves for each bridge family
	3.5	Establish treatment alternative options	3.4	167	168	2	Deighton	Alternative treatment options
	3.6	Define treatment parameters (decision trees, costs, resets)	3.5	169	172	2	Deighton	Define treatment parameters in dTIMS
	3.7	Define economic parameters	3.6	173	174	2	Deighton	Define economic parameters in dTIMS
	3.8	Generate Strategies	3.7	175	176	2	Deighton	dTIMS recommended strategies
	3.9	Review/Adjust Analysis Data	3.8	179	182	4	Deighton	Analysis Data
	3.1	Review Analysis Results Meeting	2.15	183	183	1	Deighton, NHDOT	Discussion of the analysis results; Business Process Improvement
	3.11	Pavement analysis parameter adjustments/changes	3.1	186	193	6	Deighton	Adjustments to the analysis parameters
	3.12	Deploy database to NHDOT test environment	3.11	194	200	5	Deighton	Move database to NHDOT test environment

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	3.13	Phase 3a sign off	3.12	201	201	1	NHDOT	NHDOT sign off approval, Project status update
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Phase	Task	Task Name	Prior	Begin	End	Days	Resource	Deliverable
Phase 3b: Bridge Analysis Parameter Development (41 days)	3.14	Parameter Development Meeting	2.15	202	202	1	Deighton, NHDOT	Meeting agenda and meeting minutes document
	3.15	Document analysis parameter template	3.14	203	207	3	Deighton	Documentation on analysis parameters
	3.16	Establish indices from condition data	3.15	208	209	2	Deighton	Design various indices from condition data
	3.17	Bridge family and performance curve development	3.16	210	223	10	Deighton	Performance curves for each bridge family
	3.18	Establish treatment alternative options	3.17	224	225	2	Deighton	Alternative treatment options
	3.19	Define treatment parameters (decision trees, costs, resets)	3.18	228	229	2	Deighton	Define treatment parameters in dTIMS
	3.2	Define economic parameters	3.1	230	231	2	Deighton	Define economic parameters in dTIMS
	3.21	Generate Strategies	3.2	232	235	2	Deighton	dTIMS recommended strategies
	3.22	Review/Adjust Analysis Data	3.21	236	239	4	Deighton	Analysis Data
	3.23	Review Analysis Results Meeting	3.22	242	242	1	Deighton, NHDOT	Discussion of the analysis results; Business Process Improvement
	3.24	Bridge analysis parameter adjustments/changes	3.23	243	250	6	Deighton	Adjustments to the analysis parameters



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	3.25	Deploy database to NHDOT test environment	3.24	251	257	5	Deighton	Move database to NHDOT test environment
	3.26	Phase 3b sign off	3.25	258	258	1	NHDOT	NHDOT sign off approval, Project status update

Phase	Task	Task Name	Prior	Begin	End	Days	Resource	Deliverable
<b>Phase 4: Quality Assurance, Training, UAT (52 days)</b>	4.1	Conduct system testing	3.26	259	264	4	Deighton	System testing
	4.2	Conduct performance testing	4.1	265	265	1	Deighton	Performance testing
	4.3	Initial demo training	4.2	266	266	1	Deighton	Software demo (GoToMeeting Session)
	4.4	Perform UAT on NHDOT dev environment	4.3	267	272	4	NHDOT	Perform User Acceptance Test
	4.5	Log issues found during UAT	4.4	273	279	5	Deighton, NHDOT	Issue log document
	4.6	Adjust issues/concerns from UAT	4.5	280	286	5	Deighton	Adjustments to reported issues
	4.7	Prepare user manuals	4.6	287	300	10	Deighton	User Manual
	4.8	Prepare training materials	4.7	301	307	5	Deighton	Training Environment/Documents
	4.9	Prepare system administrator manuals	4.8	308	314	5	Deighton, NHDOT	System Admin Manual
	4.1	User Training	3.26	315	321	5	Deighton, NHDOT	Onsite training sessions

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	4.11	Final System QA on NHDOT dev environment	4.1	322	328	5	Deighton	System QA
	4.12	Phase 4 sign off	4.11	329	329	1	NHDOT	Phase Sign off, Project Status Update

Phase	Task	Task Name	Prior	Begin	End	Days	Resource	Deliverable
<b>Phase 5: Project Delivery (17 days)</b>	5.1	Provide NHDOT production environment access to Deighton	3.12	333	337	5	NHDOT	Production environment access/credentials
	5.2	Deploy to production environment	4.11, 5.1	340	341	2	Deighton	dTIMS software deployed on prod
	5.3	Verification of technical testing	5.2	342	344	3	Deighton	Performance and stress test results
	5.4	Project Sign-Off	5.4	347	349	3	NHDOT	NHDOT Signoff Approval
	5.5	Final Report & Presentation	5.5	350	356	5	Deighton, NHDOT	Documentation on project implementation and software presentation

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Phase	Task	Task Name	Prior	Begin	End	Days	Resource	Deliverable
Phase 6: Maintenance & Support (remainder of contract)	6.1	Provide ongoing support & software maintenance		356	2185	1829	Deighton	Software support and system maintenance
	6.2	Ongoing project management		356	2185	1829	Deighton	Updated Workplan & Monthly Status Reports
	6.3	Ongoing document management		356	2185	1829	Deighton	Updated plans and manuals
	6.4	Ongoing Configuration Support tasks		356	2185	1829	Deighton	OCS Tasks
	6.5	Yearly off-site and remote training		356	2185	1829	Deighton	Training
	6.6	Yearly verification of technical testing		356	2185	1829	Deighton	Confirmations of technical testing

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SOFTWARE AGREEMENT**

1. License Grant.

During the Subscription Term, the State will receive a nonexclusive, non-assignable, royalty free, worldwide right to access and use the Software solely for the State's internal business operations subject to the terms of this Agreement and up to the number of licenses documented in the Agreement.

The Parties acknowledge that this Agreement is a services agreement and Contractor will not be delivering copies of the Software to Customer as part of the Agreement.

2. Software Title. Title, right, and interest (including all ownership and intellectual property rights) in the Software provided under this agreement, and its associated documentation, shall remain with the Contractor.

3. Software and Documentation Copies. Contractor 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 within its possession for its internal business needs. To the extent that the State does not have possession of the Software, Contractor shall provide a reasonable number of copies of the Software and associated Documentation upon request. The State agrees to include copyright and proprietary notices provided to the State by the Contractor on such copies.

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

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

5. Viruses. Contractor shall provide Software that is free of viruses, destructive programming, and mechanisms designed to disrupt the performance of the Software in accordance with the Specifications. As a part of its internal development process, Contractor will use reasonable efforts to test the Software for viruses.

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

7. Software Non-Infringement. Contractor warrants that it has good title to, or the right to allow the State to use all Services, equipment, and Software, including any all component parts thereof such as third-party software or programs that may be embedded in the Software ("Contracted Resources") provided under this Contract, and that such Services, equipment, and Software do not violate or infringe

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any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

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

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

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

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

8. Control of All Component Elements. Contractor acknowledges and agrees that it is responsible for maintaining all licenses or permissions to use any third-party software, equipment, or services that are component parts of any deliverable provided under this agreement for the entire term of the contract. Nothing within this provision shall be construed to require Contractor to maintain licenses and permissions for Software acquired by the State directly or through third-parties which may be integrated with the Contractor's deliverables.

9. Custom Software. Should any custom source code be developed, Contractor shall provide the State with a copy of the source code, which shall be subject to the License rights. The State shall receive a worldwide, perpetual, irrevocable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of any custom developed software.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 3 - EXHIBIT J  
SOFTWARE AGREEMENT**

10. Software Escrow. Contractor agrees to provide to the State the currently existing source code and any other tools and requirements necessary to create executable or interpretive programs. This information may be provided to the State either directly, with any such protections as required by the Contractor or through a mutually agreed upon Escrow Agreement. Contractor shall be responsible for all costs associated with the Escrow Agreement and the State shall not assume any liability to the Company or Escrow Agent as a result of the Agreement.

Contractor agrees that the State shall be entitled to utilize the source code in its possession and/or demand a release of the source code from the Escrow Agent upon the occurrence of any of the following events ("Release Events"):

- (a) Contractor has made an assignment for the benefit of creditors;
- (b) Contractor 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 Contractor's assets;
- (d) Contractor terminates its maintenance and operations support services for the State for the Software or has ceased supporting and maintaining the Software for the State whether due to its ceasing to conduct business generally or otherwise, except in cases where the termination or cessation is a result of the non-payment or other fault of the State;
- (e) Contractor defaults under the Contract; or
- (f) Contractor ceases its on-going business operations or that portion of its business operations relating to the licensing and maintenance of the Software.

Upon the occurrence of a Release Event, Contractor hereby grants the State the right to use, copy, modify, display, distribute, and prepare derivative works of the source code, and to authorize others to do the same on behalf of the State (Contractors, agents, etc.), solely for the purpose of completing the performance of Contractor's obligations under the Contract, including, but not limited to, providing maintenance and support for the Software and subject to the rights granted in this Contract.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 3 - EXHIBIT K  
WARRANTY & WARRANTY SERVICE**

**1. WARRANTIES**

**1.1 System**

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

**1.2 Software**

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

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

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

**1.3 Non-Infringement**

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

**1.4 Viruses; Destructive Programming**

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

**1.5 Compatibility**

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

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 3 - EXHIBIT K  
WARRANTY & WARRANTY SERVICE**

**1.6 Services**

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

**2. WARRANTY PERIOD**

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



**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075 PART 3  
EXHIBIT L  
TRAINING SERVICES**

**1. Training Services**

The Contractor shall provide the following Training Services.

**1.1 On-Site Training**

Hands-on training that occurs at NHDOT in a facility provided by the Department. Sessions will be full-day and a member of the Contractor's Key Staff will serve as the Instructor. The Contractor must assume all reasonable travel and related expenses per Exhibit D. 5 days of On-Site Training will be provided following implementation of the Initial Configuration. Additional days of On-Site Training may be provided through OSC Tasks as described in Exhibit B.

**1.2 Remote Training**

Remote training will be provided through access to the Contractors Learning Management System (LMS), webinars, self-paced tutorials, recorded web events, the help system, manuals, and other documentation. Access and navigation of Remote Training is readily available to all users through the software licensing agreement at no additional cost to the State.

**1.3 Off-Site Training**

Off-Site Training – The expertise of State Analysts may be maintained at Users Conferences and Summits that are hosted by the Contractor at locations, outside of State Facilities, at the States discretion. Total amounts paid by the State or the State's personnel to attend Off-Site training include travel, fees, meals, lodging and will be reimbursed by the Contractor. Reimbursements by the Contractor will be limited per Fiscal Year by the amounts in Table 1.2 of Exhibit B for Conducting Training and any additional amount to attend Off-Site Training shall be paid for by the State. All other costs to provide Off-Site training shall be the responsibility of the Contractor. All materials required for Training will be provided by the Contractor at no additional cost. Training will use the System as implemented for NHDOT whenever possible. Train-the-trainer quality training must be provided to Analysts at On-Site and Off-Site training. Train-the-trainer quality training will provide trained Analysts the ability to share lessons learned with other users. Presentations to Executives and Stakeholders will also be provided through On-Site, Remote, and Off-Site Training Services as needed.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 3 - EXHIBIT M  
AGENCY RFP WITH ADDENDUMS, BY REFERENCE**

State of New Hampshire Department of Transportation Request for Proposal 2019-075 Asset Analytics & Forecasting, dated April 12<sup>th</sup> 2019, with Addendums 1 through 3 is hereby incorporated by reference as fully set forth herein.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECASTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 3 - EXHIBIT N  
VENDOR PROPOSAL, BY REFERENCE**

Deighton Associates Ltd. Proposal to Department of Transportation RFP 2019-075 Asset Analytics & Forecasting dated May 31, 2019 is hereby incorporated by reference as fully set forth herein.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION  
ASSET ANALYTICS & FORECACSTING SYSTEM  
SAAS CONTRACT 2019-075  
PART 3 - EXHIBIT O  
CERTIFICATES AND ATTACHMENTS**

Attached are:

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

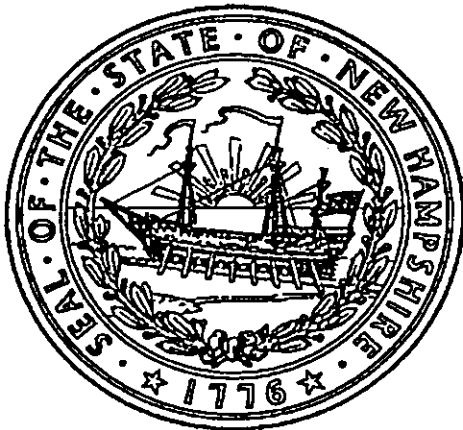
**State of New Hampshire**  
**Department of State**

**CERTIFICATE**

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that DEIGHTON ASSOCIATES LTD. is a Canada Profit Corporation registered to transact business in New Hampshire on September 20, 1995. 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: 237051

Certificate Number: 0004612789



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 31st day of October A.D. 2019.

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

William M. Gardner  
Secretary of State

## Certificate of Vote

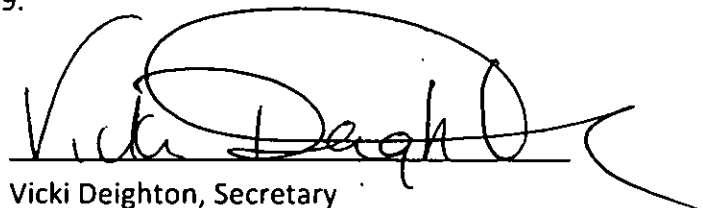
I, Vicki Deighton, Secretary of Deighton Associates Ltd, do hereby certify that:

- (1) I am the duly elected and acting Secretary of Deighton Associates Ltd, a Canadian Corporation (Reg No. 204158-8);
- (2) I maintain and have custody and am familiar with the minute books of the Corporation;
- (3) I am duly authorized to issue certificates with respect to the contents of such books;
- (4) The following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 4th day of April 2019, which meeting was duly held in accordance with Canadian (Country of incorporation) law and the by-laws of the Corporation:

RESOLVED: That any one of Robert Piane, the President of the Corporation or Vicki Deighton, Secretary of the Corporation be and are hereby authorized and directed to execute and deliver any and all contracts, agreements, certificates, instruments, writings or other documents, including, but not limited to, banking documents, and to perform and do all such other acts in their discretion as either of them may consider necessary or desirable for the purpose of giving effect to the transactions contemplated thereby of whatever kind on behalf of the Corporation;

- (5) The foregoing resolution has not been revoked, annulled, or amended in any manner whatsoever and remains in full force and effect as of the date hereof;
- (6) The corporation has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Corporation this 16<sup>th</sup> day of December 2019.

  
Vicki Deighton, Secretary

PROVINCE OF Ontario

REGION OF Durham

On this the 16<sup>th</sup> day of December 2019, before me, Jina Mintsinikas, the undersigned Officer, personally appeared at Whitby, Ontario, Canada, who acknowledged herself to be the Secretary, of Deighton Associates Ltd, a Corporation, and that she, as such being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing her name by herself as Vicki Deighton.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jina Mintsinikas

Notary Public/Justice of the Peace

My Commission Expires: May 31, 2022

Official Seal:

Jina Mintsinikas, Notary Public,  
Regional Municipality of Durham,  
limited to the attestation of instruments  
and the taking of affidavits,  
for Deighton Associates Ltd.  
Expires May 31, 2022.







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/06/2020

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

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

<b>PRODUCER</b> HUB INTERNATIONAL OF NEW ENGLAND LLC 302 MOUNTAIN VIEW DRIVE STE 300 COLCHESTER, VT 05446-8081	<b>CONTACT NAME:</b> CHERYLANN DEVEAU <b>PHONE (A/C, No, Ext):</b> (781) 792-3200 <b>FAX (A/C, No):</b> (866) 495-3396 <b>E-MAIL ADDRESS:</b> Cherylann.Deveau@hubinternational.com	
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b> <b>INSURER A:</b> TECHNOLOGY INSURANCE COMPANY      42376 <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
<b>INSURED</b> DEIGHTON ASSOCIATES LTD 223 BROCK ST NORTH, UNIT 7 WHITBY, ON, CANADA L1N4H6		

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	N	TARNH1031827-00	11/20/2019	11/20/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

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

EXCLUDED OFFICERS: VICKI DEIGHTON AND ROBERT PIANE

<b>CERTIFICATE HOLDER</b>  Nicholas Alexander, Administrator Asset Management- Commissioners Office-New Hampshire DOT 7 Hazen Drive Concord, NH 03302-0483	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE <i>Gretta Dell</i>
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SERVICE CENTER  
901 Peninsula Corporate Circle  
Boca Raton, FL 33487  
(800) 622-4123

December 4, 2019

DEIGHTON ASSOCIATES LTD  
WHITBY ON 223 BROCK ST N  
WHITBY, CN L1N- 4H6 ON

**EFFECTIVE DATE:** 11/20/2019  
**BINDER NUMBER:** 28-39071-19338-530035  
**FED ID NUMBER:** 98-0182727  
**APPLICATION ID:** 49380470

**RE: WORKERS COMPENSATION AND EMPLOYERS LIABILITY POLICY BINDER**

This is to acknowledge receipt of an initial or deposit premium payment and your application for coverage through the Workers Compensation Insurance Plan for the State of NEW HAMPSHIRE.

Coverage is provided under this binder, beginning at 12:01 A.M. on the effective date shown above, and with the insurance company named below, and shall remain in effect until canceled or a policy has been issued. Coverage is provided under the Workers Compensation Law of NEW HAMPSHIRE and of such additional jurisdictions as may be requested, in accordance with the Plan rules. Employers liability coverage is also provided, subject to the standard limits prescribed in the Basic Manual, unless higher limits have been requested in accordance with the Plan rules.

Please retain this binder as evidence of the coverage until you receive your policy.

**INSURANCE COMPANY:**  
TECHNOLOGY INSURANCE CO  
3925 BROOKSIDE PKWY  
ALPHARETTA, GA 30022

**AGENCY NAME:**  
HUB INTERNATIONAL OF NEW ENGLAND LLC  
600 LONGWATER DRIVE  
NORWELL, MA 02061-1012

DEIGHTON ASSOCIATES LTD

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**NOTICE**


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**COVERAGE FOR THIS EMPLOYER HAS BEEN PLACED THROUGH THE ASSIGNED RISK PLAN. AS THE PLAN IS THE MARKET OF LAST RESORT, COVERAGE SHOULD CONTINUE TO BE SOUGHT THROUGH THE STANDARD/VOLUNTARY MARKET. PLEASE NOTE THAT PREMIUMS IN THE ASSIGNED RISK PLAN MAY BE HIGHER THAN THE STANDARD/VOLUNTARY MARKET.**

If a policy issued by an insurance carrier, pursuant to an assignment under the Workers Compensation Insurance Plan, is canceled due to the employer's failure to comply with terms or conditions of the policy, such employer may be ineligible for further coverage under the Plan.

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**NOTICE**


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**POLICYHOLDER DISCLOSURE  
NOTICE OF TERRORISM  
INSURANCE COVERAGE  
FOR THE STATE(S) OF NEW HAMPSHIRE**

Your policy provides coverage for losses resulting from acts of terrorism. Coverage for such losses is still subject to all terms, definitions, exclusions, and conditions in your policy, and any applicable federal and/or state laws, rules, or regulations. You are notified that under the Terrorism Risk Insurance Act of 2002(Act) and any amendments, including as amended and extended through December 31, 2020 by the Terrorism Risk Insurance Program Reauthorization Act of 2015, the term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury — in consultation with the Secretary of Homeland Security, and the Attorney General of the United States — to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Act, as amended. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019 and 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage.

The Terrorism Risk Insurance Act, as amended, also contains a \$100 billion cap that limits U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism. If the aggregate insured losses for all insurers exceed \$100 billion in any one calendar year, and the insurance company providing the coverage has met its statutorily established deductible, the insurance company is not liable for payment of any portion of the amount of insured losses that exceed \$100 billion. Further, the United States Government will not make any payment under the Act for any portion of insured losses that exceed \$100 billion. For aggregate insured losses up to \$100 billion, the insurance company will pay only a pro rata share of such losses as determined by the Secretary of Treasury.

The portion of your total estimated annual premium that currently is attributable to coverage for insured losses resulting from certified acts of terrorism is \$3.71 and does not include any charges for the portion of losses covered by the United States Government under the Act.

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**NOTICE**


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**CERTIFICATES OF INSURANCE**

Effective upon receipt of the enclosed binder, the producer may issue certificates of insurance only under the following conditions: 1) that the certificate is issued only on the standard ACORD form; 2) that the

DEIGHTON ASSOCIATES LTD

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**NOTICE**

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**COVERAGE FOR THIS EMPLOYER HAS BEEN PLACED THROUGH THE ASSIGNED RISK PLAN. AS THE PLAN IS THE MARKET OF LAST RESORT, COVERAGE SHOULD CONTINUE TO BE SOUGHT THROUGH THE STANDARD/VOLUNTARY MARKET. PLEASE NOTE THAT PREMIUMS IN THE ASSIGNED RISK PLAN MAY BE HIGHER THAN THE STANDARD/VOLUNTARY MARKET.**

**If a policy issued by an insurance carrier, pursuant to an assignment under the Workers Compensation Insurance Plan, is canceled due to the employer's failure to comply with terms or conditions of the policy, such employer may be ineligible for further coverage under the Plan.**

**certificate is issued only for operations in the states listed in 3.A. of the Information Page; 3) that the policy terms are unchanged; 4) that the certificate holder is not extended any greater rights than those extended to the insured; and 5) that the assigned carrier is provided with a copy of each certificate.**

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**NOTICE**

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**LIMITED OTHER STATES INSURANCE NOTICE  
WHERE APPLICABLE BY STATE****Please Read Carefully**

**Under NCCI's WCIP, the Residual Market Limited Other States Insurance Endorsement is attached to all residual market policies. This endorsement is designed solely for unknown and unanticipated exposure in states other than those designated in Part 3.A. of the Information Page and not otherwise specifically excluded. This endorsement DOES NOT provide automatic coverage for an employer's operations in another state, and DOES NOT promise to add coverage in another state.**

**If you hire any employees outside those states listed in Item 3.A on the Information Page or begin operations in any such state, you should do whatever may be required under that state's law, as this endorsement does not satisfy the requirements of that state's workers compensation law.**

**Coverage is available under the Plan only when state law permits coverage and where NCCI is the Plan Administrator. The employer and/or its representative must review the applicable state law and discuss with their insurance carrier to determine whether coverage is required and/or may be provided.**

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**APPLICATION NOTES:**

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**Producer/Employers: Please be advised that Assigned Risk Carriers are required to conduct interim audits, loss prevention surveys and final audits on Assigned Risk policies. Therefore, Failure to comply with an Assigned Risk Carrier request may result in cancellation of this policy in accordance with the applicable state laws.**

**Coverage is being bound subject to your signed statement on the application acknowledging and agreeing to the terms of the Loss Sensitive Rating Plan (LSRP). In the event that you meet the eligibility requirements of the LSRP, a LSRP contingent deposit premium equal to 20% of standard premium will be required.**

**Application was processed by producer using the NCCI RMAPS(R) Online Application Service.**

**PRODUCER / EMPLOYER / CARRIER: Premium was calculated using the rates and programs effective on the Effective Date of 11/20/2019.**

**CARRIER: Coverage has been requested for the following states: NH.**

**PRODUCER / EMPLOYER: New Hampshire Labor Department Rules require that the Assigned Carrier file the exclusion forms for Corporate Officers or Members that have elected to be excluded from coverage in New Hampshire. Please provide the Name, Title and Date of Birth for each of the excluded Officers or Members listed in the Include/Exclude section of the Accord 130 to the assigned carrier.**

**Increased Limits of Liability have been requested.**

**Corporate Officers have elected to be excluded from coverage.**

DEIGHTON ASSOCIATES LTD

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NOTICE

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**COVERAGE FOR THIS EMPLOYER HAS BEEN PLACED THROUGH THE ASSIGNED RISK PLAN. AS THE PLAN IS THE MARKET OF LAST RESORT, COVERAGE SHOULD CONTINUE TO BE SOUGHT THROUGH THE STANDARD/VOLUNTARY MARKET. PLEASE NOTE THAT PREMIUMS IN THE ASSIGNED RISK PLAN MAY BE HIGHER THAN THE STANDARD/VOLUNTARY MARKET.**

**If a policy issued by an insurance carrier, pursuant to an assignment under the Workers Compensation Insurance Plan, is canceled due to the employer's failure to comply with terms or conditions of the policy, such employer may be ineligible for further coverage under the Plan.**

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Officer/LLC Member exclusions are pending.

Prior history found, insufficient premium size, this risk is not currently experience rated.

Please provide the duties of the owners to the assigned carrier.

The premium reflected on the Premium Calculation Worksheet is the Total Estimated Annual Premium. The Assigned Carrier may apply additional state surcharges, taxes, assessments, or programs as required by the state.



# WORKERS COMPENSATION APPLICATION

DATE (MM/DD/YYYY)

11/20/2019

AGENCY NAME AND ADDRESS HUB INTERNATIONAL OF NEW ENGLAND LLC 600 LONGWATER DRIVE RWELL, MA 02061-1012		COMPANY:	
PRODUCER NAME: JOHN J. FEITELBERG		UNDERWRITER:	
CS REPRESENTATIVE NAME:		APPLICANT NAME: DEIGHTON ASSOCIATES LTD	
OFFICE PHONE (781) 792-3298 (A/C. No. Extl):		OFFICE PHONE: (905) 665-6605	MOBILE PHONE:
MOBILE PHONE:		MAILING ADDRESS (Including Zip + 4) WHITBY ON 223 BROCK ST N WHITBY, CN L1N- 4H6 ON	
FAX (A/C.NO): (866) 495-3396		YRS IN BUS: 33	
EMAIL ADDRESS: KATHLEEN.TAUSEVICH@HUBINTERNATIONAL.COM		SIC:	
CODE:		NAICS:	
SUB CODE:		Website Address:	
AGENCY CUSTOMER ID:		E-MAIL ADDRESS	
SOLE PROPRIETOR		CORPORATION	LLC
PARTNERSHIP		SUBCHAPTER "S" CORP	JOINT VENTURE
			TRUST
			UNINCORPORATED ASSOCIATION
			OTHER
			X
CREDIT BUREAU NAME:		ID NUMBER:	
FEDERAL EMPLOYER ID NUMBER		NCCI RISK ID NUMBER:	OTHER RATING BUREAU ID EMPLOYER REGISTRATION NUMBER OR STATE
98-0182727			

**STATUS OF SUBMISSION****BILLING / AUDIT INFORMATION**

<input type="checkbox"/> QUOTE	<input type="checkbox"/> ISSUE POLICY	BILLING PLAN	PAYMENT PLAN	AUDIT
<input type="checkbox"/> BOUND (Give date and/or attach copy)		<input type="checkbox"/> AGENCY BILL	<input type="checkbox"/> ANNUAL <input type="checkbox"/> OTHER:	<input type="checkbox"/> AT EXPIRATION <input type="checkbox"/> MONTHLY
<input checked="" type="checkbox"/> ASSIGNED RISK (Attach ACORD 133)		<input type="checkbox"/> DIRECT BILL	<input type="checkbox"/> SEMI-ANNUAL	<input type="checkbox"/> SEMI-ANNUAL <input type="checkbox"/>
			<input type="checkbox"/> QUARTERLY % DOWN:	<input type="checkbox"/> QUARTERLY

**LOCATIONS**

LOC #	Highest Floor	STREET, CITY, COUNTY, STATE, ZIP CODE
1		7 HAZEN DRIVE CONCORD, NH 03302

**POLICY INFORMATION**

PROPOSED EFF DATE 11/20/2019	PROPOSED EXP DATE 11/20/2020	RATING EFFECTIVE DATE (if applicable)	ANNIVERSARY RATING DATE (if applicable)	PARTICIPATING NON-PARTICIPATING	RETRO PLAN
PART 1 - WORKERS COMPENGATION (States) NH	PART 2 - EMPLOYER'S LIABILITY \$ 500,000 EACH ACCIDENT \$ 500,000 DISEASE-POLICY LIMIT \$ 500,000 DISEASE-EACH EMPLOYEE	PART 3 - OTHER STATES INS	DEDUCTIBLES (N / A in WI) MEDICAL INDEMNITY	AMOUNT / % (N / A in WI)	OTHER COVERAGES U.S.L. & H. MANAGED CARE VOLUNTARY COMP FOREIGN COV
DIVIDEND PLAN/SAFETY GROUP		ADDITIONAL COMPANY INFORMATION			
SPECIFY ADDITIONAL COVERAGES / ENDORSEMENTS (Attach ACORD 101, Additional Remarks Schedule, if more space is required)					

**TOTAL ESTIMATED ANNUAL PREMIUM - ALL STATES**

TOTAL ESTIMATED ANNUAL PREMIUM ALL STATES \$276.00	TOTAL MINIMUM PREMIUM ALL STATES \$0.00	TOTAL DEPOSIT PREMIUM ALL STATES \$276.00
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**CONTACT INFORMATION**

TYPE	NAME	OFFICE PHONE	MOBILE PHONE	E-MAIL
INSPECTION	GARY RUCK	(905) 665-6605		GARY.RUCK@DEIGHTON.COM
ACTING RECORD	GARY RUCK	(905) 665-6605		GARY.RUCK@DEIGHTON.COM
CLAIMS INFO	GARY RUCK	(905) 665-6605		GARY.RUCK@DEIGHTON.COM

**INDIVIDUALS INCLUDED / EXCLUDED**

PARTNERS, OFFICERS, RELATIVES ( Must be employed by business operations) TO BE INCLUDED OR EXCLUDED (Remuneration/Payroll to be included must be part of rating information section.)  
Exclusions in Missouri must meet the requirements of Section 287.090 RSMo.

STATE	LOC #	NAME	DATE OF BIRTH	TITLE/ RELATIONSHIP	OWNER-SHIP %	DUTIES	INC/EXC	CLASS CODE	REMUNERATION/ PAYROLL
NH		DEIGHTON, VICKI	07/31/1960	CEO	74	CEO	E	8803	0
		PIANE, ROBERT	09/01/1960	PRES	26	PRESIDENT	E	8803	0



**PRIOR CARRIER INFORMATION / LOSS HISTORY**

PROVIDE INFORMATION FOR THE PAST 5 YEARS AND USE THE REMARKS SECTION FOR LOSS DETAILS						LOSS RUN ATTACHED	
YEAR	CARRIER & POLICY NUMBER	ANNUAL PREMIUM	MOD	# CLAIMS	AMOUNT PAID	RESERVE	
	CO: POL #:						
	CO: POL #:						
	CO: POL #:						
	CO: POL #:						
	CO: POL #:						

**NATURE OF BUSINESS / DESCRIPTION OF OPERATIONS**

GIVE COMMENTS AND DESCRIPTIONS OF BUSINESS, OPERATIONS AND PRODUCTS: MANUFACTURING - RAW MATERIALS, PROCESSES, PRODUCT, EQUIPMENT; CONTRACTOR - TYPE OF WORK, SUB-CONTRACTS; MERCANTILE - MERCHANDISE, CUSTOMERS, DELIVERIES; SERVICE - TYPE, LOCATION; FARM - ACREAGE, ANIMALS, MACHINERY, SUB-CONTRACTS.

Deighton Associates is a software development, software implementation and user support company

**GENERAL INFORMATION**

EXPLAIN ALL "YES" RESPONSES	Y / N
1. IS APPLICANT OWN, OPERATE OR LEASE AIRCRAFT / WATERCRAFT?	N
2. DO / HAVE PAST, PRESENT OR DISCONTINUED OPERATIONS INVOLVE(D) STORING, TREATING, DISCHARGING, APPLYING, DISPOSING, OR TRANSPORTING OF HAZARDOUS MATERIAL? (e.g. landfills, wastes, fuel tanks, etc)	N
3. ANY WORK PERFORMED UNDERGROUND OR ABOVE 15 FEET?	N
4. ANY WORK PERFORMED ON BARGES, VESSELS, DOCKS, BRIDGE OVER WATER?	N
5. IS APPLICANT ENGAGED IN ANY OTHER TYPE OF BUSINESS?	N
6. ARE SUB-CONTRACTORS USED? (If "YES", give % of work subcontracted)	N
7. ANY WORK SUBLET WITHOUT CERTIFICATES OF INSURANCE? (If "YES", payroll for this work must be included in the State Rating Worksheet on Page 2)	N
8. IS A WRITTEN SAFETY PROGRAM IN OPERATION?	N
9. ANY GROUP TRANSPORTATION PROVIDED?	N
10. ANY EMPLOYEES UNDER 16 OR OVER 60 YEARS OF AGE?	N
11. ANY SEASONAL EMPLOYEES?	N
12. IS THERE ANY VOLUNTEER OR DONATED LABOR? (If "YES", please specify)	N
13. ANY EMPLOYEES WITH PHYSICAL HANDICAPS?	N
14. DO EMPLOYEES TRAVEL OUT OF STATE? (If "YES", indicate state(s) of travel and frequency)	N
15. ARE ATHLETIC TEAMS SPONSORED?	N
16. ARE PHYSICALS REQUIRED AFTER OFFERS OF EMPLOYMENT ARE MADE?	N



**GENERAL INFORMATION (continued)**

EXPLAIN ALL "YES" RESPONSES	Y / N
17. ANY OTHER INSURANCE WITH THIS INSURER?	N
18. ANY PRIOR COVERAGE DECLINED / CANCELLED / NON-RENEWED IN THE LAST THREE (3) YEARS? (Missouri Applicants – Do not answer this question)	N
19. ARE EMPLOYEE HEALTH PLANS PROVIDED?	N
20. DO ANY EMPLOYEES PERFORM WORK FOR OTHER BUSINESSES OR SUBSIDIARIES?	N
21. DO YOU LEASE EMPLOYEES TO OR FROM OTHER EMPLOYERS?	N
22. DO ANY EMPLOYEES PREDOMINANTLY WORK AT HOME? If "YES", # of Employees: _____	N
23. ANY TAX LIENS OR BANKRUPTCY WITHIN THE LAST FIVE (5) YEARS? (If "YES", please specify)	N
24. ANY UNDISPUTED AND UNPAID WORKERS COMPENSATION PREMIUM DUE FROM YOU OR ANY COMMONLY MANAGED OR OWNED ENTERPRISES? (If "YES", explain including entity name(s) and policy number(s))	N

**SIGNATURE**

Copy of the Notice of Information Practices (Privacy) has been given to the applicant. (Not required in all states, contact your agent or broker for your state's requirements.)			
<p>PERSONAL INFORMATION ABOUT YOU, INCLUDING INFORMATION FROM A CREDIT OR OTHER INVESTIGATIVE REPORT, MAY BE COLLECTED FROM PERSONS OTHER THAN YOU IN CONNECTION WITH THIS APPLICATION FOR INSURANCE AND SUBSEQUENT AMENDMENTS AND RENEWALS. SUCH INFORMATION AS WELL AS OTHER PERSONAL AND PRIVILEGED INFORMATION COLLECTED BY US OR OUR AGENTS MAY IN CERTAIN CIRCUMSTANCES BE DISCLOSED TO THIRD PARTIES WITHOUT YOUR AUTHORIZATION. CREDIT SCORING INFORMATION MAY BE USED TO HELP DETERMINE EITHER YOUR ELIGIBILITY FOR INSURANCE OR THE PREMIUM YOU WILL BE CHARGED. WE MAY USE A THIRD PARTY IN CONNECTION WITH THE DEVELOPMENT OF YOUR SCORE. YOU MAY HAVE THE RIGHT TO REVIEW YOUR PERSONAL INFORMATION IN OUR FILES AND REQUEST CORRECTION OF ANY INACCURACIES. YOU MAY ALSO HAVE THE RIGHT TO REQUEST IN WRITING THAT WE CONSIDER EXTRAORDINARY LIFE CIRCUMSTANCES IN CONNECTION WITH THE DEVELOPMENT OF YOUR CREDIT SCORE. THESE RIGHTS MAY BE LIMITED IN SOME STATES. PLEASE CONTACT YOUR AGENT OR BROKER TO LEARN HOW THESE RIGHTS MAY APPLY IN YOUR STATE OR FOR INSTRUCTIONS ON HOW TO SUBMIT A REQUEST TO US FOR A MORE DETAILED DESCRIPTION OF YOUR RIGHTS AND OUR PRACTICES REGARDING PERSONAL INFORMATION. (Not applicable in AZ, CA, DE, KS, MA, MN, ND, NY, OR, VA, or WV. Specific ACORD 38s are available for applicants in these states.) (Applicant's Initials): _____</p>			
<p><b>Applicable in AL, AR, DC, LA, MD, NM, RI and WV:</b> Any person who knowingly (or willfully)* presents a false or fraudulent claim for payment of a loss or benefit or knowingly (or willfully)* presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison. *Applies in MD Only.</p>			
<p><b>Applicable in CO:</b> It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.</p>			
<p><b>Applicable in FL and OK:</b> Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony (of the third degree)*. *Applies in FL Only.</p>			
<p><b>Applicable in KS:</b> Any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act.</p>			
<p><b>Applicable in KY, NY, OH and PA:</b> Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties (not to exceed five thousand dollars and the stated value of the claim for each such violation)*. *Applies in NY Only.</p>			
<p><b>Applicable in ME, TN, VA and WA:</b> It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties (may)* include imprisonment, fines and denial of insurance benefits. *Applies in ME Only.</p>			
<p><b>Applicable in NJ:</b> Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.</p>			
<p><b>Applicable in OR:</b> Any person who knowingly and with intent to defraud or solicit another to defraud the insurer by submitting an application containing a false statement as to any material fact may be violating state law.</p>			
<p><b>Applicable in PR:</b> Any person who knowingly and with the intention of defrauding presents false information in an insurance application, or presents, helps, or causes the presentation of a fraudulent claim for the payment of a loss or any other benefit, or presents more than one claim for the same damage or loss, shall incur a felony and, upon conviction, shall be sanctioned for each violation by a fine of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000), or a fixed term of imprisonment for three (3) years, or both penalties. Should aggravating circumstances [be] present, the penalty thus established may be increased to a maximum of five (5) years, if extenuating circumstances are present, it may be reduced to a minimum of two (2) years.</p>			
<p><b>Applicable in UT:</b> Any person who knowingly presents false or fraudulent underwriting information, files or causes to be filed a false or fraudulent claim for disability compensation or medical benefits, or submits a false or fraudulent report or billing for health care fees or other professional services is guilty of a crime and may be subject to fines and confinement in state prison.</p>			
<p>UNDERSIGNED IS AN AUTHORIZED REPRESENTATIVE OF THE APPLICANT AND REPRESENTS THAT REASONABLE INQUIRY HAS BEEN MADE TO OBTAIN THE ANSWERS TO QUESTIONS ON THIS APPLICATION. HE/SHE REPRESENTS THAT THE ANSWERS ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF HIS/HER KNOWLEDGE.</p>			
APPLICANT'S SIGNATURE (Must be Officer, Owner or Partner)	DATE	PRODUCER'S SIGNATURE	NATIONAL PRODUCER NUMBER



# WORKERS COMPENSATION INSURANCE PLAN ASSIGNED RISK SECTION

DATE (MM/DD/YYYY)  
11/20/2019

THIS FORM ALONG WITH AN ACORD 130 WORKERS COMPENSATION APPLICATION CONSTITUTE AN APPLICATION FOR WORKERS' COMPENSATION INSURANCE PLAN (ASSIGNED RISK) COVERAGE. THIS FORM MUST BE ATTACHED TO AN ACORD 130 FOR SUBMISSION. PLEASE REFER TO THE STATE SPECIFIC INSTRUCTIONS PAGE FOR SPECIFIC REQUIREMENTS.

APPLICANT NAME  
DEIGHTON ASSOCIATES LTD

PROPOSED EFF DATE  
11/20/2019

**SUPPLEMENTAL INFORMATION**

PAYROLL OFFICE NAME, ADDRESS AND TELEPHONE NUMBER (A PO BOX ADDRESS ALONE IS NOT ACCEPTABLE. PLEASE PROVIDE DRIVING INSTRUCTIONS IF A ROUTE ADDRESS IS SHOWN.)

DEIGHTON ASSOCIATES LTD  
7 HAZEN DRIVE  
CONCORD, NH 03302

STATE DEVELOPING HIGHEST PAYROLL: NH

EXPLAIN ALL "YES" RESPONSES IN THE REMARKS SECTION	YES	NO																								
1. HAS THERE BEEN PREVIOUS WORKERS COMPENSATION COVERAGE: IN THIS STATE? <input type="checkbox"/> <input type="checkbox"/> N IN ANY OTHER STATE? <input type="checkbox"/> <input type="checkbox"/> N -IF NO TO BOTH QUESTIONS, WAS THIS DUE TO: <input checked="" type="checkbox"/> NEW BUSINESS <input type="checkbox"/> SELF INSURED-INDEP <input type="checkbox"/> SELF INSURED-GROUP <input type="checkbox"/> # EMPLOYEES																										
2. IS THERE ANY UNPAID WORKERS COMPENSATION PREMIUM DUE OR IN DISPUTE FROM YOU OR ANY COMMONLY MANAGED OR OWNED ENTERPRISES? IF YES, EXPLAIN INCLUDING ENTITY NAME(S) AND POLICY NUMBER(S).	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
3. YEAR APPLICANT'S BUSINESS BEGAN: 1986																										
4. HAS THERE BEEN A NAME CHANGE, CONSOLIDATION, MERGER ACQUISITION, SALE, PURCHASE OR TRANSFER OF ASSETS OR OWNERSHIP CHANGE DURING THE PAST FIVE (5) YEARS? IF YES, PROVIDE A COMPLETED ERM-14 FORM.	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
5. IS APPLICANT RELATED THROUGH COMMON MANAGEMENT OR OWNERSHIP TO ANY ENTITY NOT LISTED ON THE ACORD 130 FORM, WHETHER COVERAGE IS REQUIRED OR NOT? IF YES, PROVIDE A COMPLETED ERM-14 FORM.	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
6. DO YOU LEASE WORKERS FROM A PROFESSIONAL EMPLOYER ORGANIZATION (PEO)? IF YES, REFER TO WCIP INSTRUCTIONS. NAME OF PROFESSIONAL EMPLOYER ORGANIZATION (PEO): _____	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
7. DO YOU LEASE WORKERS TO A CLIENT COMPANY? IF YES, REFER TO WCIP INSTRUCTIONS.	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
8. ARE YOU SEEKING TO COVER THE LEASED WORKERS? IF YES, REFER TO WCIP INSTRUCTIONS.	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
9. DO YOU PROVIDE TEMPORARY ARRANGEMENT SERVICES TO OTHER EMPLOYERS? IF YES, PROVIDE A TEMPORARY LABOR CONTRACTOR EMPLOYEE FORM.	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
10. DO YOU HAVE A FRANCHISE OR LICENSING AGREEMENT? IF YES, PROVIDE A COPY OF THE AGREEMENT.	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
11. IS COVERAGE REQUESTED FOR A SPORTS TEAM? IF YES, PROVIDE NAME OF SPORTS TEAM AND DOMICILED STATE. NAME OF SPORTS TEAM: _____ DOMICILED STATE: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
12. DO TRUCKING CLASSIFICATIONS APPLY? IF YES, COMPLETE QUESTIONS 13 - 20.	<input type="checkbox"/>	<input checked="" type="checkbox"/> N																								
13. DO YOU OR YOUR EMPLOYEES REGULARLY OPERATE FROM A BASE TERMINAL(S) WHICH IS (ARE) USED TO LOAD, UNLOAD, STORE OR TRANSFER FREIGHT? IF YES, PLEASE PROVIDE A LIST OF TERMINAL ADDRESSES:	<input type="checkbox"/>	<input type="checkbox"/>																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>#</th> <th>STREET</th> <th>CITY</th> <th>COUNTY</th> <th>ST</th> <th>ZIP CODE</th> </tr> </thead> <tbody> <tr><td>1</td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>2</td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>	#	STREET	CITY	COUNTY	ST	ZIP CODE	1						2						3							
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1																										
2																										
3																										
14. CAN EACH DRIVER'S STATE OF MAJORITY DRIVING TIME BE ESTABLISHED THROUGH VERIFIABLE RECORDS OR LOGS?	<input type="checkbox"/>	<input type="checkbox"/>																								
15. PLEASE PROVIDE A LIST OF ALL DRIVERS/HELPERS AND THEIR STATE OF RESIDENCE:																										
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>DRIVER NAME</th> <th>TERMINAL # (SEE ABOVE)</th> <th>MAJORITY DRIVING STATE</th> <th>RESIDENCE STATE</th> </tr> </thead> <tbody> <tr><td>1</td><td></td><td></td><td></td><td></td></tr> <tr><td>2</td><td></td><td></td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td><td></td><td></td></tr> </tbody> </table>		DRIVER NAME	TERMINAL # (SEE ABOVE)	MAJORITY DRIVING STATE	RESIDENCE STATE	1					2					3										
	DRIVER NAME	TERMINAL # (SEE ABOVE)	MAJORITY DRIVING STATE	RESIDENCE STATE																						
1																										
2																										
3																										
16. WHAT TYPE(S) OF GOODS ARE BEING HAULED? (e.g., coal, dry goods, explosives, scaffolding, water / waste fluids from oil field sites, etc.)																										
17. DO YOU OWN THESE GOODS?	<input type="checkbox"/>	<input type="checkbox"/>																								
18. IS APPLICANT UNDER EXCLUSIVE CONTRACT WITH ANY RETAIL STORE(S)? IF YES, PROVIDE COPY OF CONTRACT(S).	<input type="checkbox"/>	<input type="checkbox"/>																								
19. IS APPLICANT UNDER EXCLUSIVE CONTRACT WITH ANY POSTAL SERVICE? IF YES, PROVIDE COPY OF CONTRACT(S).	<input type="checkbox"/>	<input type="checkbox"/>																								
20. WITHIN WHAT MILE RADIUS IS HAULING DONE? # MILES: _____																										

INSURANCE COMPANIES WHO HAVE OFFERED/REFUSED INSURANCE				YES	NO
21. HAVE YOU RECEIVED ANY OFFERS OF VOLUNTARY COVERAGE? (INCLUDE MULTI-LINE OR RETROSPECTIVE RATING PLAN, IF APPLICABLE) IF YES, PROVIDE FULL DETAILS INCLUDING PLAN TERMS IN THE REMARKS SECTION.				<input type="checkbox"/>	<input checked="" type="checkbox"/>
INDICATE THE NUMBER OF INSURANCE COMPANIES WHICH HAVE REFUSED THE APPLICANT COVERAGE IN THE LAST 60 DAYS (OR IN ACCORDANCE WITH STATE SPECIFIC GUIDELINES): <span style="border: 1px solid black; padding: 2px;">2</span>					
LIST COMPANY NAMES, REPRESENTATIVE NAMES, TELEPHONE NUMBERS AND DATES OF REFUSALS. REFER TO WCIP TO VERIFY REQUIREMENTS.					
COMPANY NAME	REPRESENTATIVE NAME	TELEPHONE NUMBER	DATE OF REFUSAL	COMMENTS	
<b>PREMIUM PAYMENT (Refer to WCIP instruction sheet for state requirements)</b>				YES	NO
23. IS THE PREMIUM FINANCED THROUGH A THIRD PARTY PREMIUM FINANCE COMPANY? IF YES, A COPY OF THE AGREEMENT MUST BE PROVIDED.				<input type="checkbox"/>	<input checked="" type="checkbox"/>
24. IN APPLICABLE JURISDICTIONS ON QUALIFYING RISKS, IS THE LOSS SENSITIVE RATING PROGRAM (LSRP) CONTINGENCY DEPOSIT BEING PAID IN FULL AT THIS TIME?				<input type="checkbox"/>	<input checked="" type="checkbox"/>
25. INITIAL OR ESTIMATED ANNUAL DEPOSIT PREMIUM IS REQUIRED IN ORDER TO BIND COVERAGE. THE FOLLOWING PAYMENT METHODS MAY BE USED TO SUBMIT THE REQUIRED INITIAL OR DEPOSIT PREMIUM:					
<ol style="list-style-type: none"> <li>1. Credit Card (for applications submitted ONLINE at ncci.com ONLY)</li> <li>2. Electronic funds transfer (EFT) in the form of an Automated Clearing House (ACH) transaction</li> </ol> <p><b>Note:</b> For 1 &amp; 2 above, refer to instructions provided within NCCI's <i>RMAPS® Online Application Service</i> payment screens. All payments by credit card and electronic funds transfer must accompany completed and signed ACORD 130 and 133 forms.</p> <ol style="list-style-type: none"> <li>3. Check or Money Order (for MAILED applications ONLY) <ol style="list-style-type: none"> <li>1. ONLY the following types of payment, made payable to NCCI, Inc., are acceptable: <ol style="list-style-type: none"> <li>a. Checks: Applicant's, Cashier's, Producer's, Finance Company(s)</li> <li>b. Money Order</li> </ol> </li> <li>2. All checks and money orders MUST be made payable to NCCI, Inc., and accompany completed and signed ACORD 130 and 133 forms.</li> </ol> </li> </ol>					
NO CREDIT CARD OR BANKING INFORMATION SHOULD BE ENTERED ON THE HARDCOPY ACORD 130 or 133 FORMS. A DELAY IN PROCESSING YOUR APPLICATION MAY OCCUR SHOULD THIS INFORMATION BE INCLUDED ON THE SUBMITTED FORMS.					
Submitting this assigned risk workers compensation insurance application, the Applicant authorizes NCCI to debit the account name/number that the undersigned Applicant, or the undersigned Producer on Applicant's behalf, has designated and provided to NCCI, for the amount of this transaction. The Applicant further understands and agrees that all premium transactions and/or premium-related transactions must be processed and accepted by NCCI and the account name/number that the undersigned Applicant, or the undersigned Producer on Applicant's behalf, has designated and provided to NCCI, to be considered received by the Plan Administrator.					

### APPLICANT'S STATEMENT

The undersigned Applicant hereby certifies that he/she has read and understands the questions and statements in this application, which is comprised of both the ACORD 130 and ACORD 133 forms. In consideration of coverage being afforded under the applicable Workers Compensation Insurance Plan developed or administered by NCCI (WCIP or Plan), by signing below, the Applicant also certifies that any and/or all responses provided in or to this application, which is comprised of both the ACORD 130 and ACORD 133 forms, are true and accurate and Applicant further understands and agrees that:

- Since he/she has been unable to secure workers compensation coverage in a regular manner through any other insurance carrier or provider, this coverage is being afforded under the applicable WCIP, and that the applicable rates and rating programs charged may be higher than those in the voluntary market.
- Coverage is NOT bound until the completed and signed application is received with the required initial or estimated annual deposit premium and eligibility is determined by the Plan Administrator.
- Provided that Applicant is determined to be eligible and in good faith entitled to WCIP insurance, based upon the information provided herein or otherwise available to the Plan Administrator, coverage will be bound in accordance with WCIP rules. See the WCIP for applicable binding rules.
- In approved jurisdictions, NCCI's Voluntary Coverage Assistance Program (*VCAP® Service*) applies to all employers seeking coverage under the Workers Compensation Insurance Plan, and:
  - Is integrated with and operates as a supplemental program to NCCI's WCIP; and
  - Operates in conjunction with NCCI's Residual Market Application Processing System (*RMAPS® Online Application Service*); and
  - Is designed as a depopulation tool to provide an additional source for producers and employers to secure workers compensation coverage in the voluntary market; and
  - All applications (electronic, phone-in, or mail-in) submitted to the Plan Administrator are reviewed to determine if they meet any of the preselected criteria specified by a participating voluntary carrier; and
  - If the Applicant meets the criteria of an authorized voluntary carrier (*VCAP® User*) and an offer of voluntary coverage is provided, the Applicant, its representative, and/or the producer, must accept a reasonable offer of voluntary coverage in accordance with the WCIP and *VCAP® Service* provisions, and further Applicant will be deemed ineligible for coverage under the WCIP if Applicant does not accept such reasonable offer of voluntary coverage; and
  - If an application does not meet any *VCAP® User's* criteria, the application will continue through NCCI's *RMAPS® Online Application Service*.

If deemed eligible under the WCIP and as further consideration of policy issuance under the WCIP, by signing below, the undersigned Applicant also agrees:

- To maintain a complete record of all payroll transactions in such form as the insurance company may reasonably require and that such record will be available to the company at the designated address; and
- To comply substantially with all laws, orders, rules, and regulations in force and effect issued by the public authorities relating to the welfare, health, and safety of employees; and
- To comply with all reasonable recommendations made by the insurance company relating to the welfare, health, and safety of employees; and
- To take no action in any form to evade the application of an experience rating modification determined in accordance with the applicable experience rating rules, as determined by NCCI, Inc.; and
- To comply with all WCIP rules and procedures and policy terms and conditions, including without limitation, those relating to audits, inspections, loss prevention, and/or premium payments, to maintain WCIP eligibility and coverage.

**APPLICANT'S STATEMENT (Continued)**

**OUTSTANDING BONA FIDE DISPUTE**

The undersigned Applicant also certifies that he/she has no outstanding bona fide dispute as provided in NCCI's WCIP with any producer or company in regard to: (a) payroll records; (b) the amount of premium charged; (c) the payment of premium; (d) the carrying out of any recommendation made for the purpose of safeguarding employees; (e) the handling of any claim or accident report except the following:

**LOSS SENSITIVE RATING PLAN (LSRP)**

In applicable jurisdictions where the NCCI's Loss Sensitive Rating Plan (LSRP) has been approved for use, the undersigned applicant further understands and agrees that by signing below, I (applicant) acknowledge that the Loss Sensitive Rating Plan (LSRP) has been explained to me, and I agree to be bound by the terms of such plan if my standard premium meets or exceeds the premium eligibility requirement. If these conditions are met, an additional LSRP contingency deposit equal to 20% of standard premium will be required; and

- At the time of application, LSRP has been explained to applicant by the Producer submitting this application on behalf of the applicant; and
- The above referenced additional LSRP contingency deposit is in addition to the initial or deposit premium required in accordance with the WCIP.

**RESIDUAL MARKET EXPIRATION LIST (APPLICABLE IN TENNESSEE ONLY)**

As provided in T.C.A. 56-5-114(7), a list of employers insured under the Tennessee assigned risk plan is maintained by the Plan Administrator, and made available to interested persons upon request. As part of the application for insurance coverage, the Applicant/employer shall elect whether to be excluded from this list.

THE APPLICANT/INSURED ELECTS TO BE EXCLUDED FROM THE LIST OF EMPLOYERS IN THE TENNESSEE ASSIGNED RISK PLAN:  YES  NO

**IMPORTANT NOTE:** If on this application the Applicant/employer does not elect to be excluded from the referenced list and the related section for a "Yes" or "No" response is left blank on this application, the Applicant/employer will be deemed to be included in the list of employers insured under the Tennessee assigned risk plan.

**APPLICANT COMMUNICATIONS**

1. By selecting the "Yes" option adjacent to this #1 section, the undersigned Applicant consents and agrees to receive electronically transmitted information and/or communications issued by NCCI by means of electronic mail (email) messages that may contain electronic documents, including without limitation, any binder/verification pages issued by NCCI, and any notifications or other communications as determined by NCCI, to the email address provided by Applicant, or provided by the Producer on Applicant's behalf, to NCCI.  YES  NO
2. If "Yes" to #1 above, provide the valid email address to which the information, notifications and/or communications issued by NCCI should be electronically sent:

By selecting the "Yes" option adjacent to this #3 section, the undersigned Applicant consents and agrees to receive electronically transmitted policy notifications and/or communications issued by the assigned carrier by means of electronic mail (email) messages that may contain electronic documents, including without limitation, any policy documents, cancellations, endorsements, renewal and/or nonrenewal notices, and any other policy notifications and/or communications as determined by the assigned carrier, but only to the extent that the assigned carrier is able and chooses in its discretion to transmit such policy notifications and/or communications electronically to the Applicant. If the assigned carrier is unable or does not choose to transmit such policy notifications and/or communications electronically, then hard copy policy notifications and/or communications will be provided to the Applicant by the assigned carrier as determined by the assigned carrier, subject to any requirements applicable to the assigned carrier under any applicable laws or regulations. Regardless of the undersigned Applicant's selection under this #3 section to receive electronically transmitted policy notifications and/or communications from the assigned carrier, the assigned carrier must comply with any applicable laws or regulations that require a specific method of delivery for policy notifications, documents, or other information, including without limitation, mailing notices of cancellation and/or nonrenewal of policies by certified mail or certificate of mailing.  YES  NO

4. If "Yes" to #3 above, provide the valid email address to which policy notifications and/or communications issued by the assigned carrier should be electronically sent:

The undersigned Applicant understands and agrees that by selecting the "Yes" option for #1 and/or #3 above, NCCI and the assigned carrier are authorized, but neither NCCI nor the assigned carrier separately is required or obligated, to electronically transmit any notifications and/or communications referenced in #1 and/or #3 above to the designated email address provided by or on behalf of the Applicant in #2 and/or #4 above, as applicable. By consenting and agreeing to receive such electronically transmitted notifications and/or communications from NCCI and/or the assigned carrier, the undersigned Applicant releases, indemnifies, and holds harmless NCCI and the assigned carrier from any and all claims pertaining to electronically transmitted notifications and/or communications utilizing the Applicant's designated email address as provided to NCCI and/or the assigned carrier by or on behalf of the Applicant in #2 and/or #4 above, as applicable, and including, without limitation, any changes and/or updates to the undersigned Applicant's email address.

The undersigned Applicant further understands and agrees that he/she shall notify NCCI and the assigned carrier of any and all changes and/or updates to Applicant's email, mailing, and/or physical addresses, immediately upon making, implementing, or having knowledge of any such changes and/or updates.

**NON-COMPLIANCE WITH AGREEMENTS OR CERTIFICATIONS**

The undersigned Applicant further understands and agrees that violation of or non-compliance with any of the above agreements or certifications may result in cancellation of a policy of insurance issued under a Workers Compensation Insurance Plan and/or ineligibility for coverage under a Workers Compensation Insurance Plan.

/ APPLICANT'S NAME (PRINT OR TYPE) DEIGHTON ASSOCIATES LTD	
SIGNATURE (MUST BE OFFICER, OWNER OR PARTNER)	DATE (MM/DD/YYYY)

**REMEMBER: BOTH THE ACORD 130 AND 133 APPLICATIONS MUST BE SIGNED BY THE APPLICANT AND DESIGNATED PRODUCER**

**PRODUCER COMMUNICATIONS**

1. By selecting the "Yes" option adjacent to this #1 section, the undersigned Producer consents and agrees to receive electronically transmitted information and/or communications issued by NCCI by means of electronic mail (email) messages that may contain electronic documents, including without limitation, any binder/verification pages issued by NCCI, and any notifications or other communications as determined by NCCI, to the email address provided by the Producer to NCCI.  Yes  NO
  
2. If "Yes" to #1 above, provide the valid email address to which the information, notifications and/or communications issued by NCCI should be electronically sent:  


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3. By selecting the "Yes" option adjacent to this #3 section, the undersigned Producer consents and agrees to receive electronically transmitted policy notifications and/or communications issued by the assigned carrier by means of electronic mail (email) messages that may contain electronic documents, including without limitation, any policy documents, cancellations, endorsements, renewal and/or nonrenewal notices, and any other policy notifications and/or communications as determined by the assigned carrier, but only to the extent that the assigned carrier is able and chooses in its discretion to transmit such policy notifications and/or communications electronically. If the assigned carrier is unable or does not choose to transmit such policy notifications and/or communications electronically, then hard copy policy notifications and/or communications will be provided to the Producer by the assigned carrier as determined by the assigned carrier, subject to any requirements applicable to the assigned carrier under any applicable laws or regulations. Regardless of the undersigned Producer's selection under this #3 section to receive electronically transmitted policy notifications and/or communications from the assigned carrier, the assigned carrier must comply with any applicable laws or regulations that require a specific method of delivery for policy notifications, documents, or other information, including without limitation, mailing notices of cancellation and/or nonrenewal of policies by certified mail or certificate of mailing.  Yes  NO
  
4. If "Yes" to #3 above, provide the valid email address to which policy notifications and/or communications issued by the assigned carrier should be electronically sent:  


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The undersigned Producer understands and agrees that by selecting the "Yes" option for #1 and/or #3 above, NCCI and the assigned carrier are authorized, but neither NCCI nor the assigned carrier separately is required or obligated, to electronically transmit any notifications and/or communications referenced in #1 and/or #3 above to the designated email address provided by the Producer in #2 and/or #4 above, as applicable. By consenting and agreeing to receive such electronically transmitted notifications and/or communications from NCCI and/or the assigned carrier, the undersigned Producer releases, indemnifies, and holds harmless NCCI and the assigned carrier from any and all claims pertaining to electronically transmitted notifications and/or communications utilizing the Producer's designated email address as provided to NCCI and/or the assigned carrier by the Producer in #2 and/or #4 above, as applicable, and including, without limitation, any changes and/or updates to the undersigned Producer's email address.

The undersigned Producer further understands and agrees that he/she shall notify NCCI and the assigned carrier of any and all changes and/or updates to Producer's email, mailing, and/or physical addresses, immediately upon making, implementing, or having knowledge of any such changes and/or updates.

**PRODUCER'S CERTIFICATION**

PRODUCER ALSO CERTIFIES THAT HE/SHE HAS BEEN AUTHORIZED TO SUBMIT THE APPLICATION ON BEHALF OF THE APPLICANT AND THAT ALL INFORMATION PROVIDED ON THE ACORD 130 AND 133 IS TRUE AND ACCURATE TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF.

AGENCY FEIN 04-2623673		AGENCY LICENSE NUMBER 1780862		AGENCY PHONE NUMBER (A/C, No, Ext) (781) 792-3298		AGENCY FAX NUMBER (A/C, No) (866) 495-3396		
PRODUCER RESIDENT LICENSE NUMBER 1716327			STATE MA	EXPIRATION DATE 01/13/2020	PRODUCER NON-RESIDENT LICENSE NUMBER 0374861		STATE NH	EXPIRATION DATE 01/31/2020
PRODUCER NAME (PRINT OR TYPE) JOHN J. FEITELBERG					PRODUCER SIGNATURE		DATE (MM/DD/YYYY)	
E-MAIL ADDRESS: KATHLEEN.TAUSEVICH@HUBINTERNATIONAL.COM								

**REMEMBER: BOTH THE ACORD 130 AND 133 APPLICATIONS MUST BE SIGNED BY THE APPLICANT AND DESIGNATED PRODUCER**

REMARKS (Attach additional sheets if more space is required)

NCCI APP# 49380470