



State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

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LOBB *[Signature]*

JOHN J. BARTHELMES
COMMISSIONER

September 29, 2015

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

Requested Action

Pursuant to RSA 106-H:6 III, authorize Department of Safety, Division of Emergency Services and Communications (9-1-1) to enter into a contract with INdigital Telecom, 1616 Directors Row, Fort Wayne, IN 46808, in the amount of \$1,767,960.00 to provide telephone and network services for Enhanced and Next Generation 9-1-1. This contract will be effective upon Governor and Council approval through October 7, 2020. Funding source: 100% Agency Income.

Funds are available in SFY 2016 and SFY 2017 operating budget and anticipated to be available in SFYs 2018 through 2021 operating budgets, contingent upon availability and continued appropriations, with the authority to adjust between fiscal years through the Budget Office if needed and justified.

02-23-23-236510-13960000 Dept. of Safety - Emergency Communications - Network
039-500188-23ADM1396 Telecommunications Voice

<u>SFY2016</u>	<u>SFY2017</u>	<u>SFY2018</u>	<u>SFY2019</u>	<u>SFY2020</u>	<u>SFY2021</u>	<u>Total</u>
\$265,194.00	\$353,592.00	\$353,592.00	\$353,592.00	\$353,592.00	\$88,398.00	\$1,767,960.00

Explanation

The services provided under this contract are for the aggregation and delivery of 9-1-1 calls to both New Hampshire 9-1-1 Public Safety Answering Points (PSAP). The Division of Emergency Services and Communications (DESC) issued an RFP for these services and completed an evaluation process with a five member panel. The DESC is contracting with INdigital to establish two geo diverse redundant data centers that will aggregate 9-1-1 call traffic from all telecommunications companies providing service in New Hampshire. Further, the DESC is contracting INdigital to route these calls over redundant circuits to the Concord and Laconia PSAPs. These circuits are not only redundant but also on disparate networks as recommended by Federal Communications Commission (FCC) order 13-158, so that a network-wide outage on one carrier will not affect 9-1-1 call delivery. The contracted network will have the capability of providing a number of routing alternatives to ensure call delivery from the originating telecom providers. Finally, the DESC is contracting with INdigital for a wireless back-up call delivery system. In the unlikely event that a large scale incident disables both PSAPs, INdigital has the ability to deliver 9-1-1 traffic via long-term evolution (LTE) using the message evolution (MEVO) disaster preparedness system.

A Request for Proposals (RFP) was posted on the State's website beginning March 2, 2015. Four vendors responded with proposals, one of which was disqualified due to their failure to meet submission requirements. The three qualifying vendors were evaluated by a five member team comprised of the DESC Information Technology Manager, DESC Data Operations Manager, Commissioner of the PUC, retired Chief Coordinator for Southwest Fire Mutual Aid, and DESC Telecommunication Specialist. During the evaluation, it was discovered that one of the three vendors had submitted a proposal addressing only a portion of the required work scope detailed in the RFP. Of the two remaining vendors, INdigital Telecom was the lowest bidder.

Respectfully submitted,

John J. Barthelmes
Commissioner of Safety

Bid Summary

NG9-1-1 Network Contract Bid 2015-171

Program Name: NG9-1-1 Network Provider

The bidder selected is INdigital Telecom; they were the technical winner as well as the lowest price of a complete solution. The RFP was posted to the public on 3/2/2015. The Division received a total of 4 bids. One bidder not listed below was disqualified for failure to meet the submission requirements and therefor was not scored. As noted below the Windstream bid did meet submission requirements and therefor was scored but their proposal did not provide a complete solution, giving minimal additional information to be evaluated.

Definitions of Scoring Criteria:

Proposed Solution: This category rates the overall fit of the bidder’s solution to what was ask for in the RFP. Bids were evaluated on a variety of topics such as required functionality, disaster recovery, testing, support, and implementation strategies.

Technical Staff: This category rated the bidders technical and project management staff experience and resumes, as well as their quality assurance approach using this staff.

Company: This category evaluated the bidder’s company in areas such as industry experience, completion of similar projects, and third-party references.

Cost: This is a mathematical formula by where the lowest bid receives a total of 40 points.

RFP Score Summary

RFP Criteria	Max Points	InDigital	Fairpoint	Windstream
Proposed Solution	30	22.4	21.5	0.6 *
Technical Staff	15	11.7	9.5	0.3 *
Company	15	12.4	11.1	3.7
Cost	40	8.8 (40)	5.7 (25.8)	40 **
Total Points	100	55.3 (86.5)	47.7 (67.9)	44.6
		() is with the skewed pricing of Windstream removed.		
BUDGET REQUEST:	Per Month cost	\$24,996 (apples to apples comparison no options) \$29,466 (with options chosen)	\$38,698 (calculated for apples to apples comparison – total five yr amount divided by 60 for monthly cost)	\$5,504**

**NOTE: While Windstream met the submission requirements of the RFP, they did not propose a complete solution to the technical requirements of the RFP and provided very little to no background or additional requested company information to be evaluated. As such, their scores in these categories reflect that they only proposed to provide one aspect of the total solution.*

Bid Summary

****NOTE:** Windstream only proposed to provide a portion of the total solution; therefore their cost was significantly below the other bids. In addition their cost included use charges that were not calculated as part of our evaluation as the proposal was not viable, this was to show that while even scored and given the full score for lowest cost this would not be a winning proposal.

Scoring Committee:

Robert Brown, IT Manager for the DESC	Robert has spent over 29 years in public safety & telecommunications. Responsibilities ranging from a military policeman, project management, technical support, radio communications, and network management. He is currently a member of the FCC's Task Force for Optimal PSAP Architecture.
Timothy Scott, Data Operations Manager for the DESC	Timothy has worked in public safety for over 13 years performing software development, technical support, project management and grant management. Timothy has previous experience with several 9-1-1 RFPs and is well versed in NG9-1-1 standards.
Kate Bailey, Commissioner of the PUC	Kate has served many roles for the PUC since 1989 including Director of Telecommunications, Chief Engineer and Telecommunications Engineer. Kate is also a member of the NH 9-1-1 Commission.
Paul Szoc, Chief Coordinator for Southwest Fire Mutual Aid (retired)	Paul Szoc had served as the Chief Coordinator for SWFMA and in Public safety for over 31 years. Paul serves on many industry standards and professional boards including NENA, APCO, NPSTC, Safecom, and IMSA. Paul is also a member of the NH 9-1-1 Commission.
Art Durette, Telecommunications Specialist for the DESC	Art has had several roles in public safety over the last 20 years including Technology Officer and Chief Deputy Sheriff for Hillsborough County Sheriff's Office, as well as Telecommunications Specialist for the DESC. Art has expertise in both wired and wireless networking.

RFP Scoring Detail

InDigital	1							
		Max Pts	A	B	C	D	E	Total
Proposed Solution		30	25	28	22	23	14	22.4
Technical Staff		15	13	13.5	10	13	8.75	11.7
Company		15	14	13	13	14	8	12.4
Cost		40	n/a	n/a	n/a	n/a	n/a	8.8 (40)
Total		100						55.3(86.5)

Bid Summary

Fairpoint	2							
		Max Pts	A	B	C	D	E	Total
Proposed Solution		30	23.6	19.5	23	25.5	16	21.5
Technical Staff		15	12	10.5	8	11	5.75	9.5
Company		15	13	12.5	11	12	7	11.1
Cost		40	n/a	n/a	n/a	n/a	n/a	5.7(25.8)
Total		100						47.7(67.9)

Windstream	3							
		Max Pts	A	B	C	D	E	Total
Proposed Solution		30	0.5	0.5	0	1	1	0.6
Technical Staff		15	0	0	0	1	0.5	0.3
Company		15	3.5	3	4	4	4	3.7
Cost		40	n/a	n/a	n/a	n/a	n/a	40
Total		100						44.6

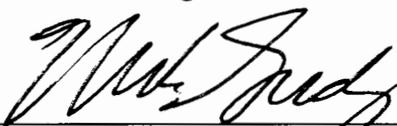
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AGREEMENT

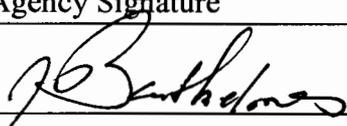
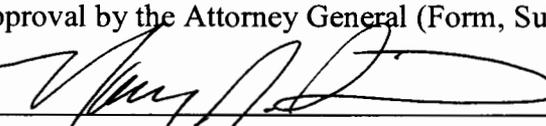
The State of New Hampshire and the Vendor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Dept. of Safety Division of Emergency Services & Communications		1.2 State Agency Address 110 Smokey Bear Blvd Concord NH 03305	
1.3 Vendor Name Communications Venture Corp. d/b/a INdigital Telecom		1.4 Vendor Address 1616 Directors Row Fort Wayne, IN 46808	
1.5 Vendor Phone Number (260) 469-2010	1.6 Account Number 02-23-23-236510-13960000 039-500188-23ADM1396	1.7 Completion Date 10/7/2020	1.8 Price Limitation \$1,767,960.00
1.9 Contracting Officer for State Agency Peter A. DeNutte		1.10 State Agency Telephone Number (603) 271-6911	
1.11 Vendor Signature 		1.12 Name and Title of Vendor Signatory Mark Grady, President	
1.13 Acknowledgement: State of Indiana, County of Elkhart On September 3, 2015, 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] 			

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1.13.2 Name and Title of Notary or Justice of the Peace Anita Stutzman, Notary Public	
1.14 State Agency Signature	1.15 Name and Title of State Agency
	Signatory Commissioner Director of Administration
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____	
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: 9/30/2015	
1.18 Approval by the Governor and Executive Council By: _____ On: _____	

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

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

5.3 The State reserves the right to offset from any amounts otherwise payable to the Vendor 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 VENDOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

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

6.2 During the term of this Agreement, the Vendor 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.

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6.3 If this Agreement is funded in any part by monies of the United States, the Vendor 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 Vendor further agrees to permit the State or United States access to any of the Vendor’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 Vendor shall at its own expense provide all personnel necessary to perform the Services. The Vendor 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 Vendor 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 Vendor 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:

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- 8.2.1 give the Vendor 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 Vendor notice of termination;
- 8.2.2 give the Vendor 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 Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default shall never be paid to the Vendor;
- 8.2.3 set off against any other obligations the State may owe to the Vendor any damages the State suffers by reason of any Event of Default; 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 106-H 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 Vendor 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. VENDOR’S RELATION TO THE STATE. In the performance of this Agreement, the Vendor is in all respects an independent Vendor, and is neither an agent nor an employee of the

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State. Neither the Vendor 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 Vendor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Vendor without the prior written consent of the State.

13. INDEMNIFICATION. The Vendor 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 Vendor. 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 Vendor 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 \$250,000 per claim and \$2,000,000 per occurrence; and

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

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

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

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to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

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

15.2 To the extent the Vendor is subject to the requirements of N.H. RSA chapter 281A, Vendor 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. Vendor 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 Vendor, or any subcontractor or employee of Vendor, 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 Vendor.

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

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

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

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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.

GENERAL CONTRACT REQUIREMENTS

H-25.1 State of NH Terms and Conditions and Contract Requirements

The Contract terms set forth in Appendix H: State of New Hampshire Terms and Conditions shall constitute the core for any Contract resulting from this RFP.

H-25.2 Vendor Responsibilities

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

The Vendor may subcontract Services subject to the provisions of the RFP, including but not limited to, the terms and conditions in Appendix H: State of New Hampshire Terms and Conditions. The Vendor must submit with its Proposal all information and documentation relating to the Subcontractor necessary to fully respond to the RFP, which must include terms and conditions consistent with this RFP. The Vendor shall remain wholly responsible for performance of the entire Contract regardless of whether a Subcontractor is used. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from any Contract.

H-25.3 Project Budget/Price Limitation

The State has funds budgeted for this Project, subject to Appendix H: State of New Hampshire Terms and Conditions, Section 4: Conditional Nature of Agreement and Section 5: Contract Price/Price Limitation/Payment.

H-25.4 Vendor Staff

In the Proposal, the Vendor shall assign and identify a Project Manager and key Vendor staff, in accordance with the Requirements and Deliverables of Appendix C: System Requirements and Deliverables and Appendix E: Standards for Describing Vendor Qualifications.

The Vendor's selection of a Project Manager will be subject to the prior approval of the State. The State's approval process may include, without limitation, at the State's discretion, review of the proposed Project Manager's resume, qualifications, references and background checks, and an interview. The Vendor's Project Manager must be qualified to perform the obligations required of the position under the Contract, have full authority to make binding decisions, and shall function as the Vendor's representative for all administrative and management matters. The Project Manager must be available to promptly respond during Normal Working Hours within two (2) hours to inquiries from the State, and be at the site as needed. The Vendor must use his or her best efforts on the Project.

The Vendor shall not change key Vendor staff and Project Manager commitments (collectively referred to as "Project Staff") unless such replacement is necessary due to sickness, death, termination of employment, or unpaid leave of absence. Any such changes to the Vendor's Project Staff shall require the prior written approval of the State. Replacement Project Staff shall have comparable or greater skills with regard to performance of the Project as the staff being replaced and be subject to the provisions of this RFP and any resulting Contract.

The State, at its sole expense, may conduct reference and background checks on the Vendor's Project Staff. The State shall maintain the confidentiality of reference and background screening results. The State reserves the right to reject the Vendor's Project Staff as a result of such reference and background checks. The State also reserves the right to require removal or reassignment of the Vendor's key Project Staff found unacceptable to the State.

Notwithstanding anything to the contrary, the State shall have the option to terminate the Contract, at its discretion, if it is dissatisfied with the Vendor's replacement Project Staff.

H-25.5 Work Plan

Vendor shall submit a preliminary Work Plan in its Proposal. The Work Plan shall include, without limitation, a detailed description of the Schedule, tasks, Deliverables, major

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milestones, task dependencies, and payment schedule. A final Work Plan will be due five (5) business days after Contract award upon approval by Governor and Executive Council.

The Vendor shall update the Work Plan as necessary, but no less than every two weeks to accurately reflect the status of the Project, including without limitation, the Schedule, tasks, Deliverables, major milestones, task dependencies, and payment schedule. Any updates to the Work Plan shall require the written approval of the State prior to final incorporation into the Contract.

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

In the event of a delay in the Schedule, the Vendor must immediately notify the State in writing. The written notification will identify the nature of the delay, i.e., specific actions or inactions of the Vendor or State causing the problem; its estimated duration period to reconciliation; specific actions that need to be taken to correct the problem; and the expected Schedule affect the Project.

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

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

H-25.6 Change Orders

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

A Vendor may request a change within the scope of the Contract by written Change Order, identifying any impact on cost, the Schedule, or the Work Plan. The State shall attempt to respond to a Vendor's requested Change Order within five (5) business days. The State, which includes the requesting Agency and the Department of Information Technology, must approve

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

H-25.7 Deliverables

The Vendor shall provide the State with the Deliverables and Services in accordance with the time frames in the Work Plan. All Deliverables shall be subject to the State's Acceptance as set forth in Section H-25.9: Testing and Acceptance herein.

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

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

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

H-25.7.1 Written Deliverables Review

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

H-25.7.2 Software Deliverables Review

Described in Section H-25.9: Testing and Acceptance.

H-25.7.3 Non-Software Deliverables Review

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

H-25.8 Licenses

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

H-25.8.1 Software License Grant

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

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

H-25.8.2 Software and Documentation Copies

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

H-25.8.3 Restrictions

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

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

H-25.8.4 Title

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

H-25.8.5 Third Party

The Vendor shall identify all third party contracts to be provided under the Contract with the Vendor's Proposal. The terms in any such contracts must be consistent with this RFP and any resulting Contract, including, but not limited to Appendix H: State of New Hampshire Terms and Conditions General Provisions Form P-37.

H-25.9 Testing and Acceptance

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

In its Proposal, the Vendor is to include its proposed Test Plan methodology and any scheduling assumptions used regarding the client resource efforts required during testing. After Contract award, the Vendor will be required to customize its proposed Test Plan methodology to reflect the needs of the Project and include the details of its Test Plan methodology in the detailed Work Plan (the first Project Deliverable). A separate Test Plan and set of test materials will be prepared for each Software function or module.

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

See Appendix G-1 for Testing Requirements

H-25.9.1 Remedies

If the Vendor fails to correct a Deficiency within the period of time allotted by the State, the Vendor shall be deemed to have committed an Event of Default, pursuant Appendix H Section 8 and H-25.14, and the State Shall have the right, at its option, to pursue the remedies in Section Appendix H-25.14.1 Termination for Default as well as to return the Vendor's product and receive a refund for all amounts paid to the Vendor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Vendor of the State's refund request

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

H-25.9.2 System Acceptance

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

H-25.10 Warranty

H-25.10.1 Warranty Period

The Warranty Period will initially commence upon the State issuance of a Letter of Acceptance for UAT and will continue for one year.

If within the last thirty (30) calendar days of the Warranty Period, any Systems provided fail to operate as specified, the Warranty Period will cease, the Vendor will correct the Deficiency, and a thirty (30) calendar day Warranty Period will begin. Any further Deficiencies with the Systems must be corrected and run fault free for thirty (30) days.

H-25.10.2 Warranties

H-25.10.2.1 System

The Vendor shall warrant that the System must operate to conform to the Specifications, terms, and requirements of the Contract.

H-25.10.2.2 Software

The Vendor shall warrant that the Software is properly functioning within the System, compliant with the requirements of the Contract, and will operate in accordance with the Specifications.

Software shall be archived and or version controlled through the use of Harvest Software.

H-25.10.2.3 Non-Infringement

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

H-25.10.2.4 Viruses; Destructive Programming

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

H-25.10.2.5 Compatibility

The Vendor shall warrant that all System components, including any replacement or upgraded System Software components provided by the Vendor to correct Deficiencies

or as an Enhancement, shall operate with the rest of the System without loss of any functionality.

H-25.10.2.6 Professional Services

The Vendor shall warrant that all Services provided under the Contract will be provided in a professional manner in accordance with industry standards and that Services will comply with performance standards.

H-25.10.3 Warranty Services

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

Warranty Services shall include, without limitation, the following:

- a. Maintain the System Software in accordance with the Specifications, terms, and requirements of the Contract;
- b. Repair or replace the System Software or any portion thereof so that the System operates in accordance with the Specifications, terms, and requirements of the Contract;
- c. The Vendor shall have available to the State on-call telephone assistance, with issue tracking available to the State, twenty four (24) hours per day and seven (7) days a week with an email / telephone response within two (2) hours of request, with assistance response dependent upon issue severity;
- d. On-site additional Services within four (4) business hours of a request;
- e. Maintain a record of the activities related to Warranty Repair or maintenance activities performed for the State;
- f. For all Warranty Services calls, the Vendor shall ensure the following information will be collected and maintained:
 - 1) nature of the Deficiency;
 - 2) current status of the Deficiency;
 - 3) action plans, dates, and times;
 - 4) expected and actual completion time;
 - 5) Deficiency resolution information;
 - 6) Resolved by;

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- 7) Identifying number i.e. work order number;
- 8) Issue identified by;
- g. The Vendor must work with the State to identify and troubleshoot potentially large-scale Software failures or Deficiencies by collecting the following information:
 - 1) mean time between reported Deficiencies with the Software;
 - 2) diagnosis of the root cause of the problem; and
 - 3) identification of repeat calls or repeat Software problems; and
- h. All Deficiencies found during the Warranty Period and all Deficiencies found with the Warranty Releases shall be corrected by the Vendor no later than five (5) business days, unless specifically extended in writing by the State, at no additional cost to the State.

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

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

H-25.11 Ongoing Software Maintenance and Support Levels

The Vendor shall maintain and support the system in all material respects as described in the applicable program documentation for five (5) years of maintenance after delivery and the warranty period of ninety (90) days.

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

H-25.11.1 Maintenance Releases

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

H-25.11.2 Vendor Responsibility

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

As part of the Software maintenance agreement, ongoing software maintenance and support levels, including all new Software releases, shall be responded to according to the following (see Appendix I for definitions of Deficiency Classes:

- a. Class A & B Deficiencies** The Vendor shall have available to the State oncall telephone assistance, with issue tracking available to the State, 24 hours per day seven (7) days a week. The Vendor shall provide support on-site or with remote diagnostic Services, within two (2) business hours of a request;
- b. Class C Deficiencies** The State shall notify the Vendor of such Deficiencies during regular business hours and the Vendor shall respond back within four (4) hours of notification of planned corrective action;

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

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

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

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

If the Vendor fails to correct a Deficiency within the allotted period of time Stated above, the Vendor shall be deemed to have committed an Event of Default, pursuant to Appendix H Section H-25.14, and the State shall have the right, at its option, to pursue the remedies inH-25.14, as well as to return the Vendor's product and receive a refund for all amounts paid to the Vendor, including but not limited to, applicable license fees, within ninety (90) days of notification to the Vendor of the State's refund request

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If the Vendor fails to correct a Deficiency within the allotted period of time Stated above, the Vendor shall be deemed to have committed an Event of Default, pursuant to Appendix H Section H-25.14, and the State shall have the right, at its option, to pursue the remedies in Appendix H Section H-25.14.

H-25.12 Administrative Specifications

H-25.12.1 Travel Expenses

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

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

H-25.11.2 Shipping and Delivery Fee Exemption

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

H-25.12.3 Project Workspace and Office Equipment

The State agency will work with the Vendor to determine the requirements for providing all necessary workspace and office equipment, including desktop computers for the Vendor’s staff. If a Vendor has specific requirements, they must be included in the Vendor’s Proposal.

H-25.12.4 Work Hours

For the purpose of Help Desk Class C Deficiencies and during project implementation Vendor personnel shall work hours between 8:15 am and 4:15 pm, Monday through Friday, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.

25.12.5 Access/Cooperation

As applicable, and reasonably necessary, and subject to the applicable State and federal laws and regulations and restrictions imposed by third parties upon the State, the State will provide the Vendor 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 Vendor to perform its obligations under the Contract.

H-25.12.6 State-Owned Documents and Data

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

H-25.12.7 Intellectual Property

Upon successful completion and/or termination of the Implementation of the Project, the Vendor 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 Vendor provided Software, and their associated Documentation including any and all performance enhancing operational plans and the Vendors’ special utilities. The Vendor 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 Vendor be precluded from developing for itself, or for others, materials that are competitive with, or similar to Custom Software, modifications developed in connection with performance of obligations under the Contract. In addition, the Vendor shall be free to use its general knowledge, skills, experience, and any other ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this agreement.

25.12.8 IT Required Work Procedures

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

H-25.12.9 Computer Use

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

- a. Every Authorized User has the responsibility to assure the protection of information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- b. That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or

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other private and non-State use and that at no time shall Vendor access or attempt to access any information without having the express authority to do so.

- c. That at no time shall Vendor access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and/or agreements relating to system entry/access.
- d. That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times Vendor must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State. Only equipment or software owned, licensed, or being evaluated by the State, can be used by the Vendor. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment.
- e. That if the Vendor is found to be in violation of any of the abovestated rules, the User may face removal from the State Contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.

25.12.10 E-mail Use

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

H-25-12.11 Internet/Intranet Use

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

H-25.12.12 Regulatory/Governmental Approvals

Any Contract awarded under the RFP shall be contingent upon the Vendor obtaining all necessary and applicable regulatory or other governmental approvals.

H-25.12.13 Force Majeure

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

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

H-25.13 Pricing

H-25.13.1 Activities/Deliverables/Milestones Dates and Pricing

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

25.13.2 Software Licensing, Maintenance, Enhancements, and Support

Pricing

The Vendor must provide the minimum Software support and Services through Software licensing, maintenance, Enhancements, and support as detailed in Section H-25.11: Ongoing Software Maintenance and Support Levels.

For Software licensing, maintenance, and support costs, complete a worksheet including all costs in the table. A worksheet is provided in Appendix F: Pricing Worksheets, under Appendix F-5: Software Licensing, Maintenance, and Support Pricing.

H-25.13.3 Invoicing

The Vendor shall submit correct invoices to the State for all amounts to be paid by the State. All invoices submitted shall be subject to the State's written approval, which shall not be unreasonably withheld. The Vendor 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.

H-25.13.4 Overpayments to the Vendor

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

H-25.13.5 Credits

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

H-25.13.6 Records Retention and Access Requirements

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

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

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the State and federal officials so authorized by law, rule, regulation or Contract, as applicable. Access to these items will be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period following termination of the Contract and one (1) year term following litigation relating to the Contract, including all appeals or the expiration of the appeal period. The Vendor 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 Vendor's cost structure and profit factors shall be excluded from the State's review unless the cost or any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

H-25.13.7 Accounting Requirements

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

H-25.14 Termination

This section H-25.14 shall survive termination or Contract conclusion.

H-25.14.1 Termination for Default

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

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

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

- a) Unless otherwise provided in the Contract, the State shall provide the Vendor written notice of default and require it to be remedied within, in the absence of a greater or lesser specification of time, within thirty (30) days from the date of notice, unless otherwise indicated within by the State (“Cure Period”). If the Vendor fails to cure the default within the Cure Period, the State may terminate the Contract effective two (2) days after giving the Vendor notice of termination, at its sole discretion, treat the Contract as breached and pursue its remedies at law or in equity or both.
- b) Give the Vendor a written notice specifying the Event of Default and suspending all payments to be made under the Contract and ordering that the portion of the Contract price which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default shall never be paid to the Vendor.
- c) Set off against any other obligations the State may owe to the Vendor any damages the State suffers by reason of any Event of Default;
- d) Treat the Contract as breached and pursue any of its remedies at law or in equity, or both.
- e) Procure Services that are the subject of the Contract from another source and the Vendor shall be liable for reimbursing the State for the replacement Services, and all administrative costs directly related to the replacement of the Contract and procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; all of which shall be subject to the limitations of liability set forth in the Contract.

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

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

H-25.14.2 Termination for Convenience

The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to the Vendor. In the event of such termination for convenience, the State shall pay the Vendor the agreed upon price, if separately stated, for Deliverables for which

Acceptance has been given by the State. Amounts for Services or Deliverables provided prior to the date of termination for which no separate price is stated will be paid, in whole or in part, generally in accordance with Appendix F: Pricing Worksheets.

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

H-25.14.3 Termination for Conflict of Interest

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

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

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

H-25.14.4 Termination Procedure

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

After receipt of a notice of termination, and except as otherwise directed by the State, Vendor shall:

- a. Stop work under the Contract on the date, and to the extent specified, in the notice;

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- b. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the State to the extent required, which approval or ratification shall be final for the purpose of this Section;
- c. Take such action as the State directs, or as necessary to preserve and protect the property related to the Contract which is in the possession of Vendor and in which State has an interest;
- d. Transfer title to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to State and which has been accepted or requested by the State; and
- e. Provide written certification to the State that Vendor has surrendered to the State all said property.

H-25.15 Limitation of Liability

H-25.15.1 State

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

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

H-25.15.2 The Vendor

Subject to applicable laws and regulations, in no event shall the Vendor be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and the Vendor's liability to the State shall not exceed two times (2X) the total Contract price set forth in the Contract Agreement, Appendix H Section 1.8 of the Contract Agreement – General Provisions. Notwithstanding the foregoing, the limitation of liability shall not apply to the Vendor's indemnification obligations set forth in the Appendix H Contract Agreement - Sections 13: Indemnification and confidentiality obligations in Appendix H 25.12.14: Confidential Information, which shall be unlimited.

H-25.15.3 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.

H.25.15.4 Survival

This Contract Agreement, Section H-25.15: Limitation of Liability shall survive termination or Contract conclusion.

H-25.16 Change of Ownership

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

H-25.17 Assignment, Delegation and Subcontracts

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

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

H-25.18 Dispute Resolution

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

H-25.19 Venue and Jurisdiction

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

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H-25.20 Project Holdback

The State will withhold 20% of the agreed Deliverables pricing tendered by the Vendor in this engagement until System Acceptance as defined in Appendix H Section 25-9.2: Letter of Final System Acceptance.

H-25.21 Escrow of Code

Vendor will enter into a source and configuration code agreement with a State-approved escrow agent. The proposed escrow agreement shall be submitted with the Vendor's Proposal for review by the State. The escrow agreement requires the Vendor to put the Vendor Software source and configuration code in escrow. The source code shall be released to the State if one of the following events has occurred:

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

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Appendix I TERMS AND DEFINITIONS

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

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance Letter	An Acceptance Letter provides notice from the State that a Deliverable has satisfied Acceptance Tests or Review.
Acceptance Period	The timeframe during which the Acceptance Test is performed
Acceptance Test Plan	The Acceptance Test Plan provided by the Vendor and agreed to by the State that describes at a minimum, the specific Acceptance process, criteria, and Schedule for Deliverables.
Acceptance Test and Review	Tests performed to determine that no Defects exist in the application Software or the System
Access Control	Supports the management of permissions for logging onto a computer or network
Agreement	A contract duly executed and legally binding.
Appendix	Supplementary material that is collected and appended at the back of a document
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system
Breach or Breach of Security	Unlawful and unauthorized acquisition of unencrypted computerized data that materially compromises the security, confidentiality or integrity of personal information maintained by a person or commercial entity
CCP	Change Control Procedures
CR	Change Request
COTS	Commercial Off-The-Shelf Software
CM	Configuration Management

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Certification	The Vendor's written declaration with full supporting and written Documentation (including without limitation test results as applicable) that the Vendor has completed development of the Deliverable and certified its readiness for applicable Acceptance Testing or Review.
Change Control	Formal process for initiating changes to the proposed solution or processes once development has begun.
Change Order	Formal documentation prepared for a proposed change in the Specifications.
Completion Date	End date for the Contract

Confidential Information	Information required to be kept Confidential from unauthorized disclosure under the Contract
Contract	This Agreement between the State of New Hampshire and a Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful Contract completion, termination for convenience, or termination for default.
Contract Documents	Documents that comprise this Contract
Contract Managers	The persons identified by the State and the Vendor who shall be responsible for all contractual authorization and administration of the Contract. These responsibilities shall include but not be limited to processing Contract Documentation, obtaining executive approvals, tracking costs and payments, and representing the parties in all Contract administrative activities.
Contracted Vendor	The vendor whose proposal or quote was awarded the Contract with the State and who is responsible for the Services and Deliverables of the Contract.
Conversion Test	A test to ensure that a data conversion process correctly takes data from a legacy system and successfully converts it to form that can be used by the new system.
COTS	Commercial off the Shelf

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Cure Period	The thirty (30) day period following written notification of a default within which a contracted vendor must cure the default identified.
Custom Code	Code developed by the Vendor specifically for this project for the State of New Hampshire
Custom Software	Software developed by the Vendor specifically for this project for the State of New Hampshire
Data	State's records, files, forms, Data and other documents or information, in either electronic or paper form, that will be used /converted by the Vendor during the Contract Term
DBA	Database Administrator
Deficiencies/Defects	<p>A failure, deficiency, or defect in a Deliverable resulting in a Deliverable, the Software, or the System, not conforming to its Specifications.</p> <p>Class A Deficiency – Software - Critical, does not allow System to operate, no work around, demands immediate</p>

	<p>action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - Services were inadequate and require reperformance of the Service.</p> <p>Class B Deficiency – Software - important, does not stop operation and/or there is a work around and user can perform tasks; Written Documentation - portions of information are missing but not enough to make the document unintelligible; Non Software - Services were deficient, require reworking, but do not require reperformance of the Service.</p> <p>Class C Deficiency – Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; Written Documentation - minimal changes required and of minor editing nature; Non Software - Services require only minor reworking and do not require re-performance of the Service.</p>
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Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other), provided by the Vendor to the State or under the terms of a Contract requirement.
Department	An agency of the State
Department of Information Technology (DoIT)	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
Digital Signature	Guarantees the unaltered state of a file
Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract.
Encryption	Supports the encoding of data for security purposes
Enhancements	Updates, additions, modifications to, and new releases for the Software, and all changes to the Documentation as a result of Enhancements, including, but not limited to, Enhancements produced by Change Orders

Event of Default	<p>Any one or more of the following acts or omissions of a Vendor shall constitute an event of default hereunder (“Event of Default”)</p> <ul style="list-style-type: none"> 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
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Firm Fixed Price Contract	A Firm-Fixed-Price Contract provides a price that is not subject to increase, i.e., adjustment on the basis of the Vendor's cost experience in performing the Contract
Fully Loaded	Rates are inclusive of all allowable expenses, including, but not limited to: meals, hotel/housing, airfare, car rentals, car mileage, and out of pocket expenses
GAAP	Generally Accepted Accounting Principles
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Harvest	Software to archive and/or control versions of software
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users
Implementation	The process for making the System operational for processing the Data.
Implementation Plan	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.
Input Validation	Ensure the application is protected from buffer overflow, cross-site scripting, SQL injection, and canonicalization
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Invoking Party	In a dispute, the party believing itself aggrieved
Key Project Staff	Personnel identified by the State and by the contracted vendor as essential to work on the Project.
Licensee	The State of New Hampshire

Non Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
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Non-Software Deliverables	Deliverables that are not Software Deliverables or Written Deliverables, e.g., meetings, help support, services, other
Normal Business Hours	Normal Business Hours – 8:00 a.m. to 5:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays. State holidays are: New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, July 4 th , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day. Specific dates will be provided
Notice to Proceed (NTP)	The State Contract Manager’s written direction to the Vendor to begin work on the Contract on a given date and time
Open Data Formats	A data format based on an underlying Open Standard.
Open Source Software	Software that guarantees the user unrestricted use of the Software as defined in RSA 21-R:10 and RSA 21-R:11.
Open Standards	Specifications for the encoding and transfer of computer data that is defined in RSA 21-R:10 and RSA 21-R:13.
Operating System	System is fully functional, all Data has been loaded into the System, is available for use by the State in its daily operations.
Operational	Operational means that the System is operating and fully functional, all Data has been loaded; the System is available for use by the State in its daily operations, and the State has issued an Acceptance Letter.
Order of Precedence	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence
Project	The planned undertaking regarding the entire subject matter of an RFP and Contract and the activities of the parties related hereto.
Project Team	The group of State employees and contracted Vendor’s personnel responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Work Plan on time, on budget and to the required specifications and quality

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Project Management Plan	A document that describes the processes and methodology to be employed by the Vendor to ensure a
	successful project.
Project Managers	The persons identified who shall function as the State's and the Vendor's representative with regard to Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Requests (CR) utilizing the Change Control Procedures (CCP)
Project Staff	State personnel assigned to work with the Vendor on the project
Proposal	The submission from a Vendor in response to the Request for a proposal or statement of work.
Regression Test Plan	A plan integrated into the Work Plan used to ascertain whether fixes to defects have caused errors elsewhere in the application/process.
Review	The process of reviewing Deliverables for Acceptance
Review Period	The period set for review of a Deliverable. If none is specified then the review period is five (5) business days.
RFP (Request for Proposal)	A Request For Proposal solicits Proposals to satisfy State functional requirements by supplying data processing product and/or Service resources according to specific terms and conditions
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network
Schedule	The dates described in the Work Plan for deadlines for performance of Services and other Project events and activities under the Contract
SaaS	Software as a Service- Occurs where the COTS application is hosted but the State does not own the license or the code.
Service Level Agreement (SLA)	A signed agreement between the Vendor and the State specifying the level of Service that is expected of, and provided by, the Vendor during the term of the Contract.

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Services	The work or labor to be performed by the Vendor on the Project as described in the Contract.
Software	All custom Software and COTS Software provided by the Vendor under the Contract
Software Deliverables	COTS Software and Enhancements
Software License	Licenses provided to the State under this Contract
Solution	The Solution consists of the total Solution, which includes, without limitation, Software and Services, addressing the requirements and terms of the Specifications. The off-the-

	shelf Software and configured Software customized for the State provided by the Vendor in response to this RFP.
Specifications	The written Specifications that set forth the requirements which include, without limitation, this RFP, the Proposal, the Contract, any performance standards, Documentation, applicable State and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other Specifications and requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
State	Reference to the term “State” shall include applicable agencies as defined in Section 1: INTRODUCTION of this RFP.
Statement of Work (SOW)	A Statement of Work clearly defines the basic requirements and objectives of a Project. The Statement of Work also defines a high level view of the architecture, performance and design requirements, the roles and responsibilities of the State and the Vendor. The SOW defines the results that the Vendor remains responsible and accountable for achieving.
State’s Confidential Records	State’s information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to RSA Chapter 106-H

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State Data	Any information contained within State systems in electronic or paper format.
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1 st through June 30 th of the following calendar year
State Project Leader	State's representative with regard to Project oversight
State's Project Manager (PM)	State's representative with regard to Project management and technical matters. Agency Project Managers are responsible for review and Acceptance of specific Contract Deliverables, invoice sign off, and Review and approval of a Change Proposal (CP).
Subcontractor	A person, partnership, or company not in the employment of, or owned by, the Vendor, which is performing Services under this Contract under a separate Contract with or on behalf of the Vendor
System	All Software, specified hardware, and interfaces and

	extensions, integrated and functioning together in accordance with the Specifications.
TBD	To Be Determined
Technical Authorization	Direction to a Vendor, which fills in details, clarifies, interprets, or specifies technical requirements. It must be: (1) consistent with Statement of Work within statement of Services; (2) not constitute a new assignment; and (3) not change the terms, documents of specifications of the SOW.
Test Plan	A plan, integrated in the Work Plan, to verify the code (new or changed) works to fulfill the requirements of the Project. It may consist of a timeline, a series of tests and test data, test scripts and reports for the test results as well as a tracking mechanism.
Term	The duration of the Contract.
Transition Services	Services and support provided when the contracted vendor is supporting system changes.

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UAT	User Acceptance Test
Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
User Management	Supports the administration of computer, application and network accounts within an organization
Vendor/Vendor	The contracted individual, firm, or company that will perform the duties and Specifications of the contract.
Verification	Supports the confirmation of authority to enter a computer system, application or network
Walk Through	A step-by-step review of a specification, usability features or design before it is handed off to the technical team for development
Warranty Period	A period of coverage during which the contracted vendor is responsible for providing a guarantee for products and services delivered as defined in the
	contract.
Warranty Releases	Code releases that are done during the warranty period.
Warranty Services	The Services to be provided by the Vendor during the Warranty Period.
Work Hours	Vendor personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager. However, the State requires an unpaid lunch break of at least thirty (30) minutes be taken after five (5) consecutive hours of work.

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Work Plan	The overall plan of activities for the Project created in accordance with the Contract. The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project as specified in Appendix C. The Work Plan shall include a detailed description of the Schedule, tasks/activities, Deliverables, critical events, task dependencies, and the resources that would lead and/or participate on each task.
Written Deliverables	Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Vendor either in paper or electronic format.

Exhibit A
Services
SECTION 1 - summary

- A. The Service to be provided by Contractor to DESC under this Agreement, provides for the delivery of the voice connection of a 9-1-1 call and the associated telephone number (ANI). This service shall be referred to variously in this Agreement as the Service, or 9-1-1 Service. The Service is comprised of transport components and functional elements used for the delivery and transferring of 9-1-1 emergency requests for assistance.
- B. Service Period: the service period of this agreement is five years from the date of Governor and Council approval. This agreement may be extended for two additional one-year periods (Extension Periods), at the same rate and on the same terms specified herein on notice by the DESC of its intention to exercise its option at least 60 days prior to the termination of the current term. Not later than eighteen months prior to the end of the contract period and any Extension Periods the parties shall meet to discuss entering into a new contract or the DESC shall put this contract out for bid.
- C. Contractor is responsible for its Service in its entirety.
- D. Contractor agrees that the 9-1-1 Service shall be operational on a 24.7.365 basis.
- E. This Scope of Work (SOW) is to define the scope and schedule of deliverables from INdigital. INdigital will be providing redundant, geo-diverse NG911 call processing nodes at 2 Colocation spaces in NH. PSAP NG controllers will be located
(A) at the Concord PSAP center (B) at the Laconia PSAP location.
- F. Both of these sites are owned by the state of New Hampshire.
- G. INdigital will provide elemental call routing and policy routing functions delivery for all classes of 911 calls as needed to support failsafe routing, overflow routing and call control during the CPE installation, maintenance and ongoing needs.
- H. Wireless and VoIP calls will be delivered by the originating service providers to Legacy Network Gateways in Manchester (in the colocation meet-me room) and via delivery of trunking to the PSAP locations at Manchester (primary site 1)

and Laconia (primary site 2). The Concord PSAP (potential secondary site for FairPpoint)

- I. Fault domains will be limited to the extent possible by the use of remote gateways or TDM transport to geo-diverse LNG sites. LNG's will be redundant with no single fault domains.
- J. Wireline OSP will deliver calls to LNG's at Manchester and Laconia, and to either a 'meet me point' with FairPoint, or to the Concord PSAP . Fault domains will be limited to the extent possible by the use of remote gateways or TDM transport to geo-diverse LNG sites.
- K. Voice call delivery will be converted to the NG processing stack upon completion of the work and test plan, and acceptance by the customer.
- L. The NG processing stack will provide CAMA to the legacy equipment and the NG CPE in parallel as needed by the project. Full interoperability of all systems is required.
- M. INdigital will be responsible for negotiating with FairPoint and all other LECs for the delivery of calls to the NG ESiNet using the most advanced protocols practical within the project budget and regulatory regime.
- N. INdigital will be responsible for providing IP connectivity between all Host sites and the primary PSAPs.
- O. Redundancy will be provided by State of NH procured fiber, wireless, and other leased circuits as practical or available.
- P. All 911 functional elements will be redundant.
- Q. All call processing will be performed within the state of NH.
- R. As additional OSP's (originating service providers) request access to the ESiNet, INdigital will:
 - a. facilitate a request approval letter from DESC and specify the terms and conditions of the establishment of the connection.
 - b. Ensure the the connection arrangement meets all industry standards for redundancy and failsafe call routing.
- S. A MEVO disaster / fail safe system will be integrated with the NG CPE and capable of functioning to deliver calls to any designated end point using

redundant PSTN facilities, IP connectivity or other methods as designated by DESC.

SECTION 2 - BACKGROUND, PROJECT SCOPE AND MISC

The Population of New Hampshire is 1,326,813 (2014)

CPE - TBD, pending RFP DOS 2015-170

21 positions at Concord PSAP

21 positions at Laconia PSAP

TBD MEVO positions (based on disaster planning and demand)

trunking = currently 56 TDM

OSPs = wireless 11; wireline 07; VoIP = varies by market area;

Adjacent authorities having jurisdiction:
Quebec, CAN; Vermont; Maine; Massachusetts

SECTION 3 - EQUIPMENT DETAIL LIST

Equipment Site A - Manchester Core at 77 Sundial		
Quantity	Item	Description
"As Built" upon acceptance by DESC		

Equipment Site B - Laconia Core (CoLo / PSAP)		
Quantity	Item	Description
"As Built" upon acceptance by DESC		

PSAP L - Laconia		
Quantity	Item	Description
"As Built" upon acceptance by DESC		

PSAP C - Concord		
Quantity	Item	Description
"As Built" upon acceptance by DESC		

SECTION 4 - INDIGITAL PROVIDED NG911 CALL PROCESSING AND DELIVERY:

ORIGINATING SERVICE PROVIDER (OSP) CIRCUIT TERMINATION

- T. In the initial phase of the project, INdigital will terminate trunking from FairPoint for their LEC 911 calls and any connected carriers. This will use legacy CAMA circuits, PRI or SS7 trunking as available. Termination points will be at Manchester, Concord and Laconia as required for geo-diversity.
- U. NG 911 functional element to be located redundantly at the 2 Colocation or host sites.
- V. A network conversion will take place for wireless and VOIP service as soon as practical after the network is established. This will allow full interoperability to continue to be available regardless of the CPE conversion schedule. Wireless and VOIP traffic conversion can take up to six months to perform the conversion.

DATACENTER

- W. Datacenter hosting will be provided by INdigital at Manchester and Laconia, with an additional set of interfaces at the PSAP CPE site at Concord. INdigital will utilize a geo-diverse system installation using standard IP fiber segments over fiber.

PROJECT MANAGEMENT

- X. INdigital will be providing project management for the incoming OSP to ESiNet ordering, installation, provisioning, outgoing PSTN connections and PRF administration and other project elements.
- Y. INdigital will provide full project coordination with the CPE vendor.
- Z. A Project Manager will be assigned to the project and provide status and scheduling guidance for the customer and all other vendors. The PM will be available to the DESC staff in real time.

POST CUT SERVICES

- AA. INdigital will provide primary support for all services, equipment, and software purchased in the contract. INdigital will also provide DESC staff with trained access for system administration and troubleshooting and will assist with any service request made by the staff.
- BB. INdigital will prepare 4 month interval system performance and trending reports that coincide with the Enhanced 9-1-1 Commission meetings. These reports will be prepared 10 working days before the scheduled meeting dates. Additionally Contractor must participate in project and/or status meetings with the information technology professionals from using Agency, during the term of the contract, on reasonable request by the DESC with 10 business days notice.
- CC. Contractor at its option may perform switch software and/or hardware upgrades to Contractor's Network. The Contractor shall advise the DESC's designated contract point of contact of any material impact anticipated from any changes within a reasonable amount of time prior to any material change.
- DD. Network Known and Potential Problems: The Contractor shall perform such monitoring or inspection of Contractor provided facilities as is customary and reasonably necessary to discover errors, defects and malfunctions and shall notify the PSAP Supervisor of all "Known and Potential network events" that materially and adversely impact the delivery of service under this agreement. This includes all problems that may cause a delay in the call setup and delivery of the ANI to the PSAP or not delivered at all. This includes all Contractor provided network elements.
- EE. Call Distribution/Load Balancing: The Contractor will cooperate and coordinate with the DESC once both PSAPs are operational for call distribution or load balancing of the call volume between the two 9-1-1 host locations.
- FF. Contractor will utilize switch-based routing to balance the call volume of the two PSAPs and reviewed on a regular basis.
- GG. Contractor will have emergency restoration notification and escalation procedures in place to handle Service outages.
- HH. Contractor shall provide alternative routing for busy conditions using existing capabilities.
- II. Contractor will use reasonable commercial efforts under the circumstances to restore 9-1-1 Service after a Service outage, consistent with applicable Service restoration priorities.
- a. First attempt- Host A
 - b. Second attempt – Host B
 - c. Third attempt- 800 Fail safe
 - d. Fourth attempt- MEVO where these sets are deployed

- e. Final attempt - PSTN (10 digit) where MEVO is not deployed or the call delivery point has been changed by DESC.
- JJ. Make Busy Arrangement: Contractor will install a 1005 type (or functional equivalent) tariffed circuit for each tandem so that the network traffic can be diverted as needed to the alternate secondary PSAP or default seven digit routing number, at both the Laconia and Concord PSAPs.
- KK. Contractor shall provide notification to the DESC when performing scheduled upgrades or retrofits to Contractors End Office or 9-1-1 Tandems switches that could potentially and materially affect Service. Said notice shall occur at least 24 hours in advance whenever feasible. In addition, prior to an upgrade, Contractor will contact the affected PSAP to notify the PSAP regarding imminent commence of the work.
- LL. Contractor will designate a single point of contact (SPC) for DESC, The SPC will coordinate all Contractor departments required to address NH 9-1-1's trouble tickets and related issues.
- MM. Contractor shall provide staff at the SPC 24 hours per day, 7 days per week, 365 days per year. Contractor SPC staff shall be available based on the calling demand of other PSAP's to receive trouble reports, begin trouble isolation, and dispatch field forces as necessary.
- NN. Nothing in this contract releases Contractor from performing any existing obligation arising under any prior agreement or any independent statutory or regulatory obligation.
- OO. Contractor shall provide dedicated trunks for the transport of 9-1-1 calls using its customary practices regarding security of the 9-1-1 trunks.
- PP. Contractor shall work with DESC to coordinate best methodology for call flow beyond the State borders using a transfer method that that is approved by DESC.

TRAINING AND SUPPORT

- QQ. System administration training will be handled two ways.
 - a. INdigital will provide training for DESC and FirstLight network staff as needed, in the form of onsite training. Training materials need to be marked as confidential. Additional training will include how to submit trouble tickets, investigate calls, and run network reports.
 - b. INdigital NOC system managers will provide demand based web delivered training and support, 24/7 help desk support and real time system support.
- RR. training related to DESC's control of the ESiNet. This will include incoming call flow control, call distribution and PSTN fail safe connections to secondary dispatch centers or alternate call delivery locations.
- SS. NOC alarm monitoring and reporting
 - a. Contractor shall make available reporting on call quantities, timing, and traffic flow.
 - b. Contractor will be responsible for information DESC of any "Known and Potential material network events" that may impact a caller's ability to complete a 9-1-1 call due to issues within the Contractor telephone network as the information becomes available. The 9-1-1 SPC will call the Concord and Laconia Supervisor in-charge and advise him/her of any material adverse conditions. The Contractor will also call the Supervisor when issues have been resolved. Contractor will also have the ability to notify the DESC Supervisor by a means other than telephone, which shall be included in Contractor's procedures.

CUSTOMER DELIVERABLES

- TT. These items are understood to be provided by the customer to assure a proper operating and working environment for the 911 equipment.
 - a. Customer will provide adequate space at each host location to support 19" equipment rack as needed. The Laconia site will need a four post rack.
 - b. We are requesting the cooperation of the State of NH in identifying and rearranging space as needed to provide adequate rack space/facilities.

Exhibit B Pricing Worksheet

Core IP Link [typically fiber or functional equivalent to host or datacenter(s)]	\$1,800.00
Co-location costs	\$1,200.00
ESInet termination psap router	\$340.00
SS7 legacy network gateways	\$4,446.00
SS7 A-links	\$2,000.00
SS7 Route Sets [based on the number LECS (OSP) providing service]	\$1,350.00
SIP:ME message processing (ESRP / BCF / SBC)	\$11,970.00
Monitoring, alarming, network status, help desk	\$1,890.00
MEVO (Message Evolution disaster recovery) / backup call taking solution	\$3,570.00
100mb Core IP link (Concord to Laconia)	\$900.00
TOTAL MONTHLY CHARGE	\$29,466.00

Exhibit C

Provisions

None

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 Communications Venture Corporation, a(n) Indiana corporation, is authorized to transact business in New Hampshire and qualified on June 8, 2015. I further certify that all fees required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 28th day of September, A.D. 2015

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

William M. Gardner
Secretary of State

**CERTIFICATE OF AUTHORITY/VOTE
(Corporation with Notary Seal)**

I, Mark Bahnson, do hereby certify that:

1. I am a duly elected Secretary / Clerk of Communications Venture Corporation (d/b/a INdigital telecom (The Corporation)).
2. The organization's policy or governing document (articles of Incorporation, bylaws, Shareholder Agreement authorizes the President to enter into contractual agreements of this type.
3. The foregoing Authority has not been amended or revoked, and remain in full force and effect as of 3-September.
4. Mark Grady is the duly elected President of the Corporation.



(Signature of the Secretary / Clerk of the Corporation)

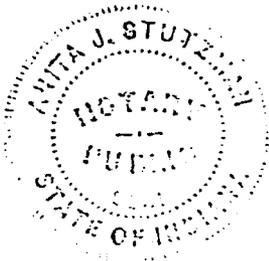
STATE OF INDIANA
County of Elkhart

The foregoing instrument was acknowledged before me this 3rd day of September, 2015, by Mark Bahnson.

(NOTARY SEAL)



Anita Stutzman - Notary Public



Commission Expires: July 17, 2016



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/22/2015

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

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

PRODUCER Telcom Insurance Services Corp. 6301 Ivy Lane, Suite 506 Greenbelt, MD 20770 www.TelcomInsGrp.com	CONTACT NAME: PHONE (A/C, No, Ext): 800.222.4664 FAX (A/C, No): 301.474.6196 E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE NAIC #	
INSURED INdigital Telecom 1616 Directors Row Fort Wayne IN 46808	INSURER A: Great American Insurance Co. of NY	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 26512580 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			MAC 6-17-31-79	9/4/2015	9/4/2016	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			CAP 6-17-31-80	9/4/2015	9/4/2016	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			EXC 6-17-31-82	9/4/2015	9/4/2016	EACH OCCURRENCE	\$ 10,000,000
							AGGREGATE	\$ 10,000,000
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N N/A			WC 6-17-31-81	9/4/2015	9/4/2016	<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
A	Hired Auto Physical Damage			CAP 6-17-31-80	9/4/2015	9/4/2016	Comp Ded - \$100 Coll. Ded - \$500 Limit - \$50,000	

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

CERTIFICATE HOLDER **CANCELLATION**

State of New Hampshire
 110 Smokey Bear Blvd.
 Concord NH 03305

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

Peter J. Elliott

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