



# State of New Hampshire

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

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JOHN J. BARTHELMES  
COMMISSIONER

May 16, 2013

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

Sole Source

### Requested Action

Pursuant to RSA 270-D10, authorize the Department of Safety, Division of State Police to enter into a **sole source** contract amendment with Kalkomey Enterprises, Inc. dba Boat Ed (VC #172581) of Dallas, TX (originally approved by Governor and Council on March 21, 2007, item #69, and amended with Governor and Council approval on August 10, 2011, item #117) by extending the end date from June 30, 2013, to June 30, 2018, and in the amount of \$303,407.00, increasing the total contract amount from \$580,700.00 to \$884,107.00, for the purpose of maintaining a web-based, interactive, safe boater education and testing system, to include an Event Management function. The vendor will also be the source of safe boating handbooks and videos. Effective upon Governor and Council approval. Funding source: 100 % Revolving Funds.

Funds are anticipated to be available in the following account titled Boater Education in SFY 2014, 2015, 2016, 2017, and 2018 contingent upon the availability and continued appropriation of funds in future operating budgets, with authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

02-23-23-2340-50110000 Dept of Safety Div of State Police Boater Certification  
103-502664 Contracts for Op Services

<u>SFY 2014</u>	<u>SFY 2015</u>	<u>SFY 2016</u>	<u>SFY 2017</u>	<u>SFY 2018</u>	<u>Total</u>
\$12,150.00	\$88,445.00	\$64,310.00	\$67,550.00	\$70,952.00	\$303,407.00

### Explanation

This contract is **sole source** due to the increase in the contract amount is greater than 10% without the issuance of a request for proposal (RFP). An RFP was issued for the original contract (approved by Governor and Council on March 21, 2007); however, Kalkomey was the only responding bidder. The Department of Safety, Division of State Police, Marine Patrol is charged with the implementation and oversight of the mandatory safe boater education program, pursuant to RSA 270-D:10 et seq, for all persons operating a motorized vessel in excess of 25 horsepower on the public waters of New Hampshire. In addition to classroom, home study, internet course and testing-out options for a permanent boating education certificate, the State must also offer a 14-day temporary certificate pursuant to RSA 270-D:14. Boat Ed maintains a web-based interactive, safe boater education and testing system per Agency RFP 2007-019: *Safe Boating Education*, in support of the Department of Safety's Boating Education Program. This amendment essentially continues the current concept of a company which maintains a web presence in the name of the State of New Hampshire where boating safety information is disseminated and tests are administered. The company is also a source of safe boating handbooks, videos, and classroom manuals.

This Amendment extends the contract with Boat Ed from June 30, 2013 to June 30, 2018. The cost associated with the contract extension reflects the cost of safe boating handbooks, videos, maintenance and support for the 14-day certification web application, and maintenance and support for the event manager web application. The basis for this extension request also includes the opportunity for the Department of Safety to evaluate the internet-based Event Manager program that Boat

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
May 16, 2013  
Page 2 of 2

Ed now offers. This program allows the boating public to register for courses and boating education exams via the web, and also processes payments by credit card. Due to DoIT needing to create a means of receiving all Event Manager data electronically on the Department of Safety's end, this program has not yet been available to the Marine Patrol.

Respectfully submitted,

  
John J. Barthelme  
Commissioner



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**

27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
www.nh.gov/doit

**Peter C. Hastings**  
*Acting Commissioner*

May 7, 2013

John J. Barthelmes  
Commissioner  
Department of Safety  
33 Hazen Drive  
Concord, NH 03301

Dear Commissioner Barthelmes:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your request to extend the end date and contract value of an existing contract with Kalkomey Enterprises, Inc of Dallas Texas (dba Boat Ed) as described below and referenced as DoIT No. 2007-019A.

This is a request to authorize the Department of Safety to extend a contract with Kalkomey Enterprises to maintain a web-based, interactive, safe boater education and testing system, to include an event management function. The vendor will also be the source of safe boating handbooks and videos. This amendment extends the contract from June 30, 2013 to June 30, 2018 and increases the contract value from \$580,700 by \$303,407 to a new contract value of \$884,107, upon Governor and Executive Council Approval.

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

Sincerely,

A handwritten signature in black ink that reads "Peter C. Hastings".

Peter C. Hastings

PCH/dcp  
DOS 2007-019B

cc: Albert Sheldon, IT Lead – DOIT DOS  
David Perry, IT Manager – BFA/Contracts, Department of Information Technology

**CONTRACT AMENDMENT  
CONTRACT NUMBER 2007-019**

WHEREAS, pursuant to an Agreement (hereinafter called the "Contract"), approved by Governor and Council on March 21, 2007, item # 69, by and between the State of New Hampshire acting by and through the Department of Safety (hereinafter referred to as the "State"), and Kalkomey Enterprises, Inc (hereinafter called the "Contractor"), the Contractor agreed to perform certain services upon the terms and conditions specified in the Contract and in consideration of payment by the Department of Safety of certain sums specified therein; and

WHEREAS, pursuant to the provisions of paragraph 13.16 of the Contract, the Contract may be amended, waived or discharged only by written instrument executed by the parties thereto; and

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Contract and set forth herein, the parties hereto do hereby agree as follows:

- 1.) Amend section 1.6 of the General Provisions of the Agreement to reflect a new completion date of June 30, 2018
- 2.) Amend section 1.8 of the General Provisions of the Agreement to reflect an increase of the total contract price by \$303,407.00 from \$580,700 to **\$884,107.00**.
- 3.) Exhibit B
  - a) Replace Para 1.2 Printed Materials and Table 2 (rate for each) as follows:

**1.2 Printed Materials** – Printed Material costs per item is set forth in Table 2 below:

<b>Description</b>	<b>Quantity in Print Order</b>	<b>2013 Price/Unit</b>	<b>2014 Price/Unit</b>
Printed Boater's Handbook	200,000	\$0.48	\$0.49
Printed Boater's Handbook	150,000	\$0.49	\$0.50
Printed Boater's Handbook	100,000	\$0.54	\$0.56
Printed Boater's Handbook	50,000	\$0.64	\$0.66
Printed Student Manual	20,000	\$1.25	\$1.29
Printed Student Manual	15,000	\$1.46	\$1.50
Printed Student Manual	10,000	\$1.91	\$1.97
Printed Student Manual	5,000	\$3.04	\$3.13
<b>For years beyond 2014, allow for an increase of up to 5% from the previous year's pricing.</b>			

b) Replace Table 3 – Printed Material (Total per Period) as follows:

<b>Table 3 – Printed Material (Total per Period)</b>					
<b>Item</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>	<b>FY2018</b>
Printed Boater's Handbook	\$0	\$56,000	\$58,800	\$61,740	\$64,827
Printed Student Manual	\$0	\$27,200	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$83,200</b>	<b>\$58,800</b>	<b>\$61,740</b>	<b>\$64,827</b>

c) Replace Table 5 – Maintenance and Support Pricing for 14 Day Temporary Certification as follows:

<b>Table 5 – Annual Maintenance and Support Fee for 14-Day Certification Web Application</b>		
<b>Description</b>	<b>2013</b>	<b>2014</b>
Annual Maintenance	\$2,900	\$3,045
<b>For years beyond 2014, allow for an increase of up to 5% from the previous year's pricing.</b>		

d) Replace **Para 2 – Total Contract Price** as follows:

## 2. TOTAL CONTRACT PRICE

The total contract value is not to exceed **\$884,107** which equals the previously amended Contract value of **\$580,700** plus the Amendment 2 cost of **\$303,407**. Amendment 2 is composed of additional Event Manager service and a five-year contract extension with expected additional value of \$268,567 for printed materials purchased for the boating education program, \$16,055 for 14-day web certification support, and \$18,785 for additional Event Manager service.

Notwithstanding any provision in the Contract to the contrary, in no event shall the total of all payments made by the State exceed **\$884,107** (“Total Contract Price”). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to Boat Ed for all fees and expenses of whatever nature incurred by Boat Ed in the performance hereof. The State shall not be responsible for any travel or out-of-pocket expenses incurred in the performance of the Services by Boat Ed performed under this Contract.

e) Replace **Para 8 – Event Management fee collection and remittance** as follows:

- a. Kalkomey will collect the NHMP fee for each program (online) from each student at the time a student is registered via Event Manager.
- b. Kalkomey will recover its cost for NHMP's use of Event Manager and its cost for handling the credit card processing of NHMP fees as follows:
  1. From each NHMP fee collected, Kalkomey will retain a portion (“Kalkomey Event Manager fee”) for NHMP's use of Event Manager. The Kalkomey Event Manager fee per registration will be \$2.50 for the duration of a five-year contract extension.
  2. Kalkomey will charge 3.5% of the NHMP fee to recover its credit card processing costs. For example, if the NHMP fee is \$10, students will be charged \$10.35 to register and Kalkomey will retain \$0.35 of that fee to recover its credit card processing costs.
- c. The monthly aggregate of the remainder of each fee (NHMP fee less the Kalkomey Event Manager fee less \$2.50) will be transferred to NHMP each month with a reconciliation report, the format of which will be approved by the Department.

f) Add **Para 9 – Additional Event Manager Service**:

9. NHMP has requested that Kalkomey develop, support, and maintain the ability:

a) For an agency administrator to enter a special code in lieu of a credit card number when paying for a student registration within Event Manager to distinguish the collection of cash, money orders, and checks.

b) For a report to be generated and sent to the agency administrator each business day that, for the prior business day, lists students registered and total amount collected, grouped by cash, money orders, and checks.

Costs for these services shown in Table 6.

<b>Table 6 – Additional Event Manager Service, as requested by NHMP</b>	
2013 Cost: Includes initial cost plus first year annual support/maintenance	\$9,250
2014 Cost: Annual Support/Maintenance	\$2,200
<b>*For years beyond 2014, allow for an increase of up to 5% from the previous year's support/maintenance fee</b>	

Table 1, Amendment 2 to Contract 2007-019

<b>Contract and Amendment Number</b>	<b>Amendment Type</b>	<b>End Date</b>	<b>Contract Amount</b>
2007-019	Main Contract	December 31, 2011	\$540,700
2007-019 Amendment 1	Amendment to add Event Management	June 30, 2013	\$40,000
2007-019 Amendment 2	Amendment to add Additional Event Manager Service/Extension	June 30, 2018	\$303,407
<b>CONTRACT TOTAL</b>			<b>\$884,107</b>

2.) Effective Date of Amendment

This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.

3.) Continuance of Agreement

Except as specifically amended and modified by the terms and conditions of this Amendment, the Contract, and the obligations of the parties thereunder, shall remain in full force and effect with the terms and conditions set forth therein.

IN WITNESS WHEREOF, the parties set their hands as of the day and year first above written.

Kurt Kalkomey  
 Kurt Kalkomey, President  
 Kalkomey Enterprises, Inc.

Date: 4-18-2013

On this 18<sup>th</sup> day of April, 2013, before the undersigned officer, personally appeared Kurt Kalkomey, and acknowledged that he executed this document.

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

Susan Holcombe  
 Notary Public

Commission Expiration Date:  
February 4, 2014



Seal

STATE OF NEW HAMPSHIRE



John Beadmore, Director of Administration  
Department of Safety

Date: S-15-13

The foregoing contract, having been reviewed by this office, is approved as to form, substance and execution

OFFICE OF THE ATTORNEY GENERAL

By: 

State of New Hampshire, Department of Justice

On: May 28, 2013

GOVERNOR AND COUNCIL OF NEW HAMPSHIRE

On: \_\_\_\_\_, \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

**CERTIFICATE OF AUTHORITY/VOTE**

*(Corporation with Notary Seal)*

I, Cynthia Kalkomey, do hereby certify that:

1. I am a duly elected secretary of Kalkomey Enterprises, Inc.
2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of the Corporation duly held on January 5, 2013.

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting through its Department of Safety, Division of Administration, for the pr9ovision of education and data management services.

RESOLVED: That the President

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

3. The forgoing resolutions have not been amended or revoked, and remain in full force and effect as of January 4, 2014.
4. Kurt Kalkomey is the duly elected President.

Cynthia Kalkomey

STATE OF Texas

County of Dallas

The foregoing instrument was acknowledged before me the 13<sup>th</sup> day of May, 2013

by Cynthia Kalkomey



Michelle Barrett

Notary Public

Commission Expires: January 21, 2017

# 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 KALKOMEY ENTERPRISES, INC a(n) Texas corporation, is authorized to transact business in New Hampshire and qualified on December 24, 2001. I further certify that all fees and annual reports 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 27<sup>th</sup> day of March, A.D. 2013

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

William M. Gardner  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
03/20/2013

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 Financial Affiliates 1800 Preston Park Blvd. Suite 103 Plano TX 75093	CONTACT NAME:		
	PHONE (A/C, No, Ext):	(972) 379-2500	FAX (A/C, No): (972) 379-2509
	E-MAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: COMMERCE & INDUSTRY INSURANCE COMPANY		
INSURED KALKOMEY ENTERPRISES INC BOAT ED 14086 PROTON DALLAS TX 75244	INSURER B: HARTFORD LLOYDS INSURANCE COMPANY		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

### COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			46SBAUE1560	02/05/2013	02/05/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			46SBAUE1560	02/05/2013	02/05/2014	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 checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			EBU067963105	10/14/2012	10/14/2013	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	46WECGG3324	01/07/2013	01/07/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

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

CERTIFICATE HOLDER STATE OF NEW HAMPSHIRE DEPARTMENT OF SAFETY DIVISION OF STATE POLICE, MARINE PATROL BUREAU ATTENTION: JENNIFER LIVINGSTON P. O. BOX 1150 BELMONT NH 03220	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.	AI 014626
	AUTHORIZED REPRESENTATIVE 	

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H/C to Dott 7/27/11

G+C 8/10/11

# 117



# State of New Hampshire

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

JOHN J. BARTHELMES  
COMMISSIONER

July 27, 2011

His Excellency, Governor John H. Lynch  
and the Honorable Council  
State House  
Concord, NH 03301

### Requested Action

Authorize the Department of Safety (DOS) to exercise a contract renewal option with Kalkomey Enterprises, Inc of Dallas Texas (dba Boat Ed) (VC #172581-B001) to increase the contract amount by \$40,000 from \$540,700 to \$580,700 for on-line Boater Certification, upgrade the timer features and the 14 Day Temporary Certification test and to add an Event Management function. This request will extend the contract expiration date from the date of Governor and Council Approval through June 30, 2013. Funding Source: 100% Revolving Funds

Funds are available in the following account titled Boater Education SFY'12 and SFY'13 with authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

02-23-23-234010-5011 103-502664	Dept of Safety <u>SFY'12*</u>	Boater Education <u>SFY'12*</u>	<u>SFY'12*</u>	<u>SFY'13</u>
Contracts for Op Services	Current	Amended	Reduction	
	Contract Am't	Contract Am't		
	\$69,800	\$49,800	(\$20,000)	\$60,000

\* Reduction of \$20,000 from approved FY2012 total

### Explanation

The Department of Safety is charged with the implementation and oversight of the mandatory safe boater education program, pursuant to RSA 270-D: 10 et seq, for all persons operating a motorized vessel in excess of 25 horsepower on the public waters of New Hampshire. In addition to classroom, home study, internet course and testing-out options for a permanent boating education certificate, the State must also offer a 14-day temporary certificate pursuant to RSA 270-D: 14. Boat Ed maintains a Web based interactive, safe boater education and testing system per Agency RFP 2007-019: *Safe Boating Education*, in support of the Department of Safety's Boating Education Program. This amendment essentially continues the current concept of a company which maintains a web presence in the name of the State of NH where boating safety information is disseminated and tests are administered. The company is also a source of safe boating handbooks, videos, and classroom manuals. This Amendment is in three parts. The first part extends the Boat Ed contract from December 31, 2011 to June 30, 2013. This option is contained in the original Contract. The cost associated with the contract extension reflects the cost of safe boating handbooks, videos and other requisite materials purchased by the State from Boat Ed during this time in support of the safe boater education courses and is offset by \$20,000 as a result of the agreed upon reduction in the FY12 allocation. The reduction is the result of a re-assessment of printed material needs for FY12 and other efficiencies.

His Excellency, Governor John H. Lynch  
and the Honorable Council  
July 6, 2011  
Page 2

The second part of this amendment upgrades the timer function in the 14 Day Temporary Certificate test. Currently if the test taker has not finished the online test within the allocated time period they fail the test. With the upgrade, at the end of the allocated time the test is submitted with answers completed up to that time and graded. The cost to make this upgrade and to maintain the 14 Day Temporary Certificate test will be absorbed into the existing budgeted amounts as a result of more accurate projections relating to number of students as well as number of printed handbooks, videos and other associated materials essential to the program.

The third part of this amendment adds an event management function to the Boat Ed online education and testing suite. This function allows test takers to register and pay for safe boating courses and test sessions online. The information is used by the Agency to plan and schedule courses and test sessions and to record results for both. The event management function will help to leverage the Agency's resources. This will be particularly needed if pending legislation requiring boater safety courses for boaters operating vessels with motors below 25 HP is approved adding more persons requiring education and testing to the subject pool., Boat Ed will collect the course/testing fee from each person registering. A processing fee of \$2.15 will be taken from each registration and the remainder will be remitted to the Department of Safety. DOS estimates that approximately 10,000 registrants will use this system annually and that the estimated annual total paid to Boat Ed for this service, will be approximately \$21,500.

Attached is the approval letter from the Department of Information Technology for this Project #2007-019A. The Department of Safety respectfully requests approval of this contract.

Sincerely,



*for* John J. Barthelmes  
Commissioner of Safety



STATE OF NEW HAMPSHIRE  
DEPARTMENT OF INFORMATION TECHNOLOGY  
27 Hazen Dr., Concord, NH 03301  
Fax: 603-271-1516 TDD Access: 1-800-735-2964  
www.nh.gov/doi

S. William Rogers  
Commissioner

July 1, 2011

John J. Barthelmes  
Commissioner  
Department of Safety  
33 Hazen Drive  
Concord, NH 03301

Dear Commissioner Barthelmes:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your request to exercise a contract renewal option, upgrade the current application and add event management functionality to an existing contract with Kalkomey Enterprises, Inc of Dallas Texas (dba Boat Ed) as described below and referenced as DoIT No. 2007-019A.

This is a request to authorize the Department of Safety to exercise a contact renewal option for the On Line Boater Certification Contract and to upgrade the timer feature of the 14 Day Temporary Certification Test. This amendment also adds an event management function, paid for by fees charged to users of the function (students signing up for Boater Education Classes and examinations), from the date of Governor and Council approval through June 30, 2013. The total not to exceed value of this contract will increase by \$40,000 from \$540,700 to \$580,700.

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

Sincerely,



S. William Rogers

SWR/dcp  
DOS 2007-019A  
RID #10941

cc: Tony Cardoza, Department of Safety  
David Perry, IT Manager – BFA/Contracts, Department of Information Technology

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF SAFETY  
SAFE BOATING EDUCATION 2007-019 AMENDMENT 1  
EVENT MANAGEMENT**

WHEREAS, pursuant to an Agreement approved by Governor and Council, as a result of RFP #2007-019, on 3/21/07, Item #69 (herein after referred to as the "Agreement"), Kalkomey Enterprises, Inc. (hereinafter referred to as "Vendor") Vendor # 172581 agreed to supply certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the Department of Safety (hereinafter referred to as the "Department") acting for the benefit of the Agency, certain sums as specified therein;

WHEREAS, pursuant to the Agreement Section 17: Amendment and the provisions of the Agreement, the Agreement may be modified or amended only by a written instrument executed by the parties thereto and approved by the Governor and Executive Council;

WHEREAS, the Vendor and the Department have agreed to amend the Agreement in certain respects;

WHEREAS, Department wishes to increase the scope and extend the end date of the Contract, the Department and the Vendor seek to clarify the Agreement.

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties agree as follows:

Contract Agreement/General Provisions is hereby amended as follows:

1. Amend Section 1.6 of the General Provisions of the Agreement to reflect a new completion date of June 30, 2013
2. Amend Section 1.8 of the General Provisions of the Agreement to reflect an increase of the total contract price by \$40,000 from \$540,700 to \$580,700.
3. Exhibit A

- 2.1 Exhibit A: Contract Deliverables of the Agreement is hereby amended by adding Paragraph 2.3 and 2.4 as described in Table 1:

**Table 1**

Contract# 2007-019 Exhibit A	AMENDED TEXT
<b>Paragraph 2.3</b>	<p>2.3 Event Management Deliverable</p> <p>Kalkomey shall install and host a web based event management function through which Department customers can schedule and pay for attendance at Department sponsored events. The Department shall be able to use the Event Management System to record attendance and outcomes for each individual scheduled.</p> <p>Kalkomey shall additionally develop, support and maintain the ability:</p> <p>For Department of Safety personnel to enter a special code in lieu of credit card number when paying for a student registration within EM to distinguish the collection of cash, money orders and checks.</p> <p>To provide a report to be generated and sent to the agency admin each business day that, for the prior business day, lists students registered and total amount collected, grouped by cash, money orders and checks.</p> <p>System requirements are further detailed in Exhibit A, Attachment 1.</p>

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF SAFETY  
SAFE BOATING EDUCATION 2007-019 AMENDMENT 1  
EVENT MANAGEMENT**

<b>Paragraph 2.4</b>	2.4 Update of Timer feature on 14 day Certification Testing. Currently if the timer expires and the student has not yet submitted answers, the test is not graded and no score is given. Enhance the application so that when the timer expires, whatever questions the student has answered up to that point would be submitted automatically for grading. Any unanswered questions would be counted as wrong answers. At this point the test is graded and the score presented. Work will be completed tested and implemented eight (8) weeks from project start date.
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2.2 Exhibit A - Attachment 1 - Specifications for Kalkomey Enterprises (Boat Ed) Event Management as follows is hereby attached to Contract 2007-019.

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF SAFETY  
SAFE BOATING EDUCATION 2007-019 AMENDMENT 1  
EVENT MANAGEMENT**

*2007-019 Exhibit A – Attachment 1*

*Specifications for  
Kalkomey Enterprises (Boat Ed)  
Event Manager*

**OVERVIEW**

Boat Ed's Event Manager is a Web-based system that will allow the Department of Safety to manage Boater Safety events offered to the public. The Event Manager provides for managing programs and instructors by State agency administrators, scheduling events by instructors, online registration for events by students, recording of event results by instructors, transfer of event data to the State, and reporting on event status/results. Boat Ed will also receive payment for events scheduled by attendees, retain a fee for processing and remit the remainder to the Department of Safety, Bureau of Boating Education

**Definitions**

Two terms used in these specifications are defined as follows:

- **Program.** A type of educational offering. Examples include: a Boater Education Classroom Course and a Boater Education Proctored Exam.
- **Event.** A specific instance of a program. For example, a Boater Education Classroom Course held at a specific location, on a specific date/time, and taught by a specific instructor(s).

**SERVICES**

**BOAT ED Services**

The following services are included with Boat Ed's Event Manager.

- Boat Ed will continue to enhance and maintain the Event Manager with its experienced, qualified staff.
- Boat Ed maintains good standing as a U.S. corporation. Boat Ed's staff, including all customer support personnel, is based in the U.S.
- Boat Ed is responsible for all development required for the Event Manager, and no development or any part of the daily administration/support is sub-contracted to another party.
- Boat Ed supplies the Internet domain (www address) to host the Event Manager.
- Boat Ed supplies an infrastructure with multiple Web servers, redundant Internet connectivity, and backup power generation to support the Event Manager.

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- Boat Ed provides daily support service for users (state agency administrators, instructors, and students) of the Event Manager. A link that allows users to e-mail the support service appears on every page of the Event Manager.
- Boat Ed will set up the Event Manager to collect the student data fields desired by the State.
- Boat Ed will provide online, task-based tutorials on how to use Event Manager for state agency administrators and instructors.
- Boat Ed is able to transfer student data to the State electronically and securely, at any frequency and in any format specified by the State.
- Boat Ed will maintain a complete backup of the Event Manager in electronic format.

**Event Manager Infrastructure and Data Security**

Boat Ed brings these abilities and applies these procedures to its Event Manager.

- Boat Ed has a demonstrated ability to manage student registration data securely and electronically via an electronic database management system.
- Boat Ed will supply web server(s) (hardware and software) to host the Event Manager. The web server(s) will meet these minimum requirements to promote continuous availability to the public and data security:
  - Linux or UNIX server running Apache Web Server
  - Verisign's SSL encryption
  - Multiple T-3 connections to the Internet to support high-volume use
  - Daily server backups, UPS power backup, and diesel backup generator at both Boat Ed's production and data backup locations
  - Network monitoring 24/7
- Boat Ed has obtained and will maintain certification for being Payment Card Industry (PCI) compliant and is able to provide quarterly certificates issued by an approved PCI Qualified Security Assessor. The PCI audits will cover Boat Ed's Web servers, data management system, and associated networks. Additionally, Boat Ed commits to meet those same PCI security standards with respect to Boat Ed's handling of students' personal data. Boat Ed will, upon request, provide the State with a copy of Boat Ed's most recent PCI certificate.

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**PRODUCT QUALITY**

**Functionality Quality**

Boat Ed's Event Manager has functionality for five types of users in order to provide the complete services needed to manage educational events online with respect to managing instructors, scheduling events, registering for events, recording results of events, and transmitting event data to the State. The five types of users are: 1) system administrator; 2) state agency administrator; 3) instructor; 4) student; and 5) user support personnel.

- **System Administrator:** The system administrator for the program is a Boat Ed staff member who sets up and maintains the educational program for a State within the Event Manager. The Event Manager functionality provided for this type of user includes:
  - Setting up the program within the Event Manager.
  - Creating State Agency Administrator account(s).
  - Loading initial set of agency instructors within the Event Manager.
  - Loading initial set of locations within the Event Manager.
  - Loading any existing events for the program within the Event Manager.
  - Defining personal data fields within the Event Manager to be collected from students who register online. The online process will validate the data fields to ensure that the data is good (that is, the process will check that all required data fields have been supplied by the student, and the process will allow data for fields such as hair color or race to be selected from a state-specified list of allowed values).
  - Configuring online payment collection if the program requires a registration fee.
  - Defining event results within the Event Manager to be collected based on State requirements (e.g., numeric exam score, pass/fail firearm handling exercise, letter-grade ORV skills exercise, ...).
  - Creating report formats within the Event Manager for recording results of events based on State requirements.
  - Creating student data transfer processes for transferring the results of events to the State in the format and frequency required by the State.
  
- **State Agency Administrator:** The state agency administrator(s) for the program is an employee of the State who is responsible for administering the educational program. The Event Manager functionality provided for this type of user includes:

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- Creating/editing instructor account(s) for the program.
  - Assigning instructors to programs.
  - Creating/editing event locations available for the program, including location capacity.
  - Establishing registration and cancellation policies.
  - Creating program-wide instructions and/or documents to be displayed to students registering for any event.
  - Cancelling a scheduled event with appropriate handling of students registered for that event (automatic e-mail notification of cancellation).
  - Accessing any specific instructor's functionality within Event Manager (see specification of that functionality below).
- **Instructor:** The instructors associated with the program are typically employees of the State or volunteers who are responsible for holding events. The Event Manager functionality provided for this type of user includes:
- Viewing a calendar of the instructor's scheduled events or viewing all events for the program.
  - Scheduling a new event to held by the instructor at a specific location on a specific date/time.
  - Creating instructions and/or documents to be displayed to students registering for a specific event.
  - Adding additional instructors to a scheduled event.
  - Viewing current enrollments and student rosters for a scheduled event.
  - Creating a student account and registering a student for an upcoming event or past event (for students unable to register online themselves or for walk-in students, if allowed).
  - Viewing or editing a student's registration information.
  - Sending emails to students registered for an event or to instructors participating in an event.
  - Recording event results after an event is held (instructor data and student performance data).
- **Student:** The students associated with the program are members of the public who register for and attend specific events. The Event Manager functionality provided for this type of user includes:
- Viewing a calendar of all available events for the program with the ability to search by the student's proximity to event locations. Availability is determined by the program's registration policy and an event's remaining capacity.

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- Registering for a specific event, including obtaining driving directions to the event location.
  - Downloading any documents associated with the event.
  - Cancelling a current registration (if allowed by the registration policy established by the state agency administrator).
  - Paying the event fee online if the program requires a fee.
- **User Support Personnel:** The user support personnel for the program are Boat Ed staff members who provide telephone and online support to users of the Event Manager system. The Event Manager functionality provided for this type of user includes:
- Viewing a calendar of an instructor's scheduled events or viewing all events for the program.
  - Viewing/editing a student's registration.
  - Resetting a student's password.
  - Creating a student account and registering a student for an upcoming event.
  - Viewing an instructor's account.
  - Various search functions to allow support personnel to quickly answer user questions.

**Web Design Quality**

- The Event Manager Web page design has an attractive, easy-to-use, and contemporary look and feel.
- The Event Manager Web page design supports all common user environments (various operating systems, web browsers, and connection speeds).

**Privacy Policy**

Boat Ed will adhere strictly to a privacy policy that ensures that student and instructor data:

- 1) will not be transferred to any other party except the State; and
- 2) will not be used by Boat Ed for any purpose except transfer to the state or communication with students regarding their registrations. Boat Ed will operate at all times on the assumption that the student and instructor data belongs to the State.

4. Exhibit B: Deliverable Payment Schedule of the Agreement is hereby amended as described in Table 2:

**STATE OF NEW HAMPSHIRE  
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Table 2

Exhibit B	AMENDED TEXT																																																				
	<p><b>Replace Para 1.2 Printed Materials and Table 2 (rate for each) as follows:</b></p> <p><b>1.2 Printed Materials (rate for each) – Printed Material costs per item is set forth in Table 2 below:</b></p> <table border="1" style="width: 100%; border-collapse: collapse; margin: 10px 0;"> <thead> <tr> <th style="width: 25%;">Description</th> <th style="width: 10%;">Quantity in Print Order</th> <th style="width: 10%;">1/1/11-6/30/11</th> <th style="width: 10%;">7/1/11-12/31/11</th> <th style="width: 10%;">1/1/12-6/30/13</th> </tr> </thead> <tbody> <tr> <td>Printed Boater's Handbook</td> <td style="text-align: center;">200,000</td> <td style="text-align: center;">0.46</td> <td style="text-align: center;">0.46</td> <td style="text-align: center;">0.48</td> </tr> <tr> <td>Printed Boater's Handbook</td> <td style="text-align: center;">150,000</td> <td style="text-align: center;">0.47</td> <td style="text-align: center;">0.47</td> <td style="text-align: center;">0.49</td> </tr> <tr> <td>Printed Boater's Handbook</td> <td style="text-align: center;">100,000</td> <td style="text-align: center;">0.52</td> <td style="text-align: center;">0.52</td> <td style="text-align: center;">0.54</td> </tr> <tr> <td>Printed Boater's Handbook</td> <td style="text-align: center;">50,000</td> <td style="text-align: center;">0.62</td> <td style="text-align: center;">0.62</td> <td style="text-align: center;">0.64</td> </tr> <tr> <td>Printed Student Manual</td> <td style="text-align: center;">20,000</td> <td style="text-align: center;">1.19</td> <td style="text-align: center;">1.19</td> <td style="text-align: center;">1.25</td> </tr> <tr> <td>Printed Student Manual</td> <td style="text-align: center;">15,000</td> <td style="text-align: center;">1.40</td> <td style="text-align: center;">1.40</td> <td style="text-align: center;">1.46</td> </tr> <tr> <td>Printed Student Manual</td> <td style="text-align: center;">10,000</td> <td style="text-align: center;">1.82</td> <td style="text-align: center;">1.82</td> <td style="text-align: center;">1.91</td> </tr> <tr> <td>Printed Student Manual</td> <td style="text-align: center;">5,000</td> <td style="text-align: center;">2.90</td> <td style="text-align: center;">2.90</td> <td style="text-align: center;">3.04</td> </tr> </tbody> </table>								Description	Quantity in Print Order	1/1/11-6/30/11	7/1/11-12/31/11	1/1/12-6/30/13	Printed Boater's Handbook	200,000	0.46	0.46	0.48	Printed Boater's Handbook	150,000	0.47	0.47	0.49	Printed Boater's Handbook	100,000	0.52	0.52	0.54	Printed Boater's Handbook	50,000	0.62	0.62	0.64	Printed Student Manual	20,000	1.19	1.19	1.25	Printed Student Manual	15,000	1.40	1.40	1.46	Printed Student Manual	10,000	1.82	1.82	1.91	Printed Student Manual	5,000	2.90	2.90	3.04
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Replace Para 1.3 Hourly Rates and Table 2 Printed Material (rate for each) as follows:

**1.3 Hourly Rates** – Hourly rates for Boat Ed Personnel in future engagements are set forth in Table 4 below.

<b>Table 4 – Boat Ed Rates Pricing Worksheet (Hourly Rates)</b>			
<b>Description</b>	<b>1/1/11- 6/30/11</b>	<b>7/1/11- 12/31/11</b>	<b>1/1/12- 6/30/13</b>
Project Leader	\$142	\$142	\$142
PrePress Design Manager	\$142	\$142	\$142
Customer Service Manager	\$142	\$142	\$142
Print Schedule Coordinator	\$142	\$142	\$142
Web Design Leader	\$142	\$142	\$142
Lead Webmaster	\$142	\$142	\$142
Call Center Coordinator	\$142	\$142	\$142
Network/Security Admin.	\$142	\$142	\$142

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**Para  
1.5**

**Add Paragraph 1.5.1 and Table 5A Amendment 1 Upgrade, Maintenance and Support for 14 Day Temporary Certification as follows:**

**1.5.1 Amendment 1 Maintenance and Support and Upgrade for 14 Day Certification Feature** – Maintenance and Support and upgrade for the 14 Day Certification Feature are set forth in Table 5A below.

**Table 5A Amendment 1 Maintenance and Support and Upgrade for 14 Day Certification Feature**

Item	1/1/11-6/30/11	7/1/11-6/30/12	7/1/12-6/30/13	Total
Baseline Annual Maintenance		1,250*	2,500	\$3,750
Upgrade Cost	2,700			\$2,700
Upgrade Maintenance		400	400	\$800
<b>Total</b>	<b>\$2,700</b>	<b>\$1,650</b>	<b>\$2,900</b>	<b>\$7,250</b>

\* Baseline Maintenance is covered through 12/31/2011 in Table 5 of basic Contract.  
Note – The new Annual Maintenance Cost is \$2,900 per year includes \$2,500 for baseline maintenance and \$400 for the Timer Function.

**Add Paragraph 1.5.2 and Table 5B Amendment 1: Daily Event Management Cash Reconciliation Reports as follows:**

**1.5.2 Amendment 1 Maintenance, Support and Upgrade for Daily Event Management Cash Reconciliation Report** – Maintenance and Support and upgrade for the Dailey Event Management Cash Reconciliation Report are set forth in Table 5A below.

**Table 5A Amendment 1 Maintenance and Support and Upgrade for Daily Event Management Cash Reconciliation Report**

Item	1/1/11-6/30/11	7/1/11-6/30/12	7/1/12-6/30/13	Total
Upgrade Cost		8,400		\$8,400
Upgrade Maintenance			2,000	\$2,000
<b>Total</b>		<b>\$8,400</b>	<b>\$2,000</b>	<b>\$10,400</b>

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EVENT MANAGEMENT**

<b>Para 2</b>	<p><b>2. TOTAL CONTRACT PRICE</b></p> <p>The total contract value is not to exceed \$580,700 which equals the previous Contract value of \$540,700 plus the Amendment 1 cost of \$40,000. Amendment 1 is composed of the upgrade and additional maintenance cost for the 14 Day Certification feature, of \$7,250 plus the upgrade and additional maintenance cost for the Daily Event Management Cash Reconciliation Reports of \$10,400, plus the expected additional value of \$22,350 for printed materials purchased for the boating education programs.</p> <p>Notwithstanding any provision in the Contract to the contrary, in no event shall the total of all payments made by the State exceed \$580,700 ("Total Contract Price"). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to Boat Ed for all fees and expenses of whatever nature incurred by Boat Ed in the performance hereof. The State shall not be responsible for any travel or out of pocket expenses incurred in the performance of the Services by Boat Ed performed under this Contract.</p>
<b>Para 8.</b>	<p><b>8. Event Management fee collection and remittance</b></p> <p>a. Kalkomey will collect the NHMP fee (online) from each student at the time a student is registered via Event Manager. (Fees will be whatever is specified by NHMP, but must be at least \$2.15.)</p> <p>b. From each NHMP fee collected, Kalkomey will retain \$2.15.</p> <p>c. The monthly aggregate of the remainder of each fee (NHMP fee less \$2.15) will be transferred to NHMP each month with a reconciliation report, the format of which will be approved by the Department.</p> <p>Paragraph 8. outlines all the procedure for all payments where a portion of a customer fee is retained by Kalkomey and the remainder remitted to the State Paragraph 8 does not cover the purchase of printed material as outlined in Exhibit B Table 2: Printed Material</p>

**Table 3 Amendment 1 to Contract 2007-019 Event Manager Amendment**

<b>CONTRACT AND AMENDMENT NUMBER</b>	<b>AMENDMENT TYPE</b>	<b>END DATE</b>	<b>CONTRACT AMOUNT</b>
2007-019	Main Contract	December 31, 2011	\$ 540,700
2007-019 Amendment 1	Amendment to extend base contract and to add Event Management	June 30, 2013	\$ 40,000
	<b>CONTRACT TOTAL</b>		<b>\$ 580,700</b>

sent to WOVUW  
03-07-07

G+C 03-21-07  
#69



# State of New Hampshire

DEPARTMENT OF SAFETY  
OFFICE OF THE COMMISSIONER

33 HAZEN DR. CONCORD, NH 03305

603/271-2791

RICHARD M. FLYNN  
COMMISSIONER

March 6, 2007

His Excellency, Governor John H. Lynch  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

## REQUESTED ACTION

The Department of Safety, Division of Safety Services respectfully requests approval to enter into a contract with Kalkomey Enterprises, Inc. (d.b.a. Boat Ed) (VC #80687), to maintain and operate a Safe Boater Education and Testing web site for the State of New Hampshire, to include the subsequent hosting, enhancement and management of the web site for the not to exceed total of \$540,700.00. This contract will be effective upon Governor & Council approval through December 31, 2011.

Funds are available as follows:

Activity Code: 2350  
Account No: 010-023-5001-094 Watercraft Safety  
Source of Funds: 100% Navigation Safety Fund

FY07	FY08*	FY09*	FY10*	FY11*	FY12*
\$40,500.00	\$100,100.00	\$105,100.00	\$110,100.00	\$115,100.00	\$69,800.00

\* FY 2008-2012 funding contingent upon the passing of the biennial budgets.

## EXPLANATION

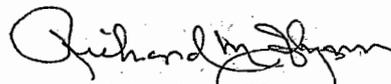
RSA 270-D:10, effective January 1, 2002, requires that certain persons operating power boats in excess of 25 horsepower shall first obtain a certificate of Boating Safety Education. The law establishes a schedule by birth date up through January 1, 2008 for all individuals to be certified.

The in-house course and testing is currently being offered at 54 locations throughout the state. This contract provides the State with the interactive on-line education course certification, printed New Hampshire Boating Guides, printed classroom manuals for instruction, and 14-day agent testing. The overall goal is to provide a user-friendly site for first time visitors and vacationers unaware of the State of New Hampshire's mandatory boating education laws.

This contract was sent and or emailed to in excess of 90 vendors, with Kalkomey Enterprises, Inc. being the only responding bidder. See the grading sheet for this bid attached.

The Request for Proposal (RFP) was issued on September 15, 2006 with a bidder conference being held on September 25, 2006. The RFP was advertised on the state purchasing website. The list of potential bidders was developed from Division of Safety Services personnel who are familiar with the industry as well as personnel from the Office of Information Technology who were familiar with vendors who had expressed interest or bid on other web based contracts.

Respectfully submitted,

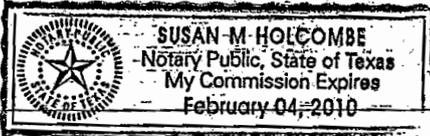


Richard M. Flynn  
Commissioner of Safety

State of New Hampshire  
 DEPARTMENT OF SAFETY  
 SAFE BOATING EDUCATION CONTRACT  
 For RFP 2007-019  
 STATEMENT OF WORK

CONTRACT AGREEMENT

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

GENERAL PROVISIONS			
1.1 State Agency Name Department of Safety		1.2 State Agency Address 33 Hazen Drive Concord, NH 03305	
1.3 Contractor's Name Kalkomey Enterprises, Inc. (d/b/a Boat Ed.)		1.4 Contractor's Address 2906 Ladybird Lane Dallas, Texas 75220	
1.5 Account No. 010-023-5001-094	1.6 Completion Date 12/31/2011	1.7 Audit Date N/A	1.8 Price Limitation \$ 540,700
1.9 Contracting Officer for State Agency Wesley Colby		1.10 State Agency Telephone Number 603-271-1011	
1.11 Boat Ed Signature <i>Kurt Kalkomey</i>		1.12 Name & Title of Boat Ed Signor Kurt Kalkomey, President	
1.13 Acknowledgement: State of <u>TEXAS</u> County of <u>DALLAS</u> On <u>March 2, 2007</u> , before the undersigned officer, personally appeared the person identified in block 1.12 or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [seal] <i>Susan Holcombe</i>			
1.13.2 Name & Title of Notary or Justice of the Peace <i>Susan Holcombe</i>			
1.14 State Agency Signature(s) <i>Wesley Colby</i>		1.15 Name/Title of State Agency Signor(s) Wesley Colby Director of Administration	
1.16 Approval by Department of Personnel (Rate of Compensation for Individual Consultants) By: _____ Director, On: _____			
1.17 Approval by Attorney General (Form, Substance and Execution) By: <i>Gail Desrochers</i> Assistant Attorney General, On: <u>3/5/07</u>			
1.18 Approval by the Governor & Council By: _____ On: _____			

State of New Hampshire  
DEPARTMENT OF SAFETY  
SAFE BOATING EDUCATION CONTRACT  
For RFP 2007-019  
STATEMENT OF WORK

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**TERMS AND DEFINITIONS**

Capitalized terms used in the Contract shall have the meanings given below:

Acceptance	Notice from the State that a Deliverable has satisfied Acceptance Test or Review.
Acceptance Test Plan	A test plan provided by Boat Ed and agreed to by the State that describes, at a minimum, the specific acceptance process, criteria and schedule for the Deliverables.

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Acceptance Test and/or Review	Tests performed to determine that no Deficiencies exist in the Software or the System.
Boat Ed	Operating name of the Kalkomey Enterprises Inc.
Boater Safety Education System	The Boat Ed hosted education and testing system, accessed by the public by internet browser according to the requirements of RFP 2007-019
Change Order/ Change Request	A written document setting forth a description of the addition, change or deletion to the Contractor's scope of work.
COTS	Commercial Off-The-Shelf Software applications
Certification or Certify	Written Certification and full supporting and written documentation (including, without limitation, test results as applicable) that Boat Ed has completed development of the Deliverable and certified its readiness for applicable Acceptance Test and/ or Review.
Confidential Information	Information required to be protected from unauthorized disclosure.
Contract Documents	Documents that comprise this Contract (See Statement of Work, Section 1.1)
Contract Managers	The persons identified by the State and Boat Ed 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.
Data	State's records, files, forms, data and other documents or information that will be used during the Contract Term
Deficiencies	<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 action; Written Documentation - missing significant portions of information or unintelligible to State; Non Software - services were inadequate and require re-performance.</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</p>

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	<p>- Services were deficient, require reworking, but do not require re-performance.</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.</p>
Deliverables	A product or item to be delivered under the contract, albeit Non-Software, Software or Written
Documentation	All operations, technical, user and other manuals used in conjunction with the System and Software, in whole and in part.
Effective Date	The date on which the Contract takes effect which shall be upon Governor and Council approval.
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
EOM	End of Month
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 Boat Ed's cost experience in performing the Contract
GAAP	Generally Accepted Accounting Principles
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Implementation	The process for making the System fully operational for processing the Data.
Implementation Plan	Sets forth the transition from development of the System to full operation, and includes without limitation, training, business and technical procedures.
Installation Date	The date that Contractor completes installation and certifies such completion in writing to the State.
Key Project Staff	Staff Members who will play a key role in the IT Project and whose experience and credentials were considered and scored during the selection process. Replacement of Key Project Staff must be approved by the State.
N/C	No Charge
Non Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the product or service.
Non-Software Deliverables	Deliverables, such as but not limited to equipment or training, that is not Written or Software Deliverables

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Normal Business Hours	Normal Business Hours – 8:15 a.m. to 4:15 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 <sup>th</sup> , 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 direction to the contracted Vendor to begin work on the Contract on a given date and time.
Office of Information Technology (OIT)	The Office of Information Technology established under RSA 4-D within the Office of the Governor.
Operational	System is operating fully functional, all Data has been loaded into 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 Activities/Documents preside in the event of a conflict or ambiguity.
Production Cut Over Date	The date that the State has successfully completed User Acceptance Testing and signoff, the software has been placed into production, and the Warranty Period commences.
Project	The planned undertaking regarding the entire subject matter of an RFP Contract and the activities of the parties related hereto.
Project Team	The group of State employees and consultants responsible for managing the processes and mechanisms required such that the Services are procured in accordance with the Project Plan on time, on budget and to the required specifications and quality.
Project Management Plan	A document that describes the processes and methodology to be employed by Vendor to ensure a successful project.
Project Managers	The persons identified who shall function as the State’s and 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).
Proposal	Boat Ed’s written proposal submitted in response to RFP.
Review	The process of evaluating Deliverables for acceptance.
Review Period	The period set for Review contained in the Statement of Work for a Deliverable. If none is specified then five (5) business days shall apply.
RFP (Request for Proposal)	Request For Proposal 2007-019

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Schedule	The dates described in the Work Plan for deadlines for performance of Services and other project events and activities under the Contract.
Services	The work or labor to be performed by the contracted Contractor on the Project as described in the Contract.
Software	All custom Software and COTS Software provided by Contractor under the Contract
Software Deliverables	The custom designed and programmed modules created by the Contractor.
Software License	Licenses provided to the State under this Contract.
Solution	The Solution consists of, 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 Contractor in response to this RFP
Specifications	The written requirements which include, without limitation, the Contract, any performance standards, Documentation, applicable state and federal policies, laws and regulations, State technical standards, subsequent State-approved Deliverables, and other requirements described in the Contract Documents.
State	STATE means: State of New Hampshire Department of Safety 33 Hazen Drive Concord, NH, 03305
Statement of Work (SOW)	The basic requirements and objectives of a project, including but not limited to a high level view of the architecture, performance and design requirements, and the responsibilities and accountabilities of the Contractor.
State's Confidential Records	State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to RSA Chapter 91-A.
State Data	Any information contained within State systems in electronic or paper format.
State Fiscal Year	The New Hampshire State Fiscal Year extends from July 1 <sup>st</sup> through June 30 <sup>th</sup> of the following calendar year
Subcontractor	A person, partnership, or company not in the employment of or owned by Boat Ed, which is performing Services under this Contract under a separate Contract with or on behalf of Boat Ed.
System	All Software, specified hardware, and interfaces and

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	extensions, integrated and functioning together in accordance with the Specifications.
TBD	To Be Determined.
Technical Authorization	Direction to Boat Ed, 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
UAT	User Acceptance Tests - means a verification process that consists of performing the tests and verifying the results against the acceptance criteria specified and in the requirements defined in the Contractor's response to the RFP.
Warranty Period	That period following the Acceptance Date during which Contractor shall provide Software product support and/or maintenance to the State at no charge, subject to any extensions for defect correction.
Warranty Services	The services to be provided during the Warranty Period.
Warranty Releases	Software code that is provided to the State as a remedy for defects documented during the Warranty Period.
Work Plan	The plan and delineation of tasks, activities and events to be performed and Deliverables to be produced under the Project.
Written Deliverables	Non-software written documentation (letter, report, manual, book, other) provided by Contractor either in paper or electronic format.

*Bryce, Scott  
942-9296  
Cindy*

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This Contract is by and between the State of New Hampshire, DEPARTMENT OF SAFETY ("State"), and Kalkomey Enterprises, Inc. (d/b/a Boat Ed), a Texas Corporation, (Boat Ed) having its principal place of business at 2906 Ladybird Lane, Dallas, Texas.

**RECITALS**

The State desires to have Boat Ed provide a Boating Safety web based education and testing system, and associated Services for the Department of Safety;

Boat Ed wishes to provide a Boating Safety web based education and testing system, and associated Services for the State.

The parties therefore agree as follows:

**1. CONTRACT DOCUMENTS**

**1.1 Contract Documents**

This Contract is comprised of the following documents (Contract Documents):

- a. The Statement of Work (SOW)
- b. Exhibit A Contract Deliverables
- c. Exhibit B Price and Payment Schedule
- d. Exhibit C Special Provisions
- e. Exhibit D Administrative Services
- f. Exhibit E Implementation Service (Not Used)
- g. Exhibit F Testing Services
- h. Exhibit G Maintenance and Support Services
- i. Exhibit H Requirements- Boat Ed Responses
- j. Exhibit I Work Plan
- k. Exhibit J Software License and related Terms (Not Used)
- l. Exhibit K Warranty and Warranty Services
- m. Exhibit L Training Services (Not used)
- n. Exhibit M Agency RFP with Addendum, by reference
- o. Exhibit N Boat Ed Proposal, by reference
- p. Exhibit O Certificate of Vote
- q. Exhibit P Certificate of Authority
- r. Exhibit Q Certificate of Insurance
- s. Exhibit R Proposal Transmittal Form Letter

**1.2 Order of Precedence**

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

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- a. State of New Hampshire, Department of Safety Safe Boating Education Contract for RFP 2007-019 with Exhibits A through R incorporated;
- b. *The State of New Hampshire Terms and Conditions*, in Appendix G, Section G-4 of the RFP and the *General Contract Requirements*, as stated in the RFP Section 6;
- c. RFP 2007-019 Safe Boating Education, dated September 18, 2006, with Addendum 1 and 2 incorporated;
- d. Boat Ed's Proposal to RFP 2007-019, dated October 24, 2006;

**1.3 Non-Exclusive, FIRM FIXED PRICE Contract**

This is a Non-Exclusive, Firm Fixed Price (FFP) Contract with a not to exceed ceiling price and term limitations as set forth in Exhibit B of the Contract.

The State may, at its discretion, retain other contractors to provide Services or Deliverables procured under this Contract. Boat Ed will not be responsible for any delay, act, or omission of such other contractors, except that Boat Ed shall be responsible for any delay, act, or omission of the other contractors if such delay, act, or omission is caused by or due to the acts or omissions of Boat Ed.

**2. CONTRACT TERM**

**2.1 Term**

The Contract shall take effect after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council approval.

The Contract shall begin on the Effective Date and extend through December 31, 2011. The Term may be extended for up to two (2) years, at the sole option of the State, subject to the parties' prior written agreement for each extended term.

Boat Ed shall commence work upon issuance of a Notice to Proceed by the State. If Boat Ed commences work prior to the Effective Date and a Notice to Proceed, such work shall be performed at the sole risk of Boat Ed and the State shall be under no obligation to pay Boat Ed for any costs incurred or services performed.

**Time is of the essence in the performance of Boat Ed's obligations under the Contract.**

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**3. COMPENSATION**

**3.1 Contract Price**

The Contract price, method of payment, and terms of payment are identified in Exhibit B: *Price and Payment Schedule*.

**4. CONTRACT MANAGEMENT**

Boat Ed shall provide all necessary resources to perform its obligations under the Contract. Boat Ed shall be responsible for managing the Project to its successful completion.

**4.1 Boat Ed Contract Manager**

Boat Ed shall assign a Contract Manager who shall be responsible for all Contract authorization and administration. Boat Ed has designated its Contract Manager as:

Kurt Kalkomey  
President  
2906 Ladybird Lane  
Dallas, Texas 75220  
TEL: 214-351-0461  
FAX: 214-351-6429  
EMAIL: kurt@boat-ed.com

**4.2 Boat Ed Project Manager**

**4.2.1 Project Manager**

Boat Ed shall assign a project manager who shall be capable of fulfilling the requirements of the Contract, including but not limited to, the requirements set forth in the RFP. Boat Ed's selection of its Project Manager shall be subject to the prior written approval of the State. The State's approval process may include, without limitation, at the State's discretion, review of the proposed Boat Ed Project Manager's resume, qualifications, references, background checks, and an interview. The State may require removal or reassignment of Boat Ed's Project Manager who, in the sole judgment of the State, is found unacceptable to the State or is not performing to the State's satisfaction.

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

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4.2.3 Boat Ed shall not change its assignment of the Boat Ed Project Manager without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of the Boat Ed Project Manager shall not be unreasonably withheld. The replacement Project Manager shall have comparable or greater skills than the Boat Ed Project Manager being replaced; meet the obligations of the Contract, ; and be subject to reference and background checks described above in Section 4.2.1: *Contract Project Manager* and 4.10: Background Checks. Boat Ed shall assign a replacement Boat Ed Project Manager within ten (10) business days of the departure of the prior Boat Ed Project Manager, and Boat Ed shall continue during the ten (10) business day period to provide competent project management services through the assignment of a qualified replacement Boat Ed Project Manager.

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

4.2.5 The Boat Ed Project Manager is:

Cynthia Kalkomey  
Vice President  
2906 Ladybird Lane  
Dallas, Texas 75220  
(214) 351-0461  
(214) 351-6429  
cindy@boat-ed.com

### 4.3 Boat Ed Key Project Staff

4.3.1 Boat Ed shall assign Key Project Staff who meet the obligations of the Contract, and can implement the system solution. The State may conduct reference and background checks on the Boat Ed Key Project Staff. The State reserves the right to require removal or reassignment of Boat Ed's Key Project Staff who are found unacceptable to the State. Any background checks shall be performed in accordance with Section 4.10: *Background Checks*.

4.3.2 Boat Ed shall not change any Boat Ed Key Project Staff commitments without providing the State written justification and obtaining the prior written approval of the State. State approvals for replacement of Boat Ed Key Project Staff shall not be unreasonably withheld. The replacement Boat Ed Key Project Staff shall have comparable or greater skills than the Boat Ed Key Project Staff being replaced; meet

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the obligations of the Contract and be subject to reference and background checks described above in Section 4.2.1 and in Section 4.10: *Background Checks*.

4.3.3 Notwithstanding any other provision of the Contract to the contrary, the State shall have the option to terminate the Contract, declare Boat Ed in default and to pursue its remedies at law and in equity, if Boat Ed fails to assign Key Project Staff meeting the obligations and terms of the Contract.

4.3.3.1 Boat Ed Key Project Staff shall consist of the following individuals in the roles identified below:

**Key Members of the Boat Ed Team are:**

<u>Key Member(s)</u>	<u>Title</u>
Cynthia Kalkomey	Project Manager
Dale Fink	Database Administrator
Susan Holcombe	Customer Service Manager
Janice Roff	Print Schedule Coordinator
Kathy Salvie	Web Design Leader
Bill Stevens	Lead Webmaster

**4.4 State Contract Manager**

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

Jeffrey A. Niven  
Office of Information Technology - ASD  
33 Hazen Drive  
Concord, NH 03305  
TEL: (603) 271-1021  
FAX: (603) 271-5534  
EMAIL: jeffrey.niven@oit.nh.gov

**4.5 State Project Manager**

The State will assign a project manager. The State Project Manager's duties will include the following:

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

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The State Project Manager is:

Anthony Cardoza  
Department of Safety  
PO Box 1150  
Belmont NH 03220  
TEL: (603) 267-6518  
FAX: (603) 267-6459  
EMAIL: tcardoza@safety.state.nh.us

#### **4.6 State Meetings and Reports**

The Contract minimum meeting and report requirements are outlined in Exhibit D: Administrative Requirements. As reasonably requested by the State, Boat Ed shall provide the State with information or reports regarding the Project. Boat Ed shall prepare special reports and presentations relating to Project Management, and shall assist the State in preparing reports and presentations, as reasonably requested by the State, all at no additional cost to the State.

#### **4.7 State-Owned Documents and Data**

For the purposes of this section, State-owned documents means all documents, data, materials, reports and other work in progress relating to the Contract. Boat Ed shall provide the State access to all State-owned documents. Upon termination of the Contract, Boat Ed shall turn over all State-owned documents at no additional cost to the State. State-Owned Documents shall be provided in both printed and electronic format.

#### **4.8 Records Retention and Access Requirements**

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

Boat Ed 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. Boat Ed 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 all appeals.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying State and federal officials. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the State. Delivery of and access to such records shall be at no cost to the State during the three (3) year period termination of the Contract and one (1) year term

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following litigation relating to the Contract, including all appeals. Boat Ed 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 Boat Ed's cost structure and profit factors shall be excluded from the State's review unless the cost of any other Services or Deliverables provided under the Contract is calculated or derived from the cost structure or profit factors.

**4.9 Accounting Requirements**

Boat Ed's accounting procedures and practices shall conform to GAAP and the costs properly applicable to this Contract shall be readily ascertainable therefrom.

**4.10 Background Checks**

The State may, at its sole expense, conduct background screening of the Boat Ed Project Manager and Boat Ed Key Project Staff. The State shall maintain the confidentiality of background screening results in accordance with the Statement of Work, Section 12: *Use of State's Information, Confidentiality*.

**5. DELIVERABLES**

**5.1 Deliverables and Services**

Boat Ed shall provide the State with the Deliverables and Services required under this Contract, and as more fully set forth herein and in Exhibit A: *Contract Deliverables*.

**5.2 Non-Software and Written Deliverables Review and Acceptance**

After receiving written certification from Boat Ed that a Non-Software or Written Deliverable is final, complete, and ready for review, the State shall review the Deliverable to determine whether it meets the requirements outlined in Exhibit A: *Contract Deliverables*. The State shall notify Boat Ed in writing of its Acceptance or rejection of the Deliverable within five (5) business days of the State's receipt of Boat Ed's written Certification. If the State rejects the Deliverable, the State shall notify Boat Ed of the nature and class of the Deficiency and Boat Ed shall correct the Deficiency within five (5) business days. Upon receipt of the corrected Deliverable, the State shall have five (5) business days to review the Deliverable and notify Boat Ed of its Acceptance or rejection thereof, with the option to extend the review period up to five (5) additional business days. If Boat Ed fails to correct the Deficiency within the allotted period of time, the State may, at its option, continue reviewing the Deliverable and require Boat Ed to continue until the Deficiency is corrected, or immediately terminate the Contract, declare Boat Ed in default, and pursue its remedies at law or in equity.

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**5.3 System/Software Testing and Acceptance**

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

**6. SOFTWARE**

**6.1 Support and Maintenance**

Boat Ed shall provide the State with support and maintenance Services set forth in Exhibit G: *Maintenance and Support Services*.

**7. WARRANTY**

Boat Ed shall provide the Warranties and Warranties Services set forth in Exhibit K: *Warranty and Warranty Services*.

**8. SERVICES**

Boat Ed shall provide the Services required under the Contract Documents. All Services shall meet and perform in accordance with the Requirements.

**8.1 Administrative Services**

Boat Ed shall provide the State with the Administrative Services set forth in Exhibit D: *Administrative Services*.

**8.2 Testing Services**

Boat Ed shall perform Testing Services for the State set forth in, Exhibit F: *Testing Services*.

**8.3 Maintenance and Support Services**

Boat Ed shall provide the State with Maintenance and Support Services for the Software set forth in Exhibit G: *System Maintenance and Support*.

**9. WORK PLAN DELIVERABLE**

Boat Ed shall provide the State with a Work Plan that shall include, without limitation, a detailed description of the schedule, tasks, deliverables, major milestones, task dependencies, and payment schedule.

The initial Work Plan shall be a separate Deliverable and is set forth in Exhibit I: *Work Plan*. Boat Ed shall update the Work Plan as necessary, but no less than bi-weekly, to accurately reflect the status of the Project, including without limitation, the schedule, tasks, deliverables, major milestones, task dependencies, and payment Schedule. Any such updates shall be

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approved by the State, in writing, prior to final incorporation into Exhibit I: *Work Plan*. The updated Exhibit I: *Work Plan*, as approved by the State, is incorporated herein by reference.

Unless otherwise agreed in writing by the State, changes to the Exhibit I: *Work Plan* shall not relieve Boat Ed from liability to the State for damages resulting from Boat Ed's failure to perform its obligations under the Contract, including, without limitation, performance in accordance with the Schedule. In the event of any delay in the Schedule, Boat Ed shall immediately notify the State in writing, identifying the nature of the delay, i.e., specific actions or inaction of Boat Ed or the State causing the problem; its estimated duration; specific actions that need to be taken to correct the problem; and the expected Schedule impact on the project. In the event additional time is required by Boat Ed to correct the 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 Boat Ed's failure to fulfill its obligations under the Contract.

## **10. CHANGE ORDERS**

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

Boat Ed 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 Boat Ed's requested Change Order within five (5) business days. The State shall be deemed to have rejected the change order if the parties are unable to reach an agreement in writing.

All Change Orders shall be subject to the Contract amendment process, as determined to be applicable by the State.

## **11. INTELLECTUAL PROPERTY**

### **11.1 State's Business**

The State's rights in Deliverables shall be for purposes of the State's business only. All other intellectual property rights in such Deliverables remain with Boat Ed. For the avoidance of doubt, Boat Ed shall be the sole and exclusive owner of all right, title and interest in and to all creative works, including without limitation, all text, all art work, copyrights and trademarks (and associated goodwill) related thereto, pertaining to the Boater Safety Education System, including its content and Software. The State may not re-license, rent or lease the Software or use the Software for third-party training, commercial time-sharing, or service bureau use.

### **11.2 Boat Ed's Materials**

Subject to the provisions of this Contract, Boat Ed may develop for itself, or for others, materials that are competitive with, or similar to, the Deliverables. In accordance with the

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confidentiality provision of this Contract, Boat Ed shall not distribute any products containing or disclosing any State Confidential Information. Boat Ed shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of its performance under this Contract, provided that such is not obtained as the result of the deliberate memorization of the State Confidential Information by Boat Ed employees or third party consultants engaged by Boat Ed.

The parties agree that the general knowledge referred to herein cannot include information or records not subject to public disclosure under New Hampshire RSA Chapter 91-A, which includes but is not limited to the following: records of grand juries and petit juries; records of parole and pardon boards; personal school records of pupils; records pertaining to internal personnel practices, financial information, test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment, or academic examination and personnel, medical, welfare, library use, video tape sale or rental, and other files containing personally identifiable information that is private in nature.

### **11.3 Copyright**

#### **11.3.1 WWW Copyright and Intellectual Property Rights**

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

All right, title and interest in Boat Ed's WWW site, including copyright to all content and software, shall remain with Boat Ed. Boat Ed shall also retain all rights, title and interest in any user interfaces and computer instructions embedded within the Boat Ed's WWW pages. All Boat Ed's WWW pages and any other content or software shall, where applicable, display Boat Ed's copyright.

### **11.4 Survival**

This Section 11: *Intellectual Property* shall survive the termination of the Contract.

## **12. USE OF STATE'S INFORMATION, CONFIDENTIALITY**

### **12.1 Use of State's Information**

In performing its obligations under the Contract, Boat Ed may gain access to information of the State, including State Confidential Information. "State Confidential Information" shall include, but not be limited to, information exempted from public disclosure under New Hampshire RSA Chapter 91-A: *Access to Public Records and Meetings* (see e.g. RSA

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Chapter 91-A: 5 Exemptions). Boat Ed shall not use the State Confidential Information except as directly connected to and necessary for Boat Ed's performance under the Contract, unless otherwise permitted under the Contract.

**12.2 State's Confidential Information**

Boat Ed shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction all State Confidential Information that becomes available to Boat Ed in connection with its performance under the Contract, regardless of its form. Any disclosure of the State Confidential Information shall require the prior written approval of the State. Boat Ed shall immediately notify the State if any request, subpoena or other legal process is served upon Boat Ed regarding the State Confidential Information, and Boat Ed shall cooperate with the State in any effort the State undertakes to contest the request, subpoena or other legal process, at no additional cost to the State. In the event of the unauthorized release of State Confidential Information, Boat Ed shall immediately notify the State, and the State may immediately pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

**12.3 Boat Ed's Confidential Information**

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

**12.4 Survival**

This Section 12, *Use of State's Information, Confidentiality*, shall survive termination of the Contract.

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**13. GENERAL PROVISIONS**

**13.1 Conditional Nature of Contract**

Notwithstanding any provision of the Contract to the contrary, all obligations of the State, including, without limitation, the continuance of payments, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments in excess of such available appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate the Contract immediately upon giving Boat Ed notice of such termination. The State shall not be required to transfer funds from any other account to the account identified on page 1 of this Contract Agreement, Block 1.5 in the event funds in that account are reduced or unavailable.

**13.2 Compliance by Boat Ed with Laws and Regulations: Equal Employment Opportunity**

**13.2.1** In connection with the performance of the Contract, Boat Ed shall comply with all statutes, laws, regulations, orders of federal, state, county or municipal authorities which impose any obligation or duty upon Boat Ed, including, but not limited to, civil rights and equal opportunity laws. Boat Ed shall also comply with all applicable local, state and federal licensing requirements and standards necessary in the performance of the Contract.

**13.2.2** During the term of the Contract, Boat Ed shall not discriminate against employees or applicants for employment in violation of applicable State or federal laws, including but not limited to non discrimination because of race, color, religion, creed, age, sex, handicap or national origin and shall take affirmative action to prevent such discrimination.

**13.2.3** If the Contract is funded in any part by monies of the United States, Boat Ed 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 issues to implement these regulations. Boat Ed further agrees to permit the State or United States, access to any of Boat Ed's pertinent books, records, and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and covenants and conditions of the Contract.

**13.3 Regulatory/Government Approvals**

Boat Ed shall obtain applicable regulatory or other governmental approvals necessary for it to perform its obligations under the Contract.

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**13.4 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 Boat Ed with access to program files, libraries, personal computer-based systems, software packages, network systems, security systems, and hardware.

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

**13.5 Personnel**

**13.5.1** The performance of Boat Ed's obligations under the Contract shall be carried out by Boat Ed. Boat Ed shall, at its own expense, provide all personnel, materials and resources required under the Contract and as necessary to perform Boat Ed's obligations under the Contract.

**13.5.2** Boat Ed shall not hire, and shall permit no Subcontractor or other person, firm or corporation with whom it is engaged in a combined effort, to perform its obligations under the Contract, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

**13.5.3** The Commissioner of the Department of Safety, or his designee, shall be the State's representative. In the event of any dispute governing the interpretation of the Contract, the Commissioner's decision shall represent the final position of the State.

**13.6 Dispute Resolution**

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

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

**Dispute Resolution Responsibility and Schedule Table**

<b>LEVEL</b>	<b>Kalkomey Enterprises</b>	<b>Department of Safety</b>	<b><u>CUMULATIVE ALLOTTED TIME</u></b>
Primary	Cynthia Kalkomey	Anthony Cardoza, State	5 Business Days

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	- Project Manager	Project Manager	
First	Dale Fink - DataBase Manager	Jeffrey Niven, State Contract Manager	10 Business Days
Second	Kurt Kalkomey - President	Richard Flynn, Commissioner, DOS	15 Business Days

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

**13.7 Termination**

**13.7.1 Termination for Default**

Unless otherwise provided in the Contract, the State shall provide Boat Ed written notice of default, and Boat Ed shall cure the default within thirty (30) days ("Cure Period") of its receipt of the notice of default. If Boat Ed fails to cure the default within the Cure Period, the State may, at its sole discretion, terminate the Contract, declare Boat Ed in default, and pursue its remedies at law or in equity, or both.

**13.7.1.1** In the event the State declares Boat Ed in default under any provision of the Contract, the State may, at a minimum, take any or all of the following actions:

**13.7.1.1.1** Set off against any other obligations the State may owe to Boat Ed under this Contract;

**13.7.1.1.2** Procure Services that are the subject of the Contract from another source, and Boat Ed shall be liable for reimbursing the State for the replacement services, and all administrative costs directly related to procuring the Services from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; and

**13.7.1.1.3** Treat the Contract as breached and pursue its remedies at law or in equity, or both.

**13.7.1.2** In the event of default by the State, Boat Ed shall provide the State with written notice of default, and the State shall cure the default within thirty (30) days of its receipt of the notice of default, unless otherwise extended by Boat Ed.

**13.7.1.3** No remedy conferred under the Contract is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy in the Contract. The State's election or non-election of any or more remedies shall not constitute a waiver of its right to pursue other legally available remedies.

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**13.7.2 Termination for Convenience**

- 13.7.2.1 The State may, at its sole discretion, terminate the Contract for convenience, in whole or in part, by thirty (30) days written notice to Boat Ed. In the event of a termination for convenience, the State shall pay Boat Ed the agreed upon price, if separately stated in this Contract, for Deliverables for which Acceptance has been given by the State. Amounts for Services provided prior to the date of termination for which no separate price is stated under the Contract shall be paid, in whole or in part, generally in accordance with Exhibit B, *Price and Payment Schedule*, of the Contract.
- 13.7.2.2 During the thirty (30) day period, Boat Ed shall wind down and cease Services as quickly and efficiently as reasonably possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services.

**13.7.3 Termination for Conflict of Interest**

- 13.7.3.1 The State may terminate the Contract by written notice if it determines that a conflict of interest exists. In such case, the State shall be entitled to a pro-rated refund of any current development, support, and maintenance. The State shall pay all other contracted payments that would have become due and payable if Boat Ed did not know, or reasonably did not know, of the conflict of interest.
- 13.7.3.2 In the event the Contract is terminated as provided above and Boat Ed knew or should have known of such a conflict, the State shall be entitled to declare Boat Ed in default, and to pursue remedies available at law and in equity.

**13.7.4 Termination Procedure**

- 13.7.4.1 After receipt of a notice of termination, and except as otherwise directed by the State, Boat Ed shall:
- a. Stop work under the Contract on the date, and to the extent specified, in the notice;
  - b. Promptly, but in no event longer than thirty (30) days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with

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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 that is reasonable and customary under the circumstances, or as necessary to preserve and protect the property related to the Contract which is in the possession of Boat Ed and in which the State has an interest;
- d. Transfer possession, as applicable, to the State and deliver in the manner, at the times, and to the extent directed by the State, any property which is required to be furnished to the State and which has been accepted or requested by the State; and
- e. Provide written Certification to the State that Boat Ed has surrendered to the State all said property.

**13.8 Force Majeure**

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

**13.9 Boat Ed's Relation to the State**

In the performance of the Contract, Boat Ed is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither Boat Ed nor any of its officers, employees, agents, or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

**13.10 Assignment, Delegation and Subcontracts**

**13.10.1** Boat Ed shall not assign, delegate, subcontract, or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the State. Such consent shall not be unreasonably withheld.

**13.10.2** Boat Ed shall remain wholly responsible for performance of the entire Contract even if assignees, delegates, Subcontractors, or other transferees ("Assigns") are used, unless otherwise agreed to in writing by the State, and the Assigns fully assumes in writing any and all obligations and liabilities under the Contract from the Effective Date. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract,

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or other transfer shall: not relieve Boat Ed of any of its obligations under the Contract; not affect any remedies available to the State against Boat Ed that may arise from any event of default; and the State shall consider Boat Ed to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract. 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.

**13.10.3** Notwithstanding the foregoing, nothing herein shall prohibit Boat Ed from assigning the Contract to the successor of all or substantially all of the assets or business of Boat Ed provided that the successor fully assumes in writing all obligations and responsibilities under the Contract. In the event that Boat Ed should change ownership, as permitted under this Section 13.10.3, the State shall have the option to continue under the Contract with Boat Ed, its successors or assigns for the full remaining term of the Contract; continue under the Contract with Boat Ed, its successors or assigns for such period of time as determined necessary by the State; or immediately terminate the Contract without liability to Boat Ed, its successors or assigns.

**13.11 Indemnification**

**13.11.1** Boat Ed shall indemnify, defend 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 Boat Ed, its personnel or agents in connection with Boat Ed's performance of the Contract.

**13.11.2** 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.

**13.11.3 Survival**

This Section 13.11, *Indemnification*, shall survive termination of this Agreement.

**13.12 Limitation of Liability**

**13.12.1 State**

Subject to applicable laws and regulations, in no event shall the State be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages. Subject to applicable laws and regulations, the State's liability to Boat

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Ed shall not exceed two times (2X) the total Contract price set forth in Section 1.8 of the General Provisions form (P-37).

**13.12.2 Boat Ed**

Subject to applicable laws and regulations, in no event shall Boat Ed be liable for any consequential, special, indirect, incidental, punitive or exemplary damages and Boat Ed's liability to the State shall not exceed two times (2X) the total Contract price set forth in Section 1.8 of the General Provisions form (P-37). Notwithstanding the foregoing, the limitation of liability in this Section 13.12.2 shall not apply to Boat Ed's indemnification obligations set forth in Section 13.11: *Indemnification* and confidentiality obligations in Section 12: *Use of State's Information, Confidentiality*, which shall be unlimited.

**13.12.3 State's Immunity**

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

**13.12.4 Survive**

This Section 13.12: *Limitation of Liability* shall survive termination.

**13.13 Insurance**

**13.13.1 Boat Ed Insurance Requirement**

Boat Ed shall, at its sole expense, obtain and maintain in force, and shall require any Subcontractor assignee to obtain and maintain in force, including for the benefit of the State, the following insurance:

- a. 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 incident; and
- b. The policies shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than ten (10) days after written notice thereof has been received by the State.

**13.14 Waiver of Event of Default**

No failure by either party to enforce any provisions hereof after any event of default shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any default shall be deemed a waiver of the right of the State to

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enforce each and all of the provisions hereof upon any further or other default on the part of Boat Ed.

**13.15 Notice**

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

TO Boat Ed:

Kurt Kalkomey  
Kalkomey Enterprises, Inc. (d/b/a Boat Ed)  
2906 Ladybird Lane  
Dallas, Texas 75220  
Tel: (214) 351-0461

TO STATE:

Jeffrey A. Niven  
State of New Hampshire  
Department of Safety  
33 Hazen Drive  
Concord, NH 03305  
Tel: (603) 271-1021

**13.16 Amendment**

The Contract 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.

**13.17 Construction of Contract and Terms**

The Contract 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 successor and assigns. Any action may only be brought in the State of New Hampshire, Merrimack County Superior Court.

**13.18 Third Parties**

The parties hereto do not intend to benefit any third parties and the Contract shall not be construed to confer any such benefit.

**13.19 Headings**

The headings in the Contract shall not be held to explain, modify, amplify, or aid in the construction or interpretation of the Contract provisions, and are for reference purposes only.

**13.20 Exhibits**

The Exhibits referred to and attached to the Contract are incorporated by reference as if fully set forth herein.

**13.21 Survival**

The terms, conditions and warranties contained in the Contract that by their context are intended to survive the completion of the performance, cancellation or termination of the

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Contract shall so survive, including, but not limited to, the terms of Section 4.8: *Records Retention and Access Requirements*, Section 4.9: *Accounting Requirements*, and Section 12: *Use of State's Information, Confidentiality* and Section 13.11: *Indemnification* which shall all survive the termination of the Contract.

**13.22 Entire Contract**

The Contract Documents, which may be executed in a number of counterparts, each of which shall be deemed an original, constitute the entire Contract and understanding between the parties, and supersede all prior agreements and understandings.

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Exhibit A  
Contract Deliverables**

**1. DELIVERABLES, MILESTONES AND ACTIVITIES**

Boat Ed shall provide the State with a web based Boater Safety Education System, and associated Services which shall meet and perform in accordance with the Specifications.

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

The Deliverables are set forth in the Schedule described below in Section 2.

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

**2. DELIVERABLES, MILESTONES, AND ACTIVITIES SCHEDULE**

**2.2 Implementation Schedule – Activities / Deliverables / Milestones**

Reference Number	Activity, Deliverable, or Milestone	Deliverable Type	Dates
1	Project Work Plan	Written	Effective Date + 3 Business days
2	Initiation Phase	Non-Software	Not applicable (completed)
3	Configuration Phase (Functional Design/System Design)	Non-Software	Not applicable (completed)
4	Conduct Unit and System Acceptance Testing	Written	Not applicable (completed)
5	Conduct Integration Testing	Written	Not applicable (completed)
6	User Acceptance Testing	(conducted by the State)	Effective Date + 25 Business days
7	Conduct Training	Written	As needed
8	Implementation	Written	Not applicable (completed)
9	Letter of Acceptance	Written by the State	Effective Date + 30 Business days
10	Printed Boater's Handbook	Written	Available by April 1, 2007
11	Online Boater's Handbook	Written	Available by April 1, 2007

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Contract Deliverables**

12	Printed Student Manual	Written	Available by April 1, 2007
13	Powerpoint Presentation	Written	Available by April 1, 2007
14	Instructor's Guide	Written	Available by April 1, 2007
15	Internet Course (password protected)	Written	Available by April 1, 2007
16	Internet Course (not password protected)	Written	Available by April 1, 2007
17	Internet Exam for 14-Day Temporary Certification	Written	Available by April 1, 2007
18	Video Boater Education Course	Non-Software	Available by April 1, 2007
19	State Specific Boater Education Video	Non-Software	Available by April 1, 2007
20	Spanish Boater Education Internet Course (password protected)	Non-Software	Available by April 1, 2007
21	Spanish Boater Education Internet Course (not password protected)	Non-Software	Available by April 1, 2007
22	Spanish Student Manual	Written	Available by April 1, 2007

**3. TRAINING DELIVERABLES**

There are no training deliverables for this contract.

**4. SOFTWARE LICENSES**

There are no software licenses for this contract.

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Price and Payment Schedule**

**1. DELIVERABLE PAYMENT SCHEDULE**

**1.1 Firm Fixed Price**

This is a Firm Fixed Price (FFP) Contract with a Not to Exceed Contract total of \$ 540,700, for the period commencing the Effective Date through December 31, 2011. Boat Ed shall be responsible for performing its obligations in accordance with the Contract. Boat Ed will invoice the State for the following Activities, Deliverables, or Milestones at fixed pricing/rates appearing in the Price and Payment Tables below:

**1.1 Implementation** – Implementation costs are set forth in Table 1 below.

<b>Table 1 - Implementation</b>			
<b>Reference Number</b>	<b>Activity, Deliverable, or Milestone</b>	<b>Projected Delivery Date</b>	<b>Payment Amount</b>
1	Project Work Plan	04/01/07	N/C
2	Initiation Phase	Not applicable (completed)	N/C
3	Configuration Phase (Functional Design/System Design)	Not applicable (completed)	N/C
4	Conduct Unit and System Acceptance Testing	Not applicable (completed)	N/C
5	Conduct Integration Testing	Not applicable (completed)	N/C
6	User Acceptance Testing	04/01/07	State is responsible
7	Conduct Training	As needed	N/C
8	Implementation	Not applicable (completed)	N/C
9	Letter of Acceptance	04/01/07	N/C for development
10	Printed Boater's Handbook	2 weeks from order	N/C for development
11	Online Boater's Handbook	2 weeks from order	N/C for development
12	Printed Student Manual	2 weeks from order	N/C for development

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Price and Payment Schedule**

13	Powerpoint Presentation	2 weeks from order	N/C for development
14	Instructor's Guide	2 weeks from order	N/C for development
15	Internet Course (password protected)	Currently available	N/C for development
16	Internet Course (not password protected)	Currently available	N/C for development
17	Internet Exam for 14-Day Temporary Certification	Currently available	N/C for development
18	Video Boater Education Course	Currently available	N/C for development
19	State Specific Boater Education Video	Currently available	N/C for development
20	Spanish Boater Education Internet Course (password protected)	Currently available	N/C for development
21	Spanish Boater Education Internet Course (not password protected)	Currently available	N/C for development
22	Spanish Student Manual	Currently available	N/C for development
	Total Payment for Implementation		No Cost

**1.2 Printed Materials** – Printed Material costs per item is set forth in Table 2 below:

Description	Quantity in Print Order	4/1/2007-6/30/2007	7/1/2007-12/31/2007	1/1/2008-6/30/2008	7/1/2008-12/31/2008	1/1/2009-6/30/2009	7/1/2009-12/31/2009	1/1/2010-6/30/2010	7/1/2010-12/31/2010	1/1/2011-6/30/2011	7/1/2011-12/31/2011
Printed Boater's Handbook	200,000	0.38	0.38	0.40	0.40	0.42	0.42	0.44	0.44	0.46	0.46
Printed Boater's Handbook	150,000	0.39	0.39	0.41	0.41	0.43	0.43	0.45	0.45	0.47	0.47
Printed Boater's Handbook	100,000	0.43	0.43	0.45	0.45	0.48	0.48	0.50	0.50	0.52	0.52

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**Price and Payment Schedule**

Printed Boater's Handbook	50,000	0.51	0.51	0.54	0.54	0.56	0.56	0.59	0.59	0.62	0.62
Printed Student Manual	20,000	0.98	0.98	1.03	1.03	1.08	1.08	1.13	1.13	1.19	1.19
Printed Student Manual	15,000	1.15	1.15	1.21	1.21	1.27	1.27	1.33	1.33	1.40	1.40
Printed Student Manual	10,000	1.50	1.50	1.58	1.58	1.65	1.65	1.73	1.73	1.82	1.82
Printed Student Manual	5,000	2.39	2.39	2.51	2.51	2.63	2.63	2.76	2.76	2.90	2.90

The rates listed above only apply to the print order quantities listed above.  
 The State anticipates its maximum expenditures for printed materials as set forth in Table 3 below:

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Table 3 – Printed Material (Total per Period)						
Description	4/1/2007- 6/30/2007	7/1/2007- 6/30/2008	7/1/2008- 6/30/2009	7/1/2009- 6/30/2010	7/1/2010- 6/30/2011	7/1/2011- 12/31/2011
Printed Boater's Handbook	\$38,000	\$78,000	\$82,000	\$86,000	\$90,000	\$46,000
Printed Student Manual	0	\$19,600	\$20,600	\$21,600	\$22,600	\$23,800
<b>Total</b>	<b>\$38,000</b>	<b>\$97,600</b>	<b>\$102,600</b>	<b>\$107,600</b>	<b>\$112,600</b>	<b>\$69,800</b>
<b>Grand Total \$528,200</b>						

**1.3 Hourly Rates** – Hourly rates for Boat Ed Personnel in future engagements are set forth in Table 4 below.

Table 4 – Boat Ed Rates Pricing Worksheet (Hourly Rates)						
Description	4/1/2007- 6/30/2007	7/1/2007- 6/30/2008	7/1/2008- 6/30/2009	7/1/2009- 6/30/2010	7/1/2010- 6/30/2011	7/1/2011- 12/31/2011
Project Leader	\$125	\$125	\$130	\$136	\$142	\$142
PrePress Design Manager	\$125	\$125	\$130	\$136	\$142	\$142
Customer Service Manager	\$125	\$125	\$130	\$136	\$142	\$142
Print Schedule Coordinator	\$125	\$125	\$130	\$136	\$142	\$142
Web Design Leader	\$125	\$125	\$130	\$136	\$142	\$142
Lead Webmaster	\$125	\$125	\$130	\$136	\$142	\$142
Call Center Coordinator	\$125	\$125	\$130	\$136	\$142	\$142

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Network/Security Admin.	\$125	\$125	\$130	\$136	\$142	\$142
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**1.4 Maintenance and Support for Safe Boating Education Application – There is no charge to the State for maintenance of the Safe Boating Education Application except for the 14 day Temporary Certification Feature, as provided in 1.5 below.**

**1.5 Maintenance and Support for 14 Day Certification Feature – Maintenance and Support for the 14 Day Certification Feature are set forth in Table 5 below.**

Table 5 Maintenance and Support Pricing for 14 Day Temporary Certification							
Description	4/1/2007-6/30/2007	7/1/2007-6/30/2008	7/1/2008-6/30/2009	7/1/2009-6/30/2010	7/1/2010-6/30/2011	7/1/2011-12/31/2011	Total
Annual Maintenance	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	0	\$12,500

**2. TOTAL CONTRACT PRICE**

The total contract value equals the total cost to maintain and support the 14 Day Temporary Certification test of \$12,500 plus the total cost for Printed Material of \$528,200 for a grand total of \$540,700.

Notwithstanding any provision in the Contract to the contrary, in no event shall the total of all payments made by the State exceed \$540,700 ("Total Contract Price"). The payment by the State of the total Contract price shall be the only, and the complete reimbursement to Boat Ed for all fees and expenses of whatever nature incurred by Boat Ed in the performance hereof. The State shall not be responsible for any travel or outofpocket expenses incurred in the performance of the Services by Boat Ed performed under this Contract.

**3. INVOICING**

All invoices shall be subject to the State's prior written approval, which shall not be unreasonably withheld. Invoices shall contain detailed information, including without limitation, the following: identification of each Deliverable or Service for which payment is sought; date of delivery and/or installation; the Acceptance date of the deliverable triggering such payment; and any other Project costs. Upon acceptance of a Deliverable, and a properly documented and undisputed invoice, the State shall pay the correct and undisputed invoice within thirty (30) days of invoice receipt. Invoices shall not be backdated and shall be promptly dispatched.

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If the State receives an invoice and the amount on the invoice is calculated incorrectly, the State shall notify Boat Ed of the alleged error. The State and Boat Ed agree to use commercially reasonable efforts to resolve the invoicing error within fifteen (15) days from such notification to Boat Ed. The State shall promptly pay upon resolution of such dispute, or within such fifteen (15) day period of an agreed upon amount, whichever is later. Under no circumstances shall the State be assessed any late other charges (ie late) that amount or the originally invoiced amount.

**4. PAYMENT ADDRESS**

All payments shall be sent to the following address:

Kalkomey Enterprises, Inc. (d/b/a Boat Ed)  
2906 Ladybird Lane  
Dallas, Texas 75220

**5. OVERPAYMENTS TO Boat Ed**

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

**6. CREDITS**

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

**7. RIGHT TO OFFSET**

The State reserves the right to offset from any amounts otherwise payable to Boat Ed under the Contract those liquidated amounts required or permitted under the Contract, by RSA 80:7 through 7-C, or any other provision of law.

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Exhibit C  
Special Provisions

**There are no special provisions for this contract.**

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Exhibit D  
Administrative Services**

**1. STATUS MEETINGS AND REPORTS**

The State believes that effective communication and reporting, through meetings and written reports is essential to Project success. At a minimum, the State expects the following:

**Status Meetings:** Status meetings will be held at a time mutually agreed upon by Boat Ed and the State. Meetings will normally be held by telephone unless onsite meeting is required.

**Special Meetings:** If the need arises for a special meeting with State leaders or project stakeholders to address specific issues Boat Ed shall submit reports prepared in formats approved by the State. Boat Ed's Project Manager shall assist the State's Project Manager, or itself produce reports related to Project management as reasonably requested by the State. When actively constructing changes to the Boater Safety Education System, Boat Ed shall produce project status reports, which shall contain, at a minimum, the following:

- a. Project status as it relates to Work Plan
- b. Deliverables status
- c. Staff time reporting
- d. Issues and concerns requiring resolution

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Implementation Services**

**This contract does not require any additional implementation services.**

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**Testing Services**

The Safe Boating Education System is a browser based, contractor hosted website, subsequently testing shall begin with User Acceptance Testing (UAT) and shall begin upon Boat Ed certification that the required functionality has been made available to the State.

Boat Ed shall present to the State all its testing results, as well as written certification that Boat Ed has successfully completed the prerequisite tests while meeting the defined Acceptance Criteria and performance standards. The State will commence its UAT within five (5) business days of receiving written Certification from Boat Ed that the Safe Boating Education system is installed, configured, complete and ready for State testing.

The State will develop the test plans execute all tests and certify to their completion. As a result of the user testing activities, the State will identify problems that require correction. Boat Ed shall perform additional testing activities in response to State and/or user problems identified from the testing results.

Upon successful completion of UAT, the State will issue a Letter of UAT Acceptance. Upon issuance of the Letter of UAT Acceptance by the State, the respective Implementation Warranty period shall commence as set forth in Contract Exhibit K: *Warranty and Warranty Services*.

If during this Contract term System upgrades or add ons are implemented, testing shall follow the methodology set forth in RFP Section 6.11: *Acceptance and Testing*.

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**Exhibit G**

**System Maintenance and Support**

**1. SYSTEM MAINTENANCE**

**1.1 Boat Ed's Responsibility**

Boat Ed shall maintain the Boater Safety Education System in accordance with the Contract. Responsibilities shall include:

- a. Assist with all new Software releases;
- b. 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;
- c. Telephone support or remote diagnostic services within four (4) business hours of a request;
- d. Repair or replacement of the Software, and maintenance of the Software in accordance with the Specifications and terms and requirements of the Contract;
- e. Repair or replace the System, or any portion thereof, that is deficient;
- f. Maintain a record of the activities related to maintenance activities performed for the State;
- g. For all maintenance service calls, the collection and maintenance of the following information : 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; and
- h. The Identification and troubleshooting of potentially large-scale Software failures or Deficiencies by collecting the following information: 1) mean time between reported Deficiencies with the software; 2) diagnosis of root cause of problem; and 3) identification of repeat calls or repeat software problems.

**2. SYSTEM SUPPORT**

**2.1 Boat Ed's Responsibility**

Boat Ed shall be responsible for performing telephone or remote technical support in accordance with the Contract Documents, including without limitation the requirements, terms, and conditions contained herein.

**2.2 Term**

Boat Ed System support shall commence upon the effective date of the Contract.

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Exhibit H

Priority Requirements - Boat Ed Response

1. SYSTEM MAINTENANCE

- 1.1 Boat Ed shall provide a fully operational Boating Safety web based education and testing system, and associated Services with the functionality that is set forth in RFP 2007-019:

**Table 1.1 Boat Ed Responses to Requirements**, are based on responses to Appendix C: Requirements and Deliverables for RFP 2007-019

As required, responses are either "Yes" or "No" where:

"Yes" indicates that the proposed web based Boat Education and Testing System *as proposed to be configured for New Hampshire* satisfies all aspects of the requirement fully without modification to base code; and

"No" indicates that the proposed web based Boat Education and Testing System *as proposed to be configured for New Hampshire* does not satisfy one or more aspects of the requirement without modification to baseline code.

Deliverable Description	Requirement #	Response (Y/N)
Printed Boater Handbook	C-1.1.1 Vendor Services	
	C-1.1.1.1	Yes
	C-1.1.1.2	Yes
	C-1.1.1.3	Yes
	C-1.1.1.4	Yes
	C-1.1.1.5	Yes
	C-1.1.1.6	Yes
	C-1.1.1.7	Yes
	C-1.1.1.8	Yes
	C-1.1.1.9	Yes
	C-1.1.1.10	Yes
	C-1.1.1.11	Yes
	C-1.1.1.12	Yes
	C-1.1.1.13	Yes
	C-1.1.1.14	Yes

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Exhibit H

Priority Requirements - Boat Ed Response

	C-1.1.3 Press/Print Quality and Availability	
	C-1.1.3.1	Yes
	C-1.1.3.2	Yes
	C-1.1.3.3	Yes
	C-1.1.3.4	Yes
	C-1.1.4 Paper and Binding Quality	
	C-1.1.4.1	Yes
	C-1.1.4.2	Yes
	C-1.1.4.3	Yes
	C-1.1.5 Size	
	C-1.1.5.1	Yes
	C-1.1.5.2	Yes
	C-1.1.6 Text Quality	
	C-1.1.6.1	Yes
	C-1.1.6.2	Yes
	C-1.1.6.3	Yes
	C-1.1.6.4	Yes
	C-1.1.6.5	Yes
	C-1.1.7 Graphics Quality	
	C-1.1.7.1	Yes
	C-1.1.7.2	Yes
	C-1.1.7.3	Yes
	C-1.1.8 Cover Design and Page Layout Quality	
	C-1.1.8.1	Yes
	C-1.1.8.2	Yes
<b>Online Boater Handbook</b>		
	C-1.2.1 Vendor Services	
	C-1.2.1.1	Yes
	C-1.2.1.2	Yes
	C-1.2.1.3	Yes
	C-1.2.1.4	Yes
	C-1.2.1.5	Yes

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**Priority Requirements - Boat Ed Response**

	C-1.2.1.6	Yes
	C-1.2.1.7	Yes
	C-1.2.1.8	Yes
	C-1.2.1.9	Yes
	C-1.2.1.10	Yes
	C-1.2.1.11	Yes
	C-1.2.3 Interactive (HTML) Version	
	C-1.2.3.1	Yes
	C-1.2.3.2	Yes
	C-1.2.3.3	Yes
	C-1.2.3.4	Yes
	C-1.2.3.5	Yes
	C-1.2.3.6	Yes
	C-1.2.4 Downloadable Portable Document Format (PDF) Version	
	C-1.2.4.1	Yes
	C-1.2.4.2.	Yes
	C-1.2.4.3	Yes
	C-1.2.4.4	Yes
<b>Printed Student Manual</b>		
	C-1.3.1 Vendor Services	
	C-1.3.1.1	Yes
	C-1.3.1.2	Yes
	C-1.3.1.3	Yes
	C-1.3.1.4	Yes
	C-1.3.1.5	Yes
	C-1.3.1.6	Yes
	C-1.3.1.7	Yes
	C-1.3.1.8	Yes

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**Priority Requirements - Boat Ed Response**

	C-1.3.1.9	Yes
	C-1.3.1.10	Yes
	C-1.3.1.11	Yes
	C-1.3.1.12	Yes
	C-1.3.1.13	Yes
	C-1.3.1.14	Yes
	C-1.3.1.15	Yes
	C-1.3.3 Press/Print Quality and Availability	
	C-1.3.3.1	Yes
	C-1.3.3.2	Yes
	C-1.3.3.3	Yes
	C-1.3.3.4	Yes
	C-1.3.4 Paper and Binding Quality	
	C-1.3.4.1	Yes
	C-1.3.4.2	Yes
	C-1.3.4.3	Yes
	C-1.3.5 Size	
	C-1.3.5.1	Yes
	C-1.3.5.2	Yes
	C-1.3.6 Course Content Approval	
	C-1.3.6.1	Yes
	C-1.3.7 Text Quality	
	C-1.3.7.1	Yes
	C-1.3.7.2	Yes
	C-1.3.7.3	Yes
	C-1.3.7.4	Yes
	C-1.3.7.5	Yes
	C-1.3.7.6	Yes
	C-1.3.7.7	Yes
	C-1.3.8 Graphics Quality	
	C-1.3.8.1	Yes
	C-1.3.8.2	Yes
	C-1.3.8.3	Yes

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**Priority Requirements - Boat Ed Response**

	C-1.3.9 Cover Design and Page Layout Quality	
	C-1.3.9.1	Yes
	C-1.3.9.2	Yes
	C-1.3.10 Comprehensive Certification Exam	
	C-1.3.10.1	Yes
	C-1.3.10.2	Yes
<b>Power Point Presentation</b>		
	C-1.4.1 Vendor Services	
	C-1.4.1.1	Yes
	C-1.4.1.2	Yes
	C-1.4.1.3	Yes
	C-1.4.1.4	Yes
	C-1.4.1.5	Yes
	C-1.4.1.6	Yes
	C-1.4.1.7	Yes
	C-1.4.1.8	Yes
	C-1.4.3 Text Quality	
	C-1.4.3.1	Yes
	C-1.4.3.2	Yes
	C-1.4.3.3	Yes
	C-1.4.4 Graphics Quality	
	C-1.4.4.1	Yes
	C-1.4.4.2	Yes
	C-1.4.5 Animations Quality	
	C-1.4.5.1	Yes
	C-1.4.5.2	Yes
	C-1.4.5.3	Yes
	C-1.4.5.4	Yes
	C-1.4.5.5	Yes
	C-1.4.5.6	Yes
	C-1.4.5.7	Yes

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**Priority Requirements - Boat Ed Response**

	C-1.4.5.8	Yes
	C-1.4.5.9	Yes
	C-1.4.5.10	Yes
	C-1.4.5.11	Yes
	C-1.4.6 Presentation Design Quality	
	C-1.4.6.1	Yes
	C-1.4.6.2	Yes
<b>Instructor's Guide</b>		
	C-1.5.1 Vendor Services	
	C-1.5.1.1	Yes
	C-1.5.1.2	Yes
	C-1.5.1.3	Yes
	C-1.5.1.4	Yes
	C-1.5.1.5	Yes
	C-1.5.3 Size	
	C-1.5.3.1	Yes
	C-1.5.4 Text Quality	
	C-1.5.4.1	Yes
	C-1.5.4.2	Yes
	C-1.5.4.3	Yes
	C-1.5.5 Design Quality	
	C-1.5.5.1	Yes
	C-1.5.5.2	Yes
	C-1.5.5.3	Yes
<b>Internet Course (password protected)</b>		
	C-1.6.1 Vendor Services	
	C-1.6.1.1	Yes
	C-1.6.1.2	Yes
	C-1.6.1.3	Yes
	C-1.6.1.4	Yes
	C-1.6.1.5	Yes
	C-1.6.1.6	Yes
	C-1.6.1.7	Yes

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	C-1.6.1.8	Yes
	C-1.6.1.9	Yes
	C-1.6.1.10	Yes
	C-1.6.1.11	Yes
	C-1.6.1.12	Yes
	C-1.6.1.13	Yes
	C-1.6.1.14	Yes
	C-1.6.1.15	Yes
	C-1.6.1.16	Yes
	C-1.6.1.17	Yes
	C-1.6.2 Text Quality	
	C-1.6.2.1	Yes
	C-1.6.3 Graphics Quality	
	C-1.6.3.1	Yes
	C-1.6.3.2	Yes
	C-1.6.4 Animations Quality	
	C-1.6.4.1	Yes
	C-1.6.4.2	Yes
	C-1.6.4.3	Yes
	C-1.6.4.4	Yes
	C-1.6.4.5	Yes
	C-1.6.4.6	Yes
	C-1.6.4.7	Yes
	C-1.6.4.8	Yes
	C-1.6.4.9	Yes
	C-1.6.4.10	Yes
	C-1.6.4.11	Yes
	C-1.6.5 Web Course Design Quality	
	C-1.6.5.1	Yes
	C-1.6.5.2	Yes
	C-1.6.5.3	Yes
	C-1.6.5.4	Yes
	C-1.6.5.5	Yes
	C-1.6.5.6	Yes
	C-1.6.5.7	Yes
	C-1.6.6 Comprehensive Online Practice Test and Certification Exam	
	C-1.6.6.1	Yes
	C-1.6.6.2	Yes



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	C-1.7.1.8	Yes
	C-1.7.1.9	Yes
	C-1.7.1.10	Yes
	C-1.7.1.11	Yes
	C-1.7.3 Internet Infrastructure and Data Security	
	C-1.7.3.1	Yes
	C-1.7.3.2	Yes
	C-1.7.3.3	Yes
	C-1.7.3.4	Yes
	C-1.7.4 Web Page Design Quality	
	C-1.7.4.1	Yes
	C-1.7.4.2	Yes
	C-1.7.5 14-Day Temporary Certification Exam	
	C-1.7.5.1	Yes
	C-1.7.5.2	Yes
	C-1.7.5.3	Yes
	C-1.7.5.4	Yes
	C-1.7.5.5	Yes
	C-1.7.5.6	Yes
	C-1.7.5.7	Yes
	C-1.7.6 Web Interface for the State to Download Examinees' Data	
	C-1.7.6.1	Yes
	C-1.7.6.2	Yes
	C-1.7.6.3	Yes
	C-1.7.6.4	Yes
	C-1.7.7 Web Interface for 14-Day Agents	
	C-1.7.7.1	Yes
	C-1.7.7.2	Yes
	C-1.7.7.3	Yes
	C-1.7.7.4	Yes
	C-1.7.8 Privacy Policy	

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	C-1.7.8.1	Yes
	C-1.7.8.2	Yes
<b>Video Boater Education Course</b>		
	C-1.8.1 Vendor Services	
	C-1.8.1.1	Yes
	C-1.8.1.2	Yes
	C-1.8.1.3	Yes
	C-1.8.1.4	Yes
	C-1.8.1.7	Yes
	C-1.8.2 Vendor References	
	C-1.8.2.1	
	C-1.8.2.2	
	C-1.8.2.3	
	C-1.8.3 Text and Graphics Quality	
	C-1.8.3.1	Yes
	C-1.8.4 Video Quality	
	C-1.8.4.1	Yes
	C-1.8.5 Video Course Ordering and Fulfillment	
	C-1.8.5.1	Yes
	C-1.8.5.2	Yes
	C-1.8.5.3	Yes
	C-1.8.5.4	Yes
	C-1.8.6 Privacy Policy	
	C-1.8.6.1	Yes
	C-1.8.7 NASBLA Approval	
	C-1.8.7.1	Yes
	C-1.8.7.2	Yes
<b>State Specific Boater Education Video</b>		
	C-1.9.1 Video Requirements:	
	C-1.9.1.1	Yes
	C-1.9.1.2	Yes
	C-1.9.1.3	Yes
	C-1.9.1.4	Yes
	C-1.9.1.5	Yes

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	C-1.9.1.6	Yes
	C-1.9.1.7	Yes
	C-1.9.1.8	Yes
	C-1.9.1.9	Yes
	C-1.9.2 Boater	
	C-1.9.2.1	Yes
	C-1.9.2.2	Yes
	C-1.9.2.3	Yes
	C-1.9.3 Vendor Services	
	C-1.9.3.1	Yes
	C-1.9.3.2	Yes
	C-1.9.3.3	Yes
	C-1.9.5 Script Quality	
	C-1.9.5.1	Yes
	C-1.9.5.2	Yes
	C-1.9.6 Video Quality	
	C-1.9.6.1	Yes
	C-1.9.6.2	Yes
	C-1.9.6.3	Yes
<b>Spanish Boater Education Internet Course (password protected)</b>		
	C-1.10.1 Vendor Services	
	C-1.10.1.1	Yes
	C-1.10.1.2	Yes
	C-1.10.1.3	Yes
	C-1.10.1.4	Yes
	C-1.10.1.5	Yes
	C-1.10.1.6	Yes
	C-1.10.1.7	Yes
	C-1.10.1.8	Yes
	C-1.10.1.9	Yes
	C-1.10.1.10	Yes
	C-1.10.1.11	Yes

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	C-1.10.1.12	Yes
	C-1.10.2 Text Quality	
	C-1.10.2.1	Yes
	C-1.10.3 Graphics Quality	
	C-1.10.3.1	Yes
	C-1.10.3.2	Yes
	C-1.10.4 Web Course Design Quality	
	C-1.10.4.1	Yes
	C-1.10.4.2	Yes
	C-1.10.4.3	Yes
	C-1.10.4.4	Yes
	C-1.10.4.5	Yes
	C-1.10.4.6	Yes
	C-1.10.4.7	Yes
	C-1.10.5 Comprehensive Online Practice Test and Certification Exam	
	C-1.10.5.1	Yes
	C-1.10.5.2	Yes
	C-1.10.5.3	Yes
	C-1.10.5.4	Yes
	C-1.10.5.5	Yes
	C-1.10.5.6	Yes
	C-1.10.6 Certification Exam Integrity	
	C-1.10.6.1	Yes
	C-1.10.6.2	Yes
	C-1.10.7 Spanish Internet Course Promotion and Advertising	
	C-1.10.7.1	Yes
	C-1.10.7.2	Yes
	C-1.10.7.3	Yes
	C-1.10.8 Privacy Policy	
	C-1.10.8.1	Yes
	C-1.10.8.2	Yes
	C-1.10.9 NASBLA Approval	
	C-1.10.9.1	Yes
	C-1.10.9.2	Yes

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**Priority Requirements - Boat Ed Response**

	C-1.10.10 Spanish Internet Course Infrastructure and Data Security	
	C-1.10.10.1	Yes
	C-1.10.10.2	Yes
	C-1.10.10.3	Yes
<b>Spanish Student Manual</b>		
	C-1.11.1 Vendor Services	
	C-1.11.1.1	Yes
	C-1.11.1.2	Yes
	C-1.11.1.3	Yes
	C-1.11.1.4	Yes
	C-1.11.1.5	Yes
	C-1.11.1.6	Yes
	C-1.11.1.7	Yes
	C-1.11.1.8	Yes
	C-1.11.1.9	Yes
	C-1.11.3 Press/Print Quality and Availability	
	C-1.11.3.1	Yes
	C-1.11.3.2	Yes
	C-1.11.3.3	Yes
	C-1.11.3.4	Yes
	C-1.11.4 PAPER AND BINDING QUALITY	
	C-1.11.4.1	Yes
	C-1.11.4.2	Yes
	C-1.11.4.3	Yes
	C-1.11.5 SIZE	
	C-1.11.5.1	Yes
	C-1.11.5.2	Yes

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	C-1.11.6 Course Contents Approval	
	C-1.11.6.1	Yes
	C-1.11.6.2	Yes
	C-1.11.7 Text Quality	
	C-1.11.7.1	Yes
	C-1.11.7.2	Yes
	C-1.11.7.3	Yes
	C-1.11.7.4	Yes
	C-1.11.7.5	Yes
	C-1.11.8 Translation Quality	
	C-1.11.8.1	Yes
	C-1.11.8.2	Yes
	C-1.11.8.3	Yes
	C-1.11.9 GRAPHICS QUALITY	
	C-1.11.9.1.	Yes
	C-1.11.9.2	Yes
	C-1.11.9.3	Yes
	C-1.11.10 Cover Design and Page Layout Quality	
	C-1.11.10.1	Yes
	C-1.11.10.2	Yes
	C-1.11.11 Spanish State Law Supplement	
	C-1.11.11.1 Vendor Services	
	C-1.11.11.2 Text Quality	
	C-1.11.11.3 Translation Quality	
<b>Internet Course (not password protected)</b>		
	C-1.12.1 Vendor Services	
	C-1.12.1.1	Yes
	C-1.12.1.2	Yes
	C-1.12.1.3	Yes
	C-1.12.1.4	Yes
	C-1.12.1.5	Yes
	C-1.12.1.6	Yes
	C-1.12.1.7	Yes
	C-1.12.1.8	Yes
	C-1.12.1.9	Yes

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	C-1.12.1.11	Yes
	C-1.12.1.12	Yes
	C-1.12.1.13	Yes
	C-1.12.1.14	Yes
	C-1.12.1.15	Yes
	C-1.12.1.16	Yes
	C-1.12.2 Text Quality	
	C-1.12.2.1	Yes
	C-1.12.3 Graphics Quality	
	C-1.12.3.1	Yes
	C-1.12.3.2	Yes
	C-1.12.4 Animations Quality	
	C-1.12.4.1	Yes
	C-1.12.4.2	Yes
	C-1.12.4.3	Yes
	C-1.12.4.4	Yes
	C-1.12.4.5	Yes
	C-1.12.4.6	Yes
	C-1.12.4.7	Yes
	C-1.12.4.8	Yes
	C-1.12.4.9	Yes
	C-1.12.4.10	Yes
	C-1.12.4.11	Yes
	C-1.12.5 Web Course Design Quality	
	C-1.12.5.1	Yes
	C-1.12.5.2	Yes
	C-1.12.5.3	Yes
	C-1.12.5.4	Yes
	C-1.12.5.5	Yes
	C-1.12.5.6	Yes
	C-1.12.5.7	Yes
	C-1.12.6 Comprehensive Online Practice Test and Certification Exam	
	C-1.12.6.1	Yes
	C-1.12.6.2	Yes
	C-1.12.6.3	Yes
	C-1.12.6.4	Yes



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	C-1.13.1.7	Yes
	C-1.13.1.8	Yes
	C-1.13.1.9	Yes
	C-1.13.1.10	Yes
	C-1.13.1.11	Yes
	C-1.13.1.12	Yes
	C-1.13.2 Text Quality	
	C-1.13.2.1	Yes
	C-1.13.3 Graphics Quality	
	C-1.13.3.1	Yes
	C-1.13.3.2	Yes
	C-1.13.4 Web Course Design Quality	
	C-1.13.4.1	Yes
	C-1.13.4.2	Yes
	C-1.13.4.3	Yes
	C-1.13.4.4	Yes
	C-1.13.4.5	Yes
	C-1.13.4.6	Yes
	C-1.13.4.7	Yes
	C-1.13.6 Spanish Internet Course Promotion and Advertising	
	C-1.13.6.1	Yes
	C-1.13.6.2	Yes
	C-1.13.6.3	Yes
	C-1.13.7 Privacy Policy	
	C-1.13.7.1	Yes
	C-1.13.7.2	Yes
	C-1.13.8 NASBLA Approval	
	C-1.13.8.1	Yes
	C-1.13.8.2	Yes
	C-1.13.9 Spanish Internet Course Infrastructure and Data Security	
	C-1.13.9.1	Yes
	C-1.13.9.2	Yes
	C-1.13.9.3	Yes
<b>System Availability</b>	C-1.14	

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Priority Requirements - Boat Ed Response

	C-1.14	Yes
Student Data File Layout		
	C-1.15	Yes
Required Reports	C-1.16.1	
	C-1.16.1.1	Yes
	C-1.16.1.2	Yes
	C-1.16.1.3	Yes
	C-1.16.1.4	Yes
	C-1.16.1.5	Yes
	C-1.16.1.6	Yes
	C-1.16.1.7	Yes
	C-1.16.2	
	C-1.16.2.1	Yes
	C-1.16.2.2	Yes
	C-1.16.2.3	Yes
	C-1.16.2.4	Yes
	C-1.16.2.5	Yes
	C-1.16.2.6	Yes
	C-1.16.2.7	Yes

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Exhibit I  
Work Plan**

On April 1, 2007 Boat Ed shall provide all functionality specified in RFP 2007-019, including but not limited to: web-based training and testing for safe boating education system and the 14-day temporary certification agent web page for the State agent testing. Boat Ed will also provide daily imports of both Internet and home study student records.

Upon receipt of the required functionality, the State will begin User Acceptance Testing procedures as outlined in Exhibit F.

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EXHIBIT K**

**WARRANTIES and WARRANTY SERVICES**

**1 WARRANTY**

Boat Ed shall warrant all services and personnel, engaged for the duration of the Contract period.

**1.1 Warranties**

**1.1.1 Services**

Boat Ed shall warrant that all Services provided under the Contract shall be provided expediently and in a professional manner in accordance with the RFP and industry standards and that the Services shall comply with Contract SOW: *General Provisions*.

**1.1.2 System**

Boat Ed shall warrant that maintenance changes and enhancements made to the NH Boating Safety Education system shall operate to conform to the specifications, terms and requirements of the Contract requested change. System Availability will be at least 97% for 24/7, 365 days a year service.

**1.1.3 Software**

Boat Ed shall warrant that the Software, including but not limited to the individual modules or functions maintained under the Contract, is properly functioning within the System, compliant with the requirements of the Contract and operates in accordance with the specifications.

**1.1.4 Viruses; Destructive Programming**

Boat Ed 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.

**1.1.5 Compatibility**

Boat Ed shall warrant that all System components, including but not limited to the individual modules or functions, including any replacement or upgraded System Software components provided by Boat Ed for maintenance or as an enhancement, shall operate with the rest of the System Software without loss of any system functionality or integrity.

**1.1.6 Personnel**

Boat Ed shall warrant that all personnel engaged shall be qualified to perform the proposed services.

**1.2 Warranty Services**

Boat Ed 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:

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**WARRANTIES and WARRANTY SERVICES**

- a. Maintaining 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. Boat Ed 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;
- d. Maintaining a record of the activities related to warranty repair or maintenance activities performed for the State;
- e. For all Warranty Services calls, Boat Ed shall ensure the following information shall 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; and 5) deficiency resolution information;
- f. Boat Ed shall 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
- g. The Boat Ed shall correct all deficiencies found during the Warranty Period and all deficiencies found with the Warranty Releases no later than 10 business days, unless specifically extended in writing by the State and at no additional cost to the State.

In the event the Boat Ed fails to correct the deficiency within the allotted period of time, the State shall have the right, at its option, to: 1) declare Boat Ed in default, terminate the Contract, in whole or in part, without penalty or liability to the State; 2) return Boat Ed's product and receive a refund for all amounts paid to Boat ed; and 3) 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. (See section Contract Exhibit K, Section 1.3 *Warranty Period*, below).

**1.3 Warranty Period**

The Warranty Period for system changes will initially commence upon the State issuance of a Letter of Acceptance for UAT and will continue for a period of 180 days.

If, within the last thirty (30) calendar days of the Warranty Period, the System Software fails to operate as specified, Boat Ed will correct the deficiency, and the Warranty Period will be extended for an additional thirty (30) calendar day Warranty Period. Any additional deficiencies with the System Software during the extended thirty (30) calendar days Warranty Period shall be corrected and Boat Ed shall warrant that the corrected System Software shall run fault free for thirty (30) calendar days.

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**WARRANTIES and WARRANTY SERVICES**

**2. POST WARRANTY SOFTWARE MAINTENANCE SUPPORT**

Post warranty support services are described in Contract Exhibit G.

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Exhibit L  
Training Services

**This contract does not require any training services.**

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Exhibit M

NH Department of Safety RFP 2007-019 (with Addendums) Incorporated

NH Department of Safety RFP 2007-019 (with Addendums 1 through 2) is attached to this Exhibit M and incorporated herewith.

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EXHIBIT N  
CONTRACTOR PROPOSAL BY REFERENCE**

Boat Ed Proposal to Department of Safety RFP 2007-019 dated October 24, 2006, is attached to this Exhibit N and is incorporated herewith.