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Monica I. Mezzapelle
STATE TREASURER

THE STATE OF NEW HAMPSHIRE
STATE TREASURY
25 CAPITOL STREET, ROOM 121
CONCORD, N.H. 03301
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July 10, 2024

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

REQUESTED ACTION

Authorize the State Treasurer to enter into a sole source contract with Kelmar Associates, LLC (“Kelmar”), of Wakefield, MA (Vendor Code 162629 [B001]) in the amount not to exceed \$3,247,741 for the administration and ongoing support of a hosted software as a service unclaimed property solution (“KAPS”), supporting the State Treasury’s abandoned property operations (the “Division”) effective upon Governor and Executive Council approval for the period August 25, 2024 through August 24, 2034. The original contract was approved by Governor and Council on April 23, 2014, item No. 15, and it was subsequently amended with Governor and Council approval on July 19, 2019, item No. 138. 100% Other Funds.

Pursuant to RSA 471-C:25, II, funding shall be provided from abandoned property funds which are expected to be available in the following account:

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030
01-38-38-380510-80210000-038-500177-Software License	\$227,136	\$281,240	\$291,998	\$303,186	\$314,821	\$326,916
	FY2031	FY2032	FY2033	FY2034	FY2035	
01-38-38-380510-80210000-038-500177-Software License	\$339,499	\$352,588	\$366,202	\$380,364	\$63,791	

EXPLANATION

The Governor and Council approved the Division’s transition to this leading-edge unclaimed property system in 2014. In the last ten years, this enabled the Division to move forward with expanded capacity and functionality to perform the vital operational processes that facilitated both the payment of

millions of dollars in unclaimed property to the citizenry of New Hampshire while also providing a consistent flow of funds to the General Fund, which allows all citizens to benefit from unclaimed property.

In 2014, New Hampshire joined Delaware as the only states using the KAPS service. Since those initial efforts took place, Kelmar's hosted solution has emerged as a superior, industry-leading, and secure unclaimed property database environment. In fact, there are now 34 states using this system, with an additional five states anticipated by the end of 2025.

Since the KAPS implementation, yearly remittances have more than doubled, receiving an average of \$20 million annually. Paid claims have also increased, returning \$12.2 million in fiscal year 2024 to approximately 12,400 property owners. Holders of property now report unclaimed property online, which the Division is able to reconcile to cash received more efficiently. The claims process has been simplified, where claimants can conduct property searches and check the status of claims directly through the KAPS database.

As described in detail below, the reason for requesting approval of this sole source contract is that KAPS remains the only "commercial off-the-shelf" hosted unclaimed property system available in the U.S. and, as noted above, will be utilized by eighty percent (80%) of the states' unclaimed and abandoned property offices by the end of 2025.

1. KAPS is a software solution that is unique and highly specialized, offering capabilities including, without limitation, claims processing, claims payment, holder report processing, cash and securities receipt processing, owner notification and verification, imaging and document management capabilities, audit capability, extensive reporting capabilities, website search capacity, advanced fraud prevention technologies, and extensive data security and restoration capabilities.
2. KAPS is a proprietary cloud-based software as a service solution exclusively provided by Kelmar. Kelmar is the only vendor that can provide the State Treasury with: (a) a license to use the KAPS Software System and all related software modules and technology tools integrated therewith including, specifically, the KAPS State Website Solution, the KAPS Integrated Imaging and Document Management Solution, the KAPS LexisNexis Instant Verify, and LexID Identification Services, which have been customized and programmed to allow the verification of automated fast track, paperless claims, through the KAPS System as well as to assist the State Treasurer in minimizing fraudulent claims; and (b) maintenance and support services associated therewith.
3. KAPS has been highly customized to meet New Hampshire's unclaimed property program needs inclusive of (a) providing specialized reports developed exclusively for the State; (b) offering extensive fraud prevention technologies unique to KAPS and customized to New Hampshire's specifications to (i) automatically identify risk factors and evaluate high risk elements on claims submitted through the KAPS State Website Solution, and (ii) authenticate an individual, verify

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301
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best address, and fast track certain claims; and (c) integrating with New Hampshire's accounting system. The KAPS streamlined operating environment also allows for timelier and higher capacity reporting of unclaimed property by holders, as well as the increased return of unclaimed property to the citizens of New Hampshire.

4. As part of this new contract, an expanded functionality that will greatly reduce the potential of any fraudulent claims being submitted to the Division will be introduced, an advanced fraud profiling system integrated with the KAPS software, also known as the Kelmar Fraud Index ("KFI"). The KAPS website solution, integrated imaging and document management solution, and the LexisNexis Instant Verify Services were enhancements implemented by the Division after the Governor and Council approved a contract amendment in 2019.

The KAPS software solution has provided enhanced productivity for the Division in a secure environment during the last 10 years and the intent of this contract is to continue with such productivity and security capabilities in the ensuing 10 years. Without the continued use of this software as a service, with the functionality and enhancements discussed, the Division is at significant risk of a critical operational disruption that will impede its efforts in carrying out its statutory responsibilities and will adversely impact unclaimed property holders and owners (claimants).

The attached contract has been approved by the Office of the Attorney General as to form, substance, and execution. The Department of Information Technology has also reviewed and approved this unclaimed property software solution.

Respectfully requested,



Monica I. Mezzapelle
State Treasurer

Attachments: Department of Information Technology Approval Letter

Unclaimed Property System Contract and Supporting Documentation



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

Denis Goulet
Commissioner

June 21, 2024

Monica I. Mezzapelle, Treasurer
State of New Hampshire
25 Capitol Street – Room 121
Concord, NH 03301

Dear Treasurer Mezzapelle:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a contract with Kelmar Associates, LLC, as described below and referenced as DoIT No. 2025-006.

The purpose of this request is to provide administration and ongoing support of a hosted software as a service unclaimed property management solution ("KAPS"), to support the State Treasury's abandoned property operations.

The Total Price Limitation shall be \$3,247,741, effective upon Governor and Executive Council approval for the period of August 25, 2024 through August 24, 2034.

A copy of this letter must accompany New Hampshire State Treasury's submission to the Governor and Executive Council for approval.

Sincerely,

A handwritten signature in black ink that reads "Denis Goulet".

Denis Goulet

DG/jd
DoIT #2025-006

cc: Rebecca Bolton, IT Manager

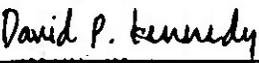
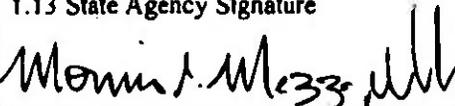
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name State Treasury - Abandoned Property Division		1.2 State Agency Address 25 Capitol Street, Room 121 Concord, NH 03301	
1.3 Contractor Name Kelmar Associates, LLC		1.4 Contractor Address 500 Edgewater Drive, Suite 525 Wakefield, MA 01880	
1.5 Contractor Phone Number 781-213-6926	1.6 Account Unit and Class 010-38-38-380510- 8021000-038-500177	1.7 Completion Date 8/24/2034	1.8 Price Limitation \$ 3,247,741
1.9 Contracting Officer for State Agency Monica Mezzapelle, State Treasurer		1.10 State Agency Telephone Number (603) 271-2671	
1.11 Contractor Signature DocuSigned by:  Date: 6/13/2024		1.12 Name and Title of Contractor Signatory David P. Kennedy, General Counsel & Member	
1.13 State Agency Signature  Date: 6/14/2024		1.14 Name and Title of State Agency Signatory Monica Mezzapelle, State Treasurer	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>Duncan A. Edgar</i> On: July 2, 2024			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

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

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

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

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

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

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

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

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

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

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

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

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

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

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

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

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

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

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

**STATE OF NEW HAMPSHIRE
TREASURY
PART 2 – CONSOLIDATED EXHIBITS
EXHIBIT A: SPECIAL PROVISIONS**

INTRODUCTION

This **EXHIBIT A** to the **CONTRACT** by and between the State of New Hampshire, acting through the Treasury (“**STATE**”), and Kelmar Associates, LLC, a Delaware limited liability company, (“**KELMAR**” or the “**CONTRACTOR**”), having its principal place of business at 500 Edgewater Drive, Suite 525, Wakefield, Massachusetts 01880 sets forth all modifications, deletions, and additions to Form P-37, State of New Hampshire General Provisions comprising Part 1 of the **CONTRACT**.

1. DEFINITIONS

Capitalized terms used in the Attachments, Exhibits, and Schedules to the **CONTRACT** shall have the meaning set forth in **ATTACHMENT 1**.

2. CONTRACT DOCUMENTS

2.1 Contract Documents

The **CONTRACT** is comprised of the following documents (“**CONTRACT DOCUMENTS**”), which are all incorporated by reference as if fully set forth herein:

- a. Part 1 - State of New Hampshire General Provisions, Form P-37 – Contract Agreement
- b. Part 2 - Consolidated Exhibits
 - EXHIBIT A - *Special Provisions***
 - Attachment 1: *Definitions***
 - Attachment 2: *Software Licenses***
 - Schedule 1: *KAPS® LN Services Subscription Terms and Conditions***
 - Schedule 2: *Kelmar Fraud Index & LexisNexis® ThreatMetrix® Subscription Terms and Conditions***
 - EXHIBIT B – *Scope of Services***
 - EXHIBIT C - *Price and Payment Schedule***
 - EXHIBIT D - *Certificates and Attachments***

2.2 Order of Precedence

In the event of conflict or ambiguity among any of the text of the **CONTRACT DOCUMENTS**, the following **ORDER OF PRECEDENCE** shall govern:

- a. Part 1 - State of New Hampshire General Provisions, Form P-37-Contract Agreement as amended by this **EXHIBIT A**.
- b. Part 2 – Consolidated Exhibits - **EXHIBITS B** through **D** with all attachments and schedules to State of New Hampshire, Treasury Contract.

**STATE OF NEW HAMPSHIRE
TREASURY
PART 2 – CONSOLIDATED EXHIBITS
EXHIBIT A: SPECIAL PROVISIONS**

2.3 Contract Term

The following supplements Section 1.7: *Completion Date* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

The **CONTRACT** and all obligations of the parties hereunder shall become effective after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, **GOVERNOR AND EXECUTIVE COUNCIL** of the State of New Hampshire approval ("**EFFECTIVE DATE**").

The **CONTRACT** shall commence on the later of the **EFFECTIVE DATE** or August 25, 2024 (the "**COMMENCEMENT DATE**") and shall extend for a period of ten (10) years thereafter.

KELMAR shall commence work upon issuance of a **NOTICE TO PROCEED** by the **STATE**.

3. CONTRACT MANAGEMENT

The following supplements Section 7: *Personnel* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

The **CONTRACT** requires the coordinated efforts of both **KELMAR** and **STATE** personnel to ensure successful use and continued deployment of the **SOLUTION**. **KELMAR** shall provide all necessary resources to perform its obligations under the **CONTRACT** and shall be responsible for delivering the **SOFTWARE AND SERVICES** throughout the **TERM** of the **CONTRACT**.

3.1 KELMAR's Contract Manager

KELMAR shall assign a **CONTRACT MANAGER** who shall be responsible for all **CONTRACT** authorization and administration. **KELMAR's CONTRACT MANAGER** is:

David P. Kennedy, General Counsel & Member
Kelmar Associates, LLC
500 Edgewater Drive, Suite 525
Wakefield, MA 01880
Tel: 781-928-9205
Fax: 781-928-9105
Email: David.Kennedy@kelmarassoc.com

3.2 KELMAR's Service Manager

3.2.1 Contract Service Manager

**STATE OF NEW HAMPSHIRE
TREASURY
PART 2 – CONSOLIDATED EXHIBITS
EXHIBIT A: SPECIAL PROVISIONS**

KELMAR shall assign a **SERVICE MANAGER** who shall be qualified to perform the obligations required of the position under the **CONTRACT**, shall have full authority to make binding decisions under the **CONTRACT**, and shall function as **KELMAR**'s representative for all administrative and management matters. **KELMAR**'s **SERVICE MANAGER** must work diligently and use their best efforts to ensure the successful delivery of the **SOFTWARE AND SERVICES**.

3.2.2 **KELMAR** shall not change its assignment of its **SERVICE MANAGER** without providing the **STATE** written justification and obtaining the prior written approval of the **STATE**. **STATE** approvals for replacement of **KELMAR**'s **SERVICE MANAGER** shall not be unreasonably conditioned or withheld. The replacement **SERVICE MANAGER** shall have comparable or greater skills than **KELMAR**'s **SERVICE MANAGER** being replaced; meet the requirements of the **CONTRACT**; and be subject to the requirements set forth in Section 4.2.1: *Contract Service Manager*, and subject to the reference and background checks in Section 4.5: *Reference and Background Checks*, below. **KELMAR** shall assign a replacement **SERVICE MANAGER** within ten (10) business days of the departure of the prior **KELMAR SERVICE MANAGER**, and **KELMAR** shall continue during the ten (10) business day period to provide competent management services through the assignment of a qualified interim **KELMAR SERVICE MANAGER**.

3.2.3 Notwithstanding any other provision of the **CONTRACT**, the **STATE** shall have the option, at its discretion, to terminate the **CONTRACT**, declare **KELMAR** in default and pursue its remedies at law and in equity, if **KELMAR** fails to assign a **SERVICE MANAGER** meeting the requirements and terms of the **CONTRACT**.

3.2.4 **KELMAR**'s **SERVICE MANAGER** is:

Kenneth Wagers, Chief Technology Innovation Officer
Kelmar Associates, LLC
500 Edgewater Drive, Suite 525
Wakefield, MA 01880
Tel: 781-928-9221
Email: kenneth.wagers@kelmarassoc.com

**STATE OF NEW HAMPSHIRE
TREASURY
PART 2 – CONSOLIDATED EXHIBITS
EXHIBIT A: SPECIAL PROVISIONS**

3.3 STATE Contract Manager

The **STATE** shall assign a **CONTRACT MANAGER** who shall:

- a. Function as the **STATE**'s representative with regard to **CONTRACT** administration.
- b. Complete all invoice sign-offs

The **STATE CONTRACT MANAGER** is:

James Karas, Abandoned Property Director
State of New Hampshire Treasury
Abandoned Property Division
25 Capitol Street, Rm 121
Concord, NH 03301
Tel: (603) 271-1499
Fax: (603) 271-2730
Email: James.R.Karas@treasury.nh.gov

3.4 STATE Service Manager

The **STATE** shall assign a **SERVICE MANAGER** who shall serve as the primary point of contact for the following:

- a. Monitoring the delivery of the **SERVICES**;
- b. Assessing Service Level Commitments;
- c. Communicating with **KELMAR**'s **SERVICE MANAGER** and assigned personnel;
- d. Reviewing and accepting **SOFTWARE DELIVERABLES**;
- e. **REVIEW** and approval of **CHANGE PROPOSALS**; and
- f. Managing stakeholders' concerns.

The **STATE SERVICE MANAGER** is:

Brian K. Deschenes, IT Manager / ISO
State of New Hampshire Treasury
25 Capitol Street, Rm 121
Concord, NH 03301
Tel: (603) 271-8413
Fax: (603) 271-3922
Email: Brian.K.Deschenes@treasury.nh.gov

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3.5 Reference and Background Checks

KELMAR shall perform reference and background checks on all of its personnel: (a) working on the **STATE's** premises in connection with the **CONTRACT**, (b) handling and/or processing the **STATE's CONFIDENTIAL INFORMATION** in connection with the **CONTRACT**; or (c) having access to the **STATE's CONFIDENTIAL INFORMATION** in connection with the **CONTRACT**. These reference and background checks shall include, without limitation, employment, education and certification verification, a review of **STATE**, federal and county criminal records databases, a search through the national prison registry, parole board and federal administrative agency databases, as well as checks against the national sex offender data base. Upon reasonable request, **KELMAR** shall provide satisfactory evidence of such reference and background checks to the **STATE**.

Additionally, the **STATE** may, at its sole expense, conduct reference and background screening of **KELMAR's SERVICE MANAGER** and personnel assigned to perform the **SERVICES** under the **CONTRACT**. The **STATE** shall maintain the confidentiality of background screening results in accordance with Section 11: *Use of STATE's Information; Confidentiality* set forth below which modifies Section 10: *Property Ownership / Disclosure* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

4. TITLE / INTELLECTUAL PROPERTY

This Section 4 modifies and supplements Section 10: *Property Ownership / Disclosure* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

4.1 State Data

All rights, title, and interest in **STATE DATA** shall remain with the **STATE**.

4.2 Kelmar Property

All title, right, and interest (including all ownership and intellectual property rights) in the **SOFTWARE** and all **SOFTWARE DELIVERABLES**, and associated **DOCUMENTATION**, shall remain with **KELMAR**.

The **SOFTWARE** is being licensed subject to the terms and conditions set forth in **ATTACHMENT 2** to this **EXHIBIT A**, not sold. As between **KELMAR** and the **STATE**, **KELMAR** retains all rights, title, and ownership in and to the **SOFTWARE** and all **SOFTWARE DELIVERABLES** (including specifically any enhancements and upgrades to the **KAPS® SOFTWARE** and the Source Code)

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and all **DOCUMENTATION**. All United States and international copyrights, trade secrets, patentable inventions and trademarks incorporated into, or used in respect of, the **SOFTWARE** and any **SOFTWARE DELIVERABLES** shall be and remain the sole property of **KELMAR**.

If the **STATE** engages **KELMAR** to perform **NEW WORK** under the **CONTRACT**, which may include programming or the development of **CUSTOM SOFTWARE** in connection with a **SOFTWARE DELIVERABLE**, then: (i) with respect to all **NEW WORK** performed for the **STATE** by **KELMAR**, **KELMAR** shall be the author and owner of all copyrights, patents, and trade secrets incorporated in such work (the "**LICENSEE WORK**"); and (ii) **KELMAR** shall grant the **STATE** with a perpetual right to reproduce, publish, or otherwise use such **LICENSEE WORK** developed under the **CONTRACT**.

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

4.3 Newly Developed Materials

Subject to the provisions of this **CONTRACT**, **KELMAR** may develop for itself, or for others, materials that are competitive with, or similar to, the **DELIVERABLES**. In accordance with the confidentiality provision of Section 11: *Use of STATE Information; Confidentiality* to this **EXHIBIT A** which modifies and supplements Section 10: *Property Ownership / Disclosure* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**, **KELMAR** shall not distribute any products containing or disclose any **STATE CONFIDENTIAL INFORMATION**. **KELMAR** 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 **KELMAR**'s employees or third-party consultants engaged by **KELMAR**.

Without limiting the foregoing, the parties agree that the general knowledge referred to herein cannot include information or records not subject to public disclosure under New Hampshire RSA Chapter 91-A and RSA 471-C:20, VII, which includes but is not limited to the following: records of grand juries and petit juries; records of parole and pardon boards; personal school records of pupils; records pertaining to internal personnel practices, financial information, test questions, scoring keys and other examination data use to administer a licensing

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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.

4.4 Survival

This Section 4: *Title / Intellectual Property* which modifies and supplements Section 10: *Property Ownership / Disclosure* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** shall survive the termination of the **CONTRACT** or **CONTRACT CONCLUSION**.

5. SOFTWARE NON-INFRINGEMENT / INDEMNIFICATION

The foregoing modifies and supplements Section 13: *Indemnification* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

KELMAR warrants that it has good title to, or the right to allow the **STATE** to use all **SERVICES**, hardware, equipment, and **SOFTWARE** (collectively "**MATERIAL**") provided under this **CONTRACT**, and that such **SERVICES**, hardware, equipment, and **SOFTWARE** do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

The warranty of non-infringement shall be an on-going and perpetual obligation that shall survive termination or conclusion of the **CONTRACT**. In the event that a third party asserts or alleges a claim against the **STATE** that any **MATERIAL** infringes their intellectual property rights, **KELMAR** shall defend and indemnify the **STATE** from and against any and all damages, losses, liability, obligations, settlements, claims, litigation, demand, judgments, suits, proceedings, costs, disbursements, or expenses of any kind or nature whatsoever, including without limitation attorneys' fees, experts' fees, and court costs which may at any time be imposed upon, incurred by, or awarded against the **STATE** (subject to the exclusions set forth in this Section 10) which are in any way attributed to **KELMAR**'s intellectual property infringement provided that the **STATE**:

- i) promptly notifies **KELMAR** in writing, not later than not later than 30 days after the **STATE** receives actual written notice of such claim;
- ii) gives **KELMAR** control of the defense and any settlement negotiations; and
- iii) gives **KELMAR** the information, authority, and assistance reasonably needed to defend against or settle the claim.

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

If **KELMAR** believes or it is determined that any of the **MATERIAL** may have violated someone else's intellectual property rights, **KELMAR** may choose to either modify the **MATERIAL** to be

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non-infringing or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, **KELMAR** may end the license, and require return of the applicable **MATERIAL** and refund all fees the **STATE** has paid **KELMAR** under the **CONTRACT** for the **MATERIAL**. **KELMAR** will not indemnify the **STATE** if the **STATE** alters the **MATERIAL** without **KELMAR**'s consent or uses it outside the scope of use identified in this **CONTRACT** and **KELMAR**'s user **DOCUMENTATION**, or if the **STATE** uses a version of the **MATERIAL** which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the **MATERIAL** which was provided to the **STATE** at no additional cost. **KELMAR** will not indemnify the **STATE** to the extent that an infringement claim is based upon any information design, **SPECIFICATION**, instruction, **SOFTWARE**, **STATE DATA**, or other **MATERIAL** that is not furnished by **KELMAR**. **KELMAR** will not indemnify the **STATE** to the extent that an infringement claim is based upon the combination of any **MATERIAL** with any products or services not provided by **KELMAR** without **KELMAR**'s consent.

This Section 5: *Software Non-Infringement / Indemnification* which modifies Section 13: *Indemnification* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** shall survive the termination of the **CONTRACT** and/or **CONTRACT CONCLUSION**.

6. USE OF STATE INFORMATION & CONFIDENTIALITY

This Section 6: *Use of State Information & Confidentiality* modifies and supplements Section 10: *Property Ownership / Disclosure* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

6.1 Use of State's Information

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

6.2 State Confidential Information

KELMAR shall maintain the confidentiality of and protect from unauthorized use, disclosure, publication, and reproduction (collectively "Release"), all **STATE**

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CONFIDENTIAL INFORMATION that becomes available to **KELMAR** in connection with its performance under the **CONTRACT**, regardless of its form.

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

Any disclosure of the **STATE CONFIDENTIAL INFORMATION** shall require the prior written approval of the **STATE**. **KELMAR** shall immediately notify the **STATE** if any request, subpoena or other legal process is served upon **KELMAR** regarding any **STATE DATE** including specifically, any **STATE CONFIDENTIAL INFORMATION**, and **KELMAR** 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**, **KELMAR** shall immediately notify the **STATE**, and the **STATE** may immediately be entitled to pursue any remedy at law and in equity, including, but not limited to, injunctive relief.

Consistent with its obligations hereunder, **KELMAR** warrants and represents to the **STATE** that each of its Personnel: (a) working on the **STATE**'s premises in connection with the **CONTRACT**, (b) handling the **STATE**'s **CONFIDENTIAL INFORMATION** in connection with the **CONTRACT**; or (c) having access to the **STATE**'s **CONFIDENTIAL INFORMATION** in connection with the **CONTRACT** is, and shall continue to be, by virtue of a written confidentiality **AGREEMENT** with **KELMAR**, under a duty of confidentiality with respect to the **STATE**'s **CONFIDENTIAL INFORMATION**. **KELMAR** further warrants and represents that said individuals are reminded annually of their confidentiality obligations under the aforementioned agreements and are required to attend annual training concerning **KELMAR**'s policies and procedures governing the treatment of **CONFIDENTIAL INFORMATION** as well as data security and privacy obligations under applicable state, federal and local laws.

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6.3 KELMAR Confidential Information

Insofar as **KELMAR** seeks to maintain the confidentiality of its confidential or proprietary information, **KELMAR** must clearly identify in writing all information it claims to be confidential or proprietary. Notwithstanding the foregoing, the **STATE** acknowledges that **KELMAR** considers the **SOFTWARE**, the **DOCUMENTATION**, and **SECURITY INFORMATION** to be **CONFIDENTIAL INFORMATION**. **KELMAR** 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 information identified by **KELMAR** as confidential, the **STATE** shall, within two (2) business days of receipt of the request, notify **KELMAR** of the request and specify the date the **STATE** will be releasing the requested information. Any effort to prohibit or enjoin the release of the information shall be **KELMAR**'s sole responsibility and at **KELMAR**'s sole expense. If **KELMAR** 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 **KELMAR**, without any liability to **KELMAR**.

6.4 Survival

This Section 6: *Use of State's Information & Confidentiality* which modifies and supplements Section 10: *Property Ownership / Disclosure* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** shall survive termination of the **CONTRACT** or **CONTRACT CONCLUSION**.

7. LIMITATION OF LIABILITY

Section 5: *Contract Price / Price Limitation / Payment* of State of New Hampshire General Provisions – Form P-37 comprising Part 1 of the **CONTRACT** is hereby amended as follows:

7.1 STATE

This Section 7.1 shall replace Section 5.4 of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** in its entirety.

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 **KELMAR** shall not exceed the total **CONTRACT** price set forth in Contract Agreement,

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Section 1.8 of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

7.2 KELMAR

This Section 7.2 shall be added as Section 5.5 of Form P-37, State of New Hampshire General Provisions comprising Part 1 of the **CONTRACT** in the form set forth below:

5.5 Subject to applicable laws and regulations, in no event shall **KELMAR** be liable for any consequential, special, indirect, incidental, punitive, or exemplary damages and **KELMAR'S** liability to the **STATE** shall not exceed two times (2X) the total **CONTRACT** price set forth in Section 1.8 of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

Notwithstanding the foregoing, the limitation of liability in this Section 5.5 shall not apply to (a) **KELMAR's** indemnification obligations set forth in Section 13: *Indemnification* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 the **CONTRACT** with respect to third party claims arising from death, personal injury, property damage, intellectual infringement or **KELMAR's** gross negligence or willful misconduct or fraud by **KELMAR**, its employees, agents, or subcontractors; and (b) claims arising from a Release of **STATE CONFIDENTIAL INFORMATION** as described in **EXHIBIT A**, Section 6.2 above which modifies and supplements Section 10: *Property Ownership / Disclosure* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

7.3 STATE's Immunity

This Section 7.3 shall be added as Section 5.6 of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** in the form set forth below:

5.6 Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity or any applicable defenses or immunities of the **STATE**, which immunities are hereby reserved to the **STATE**. This covenant shall survive termination or **CONTRACT CONCLUSION**.

7.4 Survival

This **EXHIBIT A** - Section 12: *Limitation of Liability* which modifies and supplements Section 5, *Property Ownership / Disclosure* to State of New

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Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** shall survive termination or **CONTRACT CONCLUSION**.

8. EVENT OF DEFAULT / REMEDIES

Section 8 *Event of Default / Remedies* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** is hereby amended as follows:

8.1 Striking Section 8.2.1 in its entirety and replacing 8.2.1 with the following:

8.2.1 give **KELMAR** written notice of default and require the default to be remedied within thirty (30) days from the date of notice (“**CURE PERIOD**”). If **KELMAR** fails to cure the default within the **CURE PERIOD**, the **STATE** may terminate the **CONTRACT** effective two (2) days after giving **KELMAR** notice of termination, at its sole discretion, treat the **CONTRACT** as breached and pursue its remedies at law or in equity or both.

8.2 Striking Section 8.2.4 in its entirety and replacing 8.2.4 with the following:

8.2.4 In the event **KELMAR** fails and/or refuses to cure an Event of Default within the **CURE PERIOD**, the **STATE** may procure **SERVICES** that are the subject of the **CONTRACT** from another source and **KELMAR** shall be liable for reimbursing the **STATE** for the replacement **SERVICES**, and all administrative costs directly related to the replacement of the **CONTRACT** and procuring the **SERVICES** from another source, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; all of which shall be subject to the limitations of liability set forth in **EXHIBIT A** to the **CONTRACT**.

8.3 Adding a new Section 8.2.5 to the **CONTRACT** in the form set forth below:

8.2.5 After two or more Events of Default by **KELMAR** during the Term of the **CONTRACT**, the **STATE** may immediately treat the **CONTRACT** as breached and send **KELMAR** notice of termination of the **CONTRACT** without providing **KELMAR** with a right to **CURE**, and pursue any of its remedies at law or in equity, or both.

The foregoing shall not apply where the Event of Default relates to a security breach, loss, or unauthorized use of **STATE DATE** by **KELMAR**. In such an instance, the **STATE** may take any one, or more, or all of the actions outlined in Sections 8.2.1 through 8.2.3 and/or provide **KELMAR** with a written notice specifying the Event of Default and terminating the

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CONTRACT without an opportunity to **CURE**, and pursue any of its remedies at law or in equity, or both.

8.4 Adding a new Section 8.2.6 with subparts and 8.2.7 to Form P-37, *State of New Hampshire General Provisions* comprising Part 1 of the **CONTRACT** in the form set forth below:

8.2.6 Any one or more of the following acts or omission of the **STATE** shall constitute an event of default hereunder (a “**STATE Event of Default**”):

8.2.6.1 failure to adhere to the **SOFTWARE** license terms and conditions set forth in **EXHIBIT A**, Section 4, including specifically, those terms and conditions set forth in **EXHIBIT A, ATTACHMENT 2** including **Schedule 1** and **Schedule 2**; or

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

8.2.7 **KELMAR** shall provide the **STATE** with written notice of a **STATE Event of Default**, and the **STATE** shall cure the default within thirty (30) days. If the **STATE** fails to **CURE** the default within the **STATE CURE PERIOD**, **KELMAR** may terminate the **CONTRACT**, in whole or in part, effective two (2) days after giving the **STATE** notice of termination, at its sole discretion, treat the **CONTRACT** as breached, and pursue its remedies at law or in equity or both.

9. INSURANCE

Section 14 *Insurance* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT** is hereby amended to include the following:

14.4 **KELMAR** shall carry and obtain cyber insurance against all claims for cyber crimes inclusive of hacking, data security & privacy losses, in amounts of not less than \$5,000,000, at no additional cost to the **STATE**.

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For the purposes of this **CONTRACT**, the capitalized terms set forth below shall have the meanings assigned to them in this **ATTACHMENT 1**. Certain other capitalized terms are defined elsewhere within the text of this **CONTRACT** and, throughout this **CONTRACT**, those terms shall have the meanings respectively ascribed to them.

Acceptance	Notice from the State that a Deliverable has satisfied User Acceptance Testing or Review. The term "Acceptance" is further described in Exhibit B , Section 19.
Acceptance Period	The timeframe during which the User Acceptance Testing or Review is performed as further described in Exhibit B , Sections 16 and 18.
Access Control	Supports the management of permissions for logging onto a computer or network.
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system.
Authorized User	An employee, agent, or third-party contractor of the State who: (i) is connecting to the Software from a State IP address; (ii) has a need to access and use the Software solely in connection with the State's abandoned property program and business related thereto (including for purposes of information security); and (iii) shall be bound to the terms and conditions of this Contract. An Authorized User shall <i>not</i> include, and the Parties to the Contract expressly agree precludes, any third-party consultants, contractors, outsourcers, or representatives providing competitive services to Kelmar
CCP	Change Control Procedures
CM	Configuration Management
CR	Change Request
Change	A modification to the Services described in Exhibit B in the form of "New Work" or a change that would affect the amount of compensation due Kelmar. Changes are described in detail in Exhibit B , Section 21.
Change Control	Formal process for initiating changes to the Software.
Change Notice	A written finalized statement approved by both Parties which describes a Change and its effects on the Services and/or any affected components of the Contract. Change Notices are described in detail in Exhibit B , Section 21.
Change Proposal	Formal documentation prepared for a proposed change in the Specifications. Change Orders are described in detail in Exhibit B , Section 21.
Change Request	A written request for Kelmar to furnish a proposal for carrying out a requested Change. A Change Request may be advanced

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	by the State or Kelmar. Change Requests are addressed in detail in Exhibit B – Section 21.
Commencement Date	The date Services shall commence under the Contract which shall occur on the Effective Date or August 25, 2024, whichever is latest.
Completion Date	End date for the Contract.
Confidential Information	Information required to be kept Confidential from unauthorized disclosure under the Contract.
Contract	The Contract Agreement between the State of New Hampshire and Kelmar, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Conclusion	Refers to the conclusion of the Contract, for any reason, including but not limited to, the successful completion of the Term of the Contract, termination for convenience, or termination for default.
Contract Documents	Documents that comprise the Contract (See Contract Agreement, Section 1.1).
Contract Managers	The persons identified by the State and Kelmar 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.
COTS	Commercial-off-the-Shelf
Cure Period	The thirty (30) day period following written notification of a default within which Kelmar or the State must cure the default identified.
Custom Code	Source code developed by Kelmar specifically for the State of New Hampshire in connection with Custom Software
Custom Software	Software developed by Kelmar specifically for the State of New Hampshire
Data or State Data	Refers to the State's records, files, forms, data and other documents or information, in either electronic or paper form, that will be used, collected, processed, and stored by Kelmar during the Term including specifically, information contained within the KAPS® System and the KAPS® Integrated Imaging Module.

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Deficiencies/Defects	<p>A failure, deficiency, or defect in a Deliverable resulting in a Deliverable, the Software, or the Solution, not conforming to its Specifications.</p> <p>Class A Deficiency – Software - Critical, does not allow System to operate, no work around, demands immediate action; <i>Written Documentation</i> - missing significant portions of information or unintelligible to State; <i>Non Software</i> - Services were inadequate and require re-performance of the Service.</p> <p>Class B Deficiency – Software - important, does not stop operation and/or there is a work around and user can perform tasks; <i>Written Documentation</i> - portions of information are missing but not enough to make the document unintelligible; <i>Non Software</i> - Services were deficient, require reworking, but do not require re-performance of the Service.</p> <p>Class C Deficiency – Software - minimal, cosmetic in nature, minimal effect on System, low priority and/or user can use System; <i>Written Documentation</i> - minimal changes required and of minor editing nature; <i>Non Software</i> - Services require only minor reworking and do not require re-performance of the Service.</p> <p>Deficiencies / Defects are further described in Exhibit B, Section 22.</p>
Deliverable	A Deliverable is any Written, Software, or Non-Software Deliverable (letter, report, manual, book, other documentation), provided by Kelmar to the State as a requirement under the Contract.
Department of Information Technology (DoIT)	The Department of Information Technology established under RSA 21-R by the Legislature effective September 5, 2008.
Documentation	All information that describes the installation, operation, and use of the Software, either in printed or electronic format.
Digital Signature	Guarantees the unaltered state of a file
Effective Date	The Contract and all obligations of the parties hereunder shall become effective on the date the Governor and the Executive Council of the State of New Hampshire approves the Contract
Encryption	Supports the encoding of data for security purposes.

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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.
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 Kelmar's cost experience in performing the Contract.
GAAP	Generally Accepted Accounting Principles
Governor and Executive Council	The New Hampshire Governor and Executive Council.
Identification and Authentication	Supports obtaining information about those parties attempting to log on to a system or application for security purposes and the validation of those users.
Information Technology (IT)	Refers to the tools and processes used for the gathering, storing, manipulating, transmitting, sharing, and sensing of information including, but not limited to, Data processing, computing, information systems, telecommunications, and various audio and video technologies.
Intrusion Detection	Supports the detection of illegal entrance into a computer system.
KAPS[®] LN Services	Refers to the LexisNexis [®] Instant Verify [®] and LexID [®] Identification Verification Services licensed by Kelmar and integrated with the KAPS [®] System as more particularly described in Exhibit B and subject to the license terms and conditions contained in Exhibit A, Attachment 2, Schedule 1
KAPS[®] Software	Kelmar's proprietary COTS software application that is delivered as a SaaS solution that includes the KAPS [®] System and KAPS [®] State Website Solution as more particularly described in Exhibit B and subject to the license terms and conditions contained in Exhibit A, Attachment 1
KAPS[®] System	Kelmar's proprietary COTS unclaimed property management system that is delivered as a SaaS solution as more particularly described in Exhibit B and subject to the license terms and conditions contained in Exhibit A, Attachment 1
KAPS[®] State Website Solution (SWS)	Kelmar's proprietary state website solution that integrates with the KAPS [®] System as more particularly described in Exhibit

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	B subject to the license terms and conditions contained in Exhibit A, Attachment 1.
KAPS® System Imaging Module	Refers to Hyland Software, LLC's COTS cloud-based document management system, OnBase that is integrated with the KAPS® System and SWS to allow the State to image, upload, retrieve and store documents and images as more particularly described in Exhibit B and subject to the license terms and conditions contained in Exhibit A, Attachment 1.
KFI SERVICES	Refers collectively to the Kelmar Fraud Index ("KFI"), an advanced fraud profiling system integrated with the KAPS® Software that utilizes information derived from LexisNexis' ThreatMetrix® Solution as more particularly described in Exhibit B and subject to the license terms and conditions contained in Exhibit A, Attachment 2, Schedule 2.
Licensee	The State of New Hampshire
Licensee Work	Any customized work performed for the State by Kelmar which may include programming or software development in respect to the Software Deliverables. All copyrights, patents and trade secrets incorporated in the Licensee Work shall remain the property of Kelmar.
Misuse	Misuse of the Software or a Deliverable including activities such as hacking, purposefully damaging the Software, the unauthorized modification and/or alteration of the Software, changing passwords and settings to prevent others from accessing the KAPS® System or data, or interfering with the normal operation of the Software and specifically, the KAPS® System. Misuse also includes those activities set forth in Section 4 and ATTACHMENT 2 of Exhibit A to the Contract.
New Work	Work requested beyond the scope of the Services set forth in Exhibit B. New Work must be approved in writing and documented through an amendment to the Contract following the State's customary contract amendment process.
Non Exclusive Contract	A contract executed by the State that does not restrict the State from seeking alternative sources for the Deliverables or Services provided under the Contract.
Non-Software Deliverables	Deliverables that are not Software Deliverables or Written Deliverables, e.g., help desk support, maintenance and technical support, professional services, etc.
Normal Business Hours	Normal Business Hours – 6:00 a.m. to 6:00 p.m. EST, Monday through Friday excluding State of New Hampshire holidays.

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	State holidays are: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, July 4 th , Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, and Christmas Day.
Notice to Proceed (NTP)	The State Contract Manager's written direction to Kelmar to begin work on the Contract on a given date and time.
Operational	Operational means that the System is operating and fully functional in the manner set forth in the Documentation; all Data has been loaded; and the System is available for use by the State in its daily operations.
Order of Precedence	The order in which Contract/Documents control in the event of a conflict or ambiguity. A term or condition in a document controls over a conflicting or ambiguous term or condition in a document that is lower in the Order of Precedence.
Review	The process of reviewing Deliverables for Acceptance.
Review Period	The period set for review of a Deliverable. If none is specified then the Review Period is five (5) business days.
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application, or network.
SaaS- Software as a Service	Occurs where the COTS application is hosted by Kelmar and licensed by the State. Kelmar owns all source code and intellectual property rights in and to the Software. Kelmar allows the use of the Software as a part of the Services.
Scope of Services	Refers to Exhibit B to the CONTRACT which provides a detailed description of the Services and work to be completed by Kelmar under the terms of the Contract, including a description of the Software and all required functionality and Specifications, a detailed description of the tasks associated with Kelmar's maintenance and support of the Software, service level commitments, training, and other related requirements. The Scope of Services also outlines the roles and responsibilities of the State and Kelmar. The Scope of Services in Exhibit B to the Contract Agreement ultimately defines the results that Kelmar remains responsible and accountable for achieving under the CONTRACT.
Security Information	Refers to any and all confidential information provided by Kelmar to the State concerning the security of the Software including, without limitation, Kelmar's Information Security Plan, Kelmar's penetration tests, security logs, SOC 2 Type 2 Reports, ISO Assessment Reports, Disaster Recovery and Backup Policies and Procedures and related test results.

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Services	The work or labor to be performed by Kelmar as described in Exhibit B to the Contract and including the SaaS Solution.
Service Managers	The persons identified who shall function as the State's and Kelmar's representative with regard to responsibilities including without limitation Review and Acceptance of Contract Deliverables, invoice sign off, and review and approval of Change Requests (CR) utilizing the Change Control Procedures (CCP).
Software	All Custom Software and COTS software and applications provided by Kelmar and licensed and configured for the State under the Contract. Software specifically includes the KAPS [®] Software, the KAPS [®] System Imaging Module, the KAPS LN [®] Services, and the Kelmar Fraud Index inclusive of LexisNexis' ThreatMetrix [®] Solution, and all Software Deliverables associated therewith.
Software Deliverables	Custom Software, COTS Software, Updates, and Enhancements provided by Kelmar
Software License	Licenses provided to the State under this Contract as described in Attachment 2 to Exhibit A .
Solution	The Solution refers to the total unclaimed property management SaaS solution, which includes, without limitation, the Software and Services as more particularly described in Exhibit B as well as all Documentation.
Specifications	The written specifications that set forth the 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 technical and functional requirements described in the Contract Documents. The Specifications are, by this reference, made a part of the Contract as though completely set forth herein.
State	State is defined as: State of New Hampshire Treasury Abandoned Property Division 25 Capitol Street, Rm 205 Concord, NH, 03301 And/Or DoIT Reference to the term "State" shall include applicable agencies.

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State's Confidential Records	State's information regardless of its form that is not subject to public disclosure under applicable state and federal laws and regulations, including but not limited to <u>RSA Chapter 91-A</u> .
State Fiscal Year (SFY)	The New Hampshire State Fiscal Year extends from July 1 st through June 30 th of the following calendar year
Subcontractor	A person, partnership, or company not in the employment of, or owned by, Kelmar, which is performing Services under this Contract under a separate Contract with or on behalf of Kelmar.
Term	Period of the Contract from the later of the Effective Date or Commencement Date through termination.
Transition Services	Services and support provided when the contracted vendor is supporting System changes.
UAT	User Acceptance Test
User Acceptance Testing	Tests performed to determine that no Deficiencies / Defects exist in the application Software or the KAPS [®] System prior to Acceptance.
Unit Test	Developers create their own test data and test scenarios to verify the code they have created or changed functions properly as defined.
User Acceptance Testing	Tests done by knowledgeable business users who are familiar with the scope of the Project. They create/develop test cases to confirm the System was developed according to specific user requirements. The test cases and scripts/scenarios should be mapped to business requirements outlined in the user requirements documents.
User Management	Supports the administration of computer, application, and network accounts within an organization.
Warranty Period	A period of coverage during which Kelmar is responsible for providing a guarantee for products and Services delivered as defined in the Contract.
Warranty Releases	Code releases that are done during the Warranty Period.
Warranty Services	The Services to be provided by Kelmar during the Warranty Period.

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Work Hours	Kelmar personnel shall work normal business hours between 8:00 am and 5:00 pm, eight (8) hour days, forty (40) hour weeks, excluding State of New Hampshire holidays. Changes to this schedule may be made upon agreement with the State Project Manager.
Written Deliverables	Non-Software written deliverable Documentation (letter, report, manual, book, other) provided by the Vendor either in paper or electronic format.

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EXHIBIT A - ATTACHMENT 2 - SOFTWARE LICENSES**

I. GRANT OF LICENSES

Subject to the payment of applicable license fees set forth in **EXHIBIT C: Price and Payment Schedule** and the terms and conditions of this **CONTRACT** (inclusive of all Attachments, Exhibits, and Schedules attached thereto and incorporated herein by reference), **KELMAR** hereby grants the **STATE**, and the **STATE** accepts, a limited, non-transferable, non-exclusive license to use the **KAPS® SOFTWARE** (comprised of the **KAPS® SYSTEM** and **SWS**) under the terms and conditions stated herein for the **STATE**'s internal use in the administration of its abandoned property program and business related thereto. The grant of rights hereunder to license and utilize the **KAPS® SOFTWARE** is not a sale of the **KAPS® SOFTWARE** or any portion thereof and does not convey any rights of ownership in the **KAPS® SOFTWARE** to the **STATE**. **KELMAR** reserves all rights not expressly granted by this **CONTRACT** and the **STATE** hereby agrees that all title and ownership of the **KAPS® SOFTWARE** and all **SOFTWARE DELIVERABLES** and associated intellectual property rights are and shall always remain with **KELMAR**.

In addition to the license to the **KAPS® SOFTWARE**, **KELMAR** shall provide the **STATE** with the following Software Licenses:

- i. a restricted license to the **KAPS® Integrated Imaging and Document Management Solution** (the "**KAPS® SYSTEM IMAGING MODULE**") which will allow the **STATE** to image, upload, retrieve and store documents and images using Hyland Software, LLC's cloud-based document management system, OnBase. Along with this license, the **STATE** shall have one (1) disconnected scanning license to facilitate the **STATE**'s scanning, indexing, storage, and retrieval of all document images captured utilizing the **KAPS® SYSTEM** and **SWS**.
- ii. a restricted license to utilize the **KAPS® LexisNexis® Instant Verify®** and **LexID® Identification Verification Services** (the "**KAPS® LN Services**") through the **KAPS® SYSTEM**, on the terms and conditions set forth in **SCHEDULE 1** to this **ATTACHMENT 2** to **EXHIBIT A** to the **CONTRACT**, attached hereto and incorporated herein by reference.
- iii. a restricted license to use the **Kelmar Fraud Index ("KFI")**, an advanced fraud profiling system that utilizes information derived from **LexisNexis' ThreatMetrix® Solution** (collectively, the "**KFI SERVICES**"), on the terms and conditions set forth in **SCHEDULE 2** to this **ATTACHMENT 2** to **EXHIBIT A** to the **CONTRACT**, attached hereto and incorporated herein by reference.

The licenses granted hereunder shall run concurrently. Termination of the license to the **KAPS® SOFTWARE** shall terminate the licenses granted in subsections i through iii above. Termination of the licenses in subsections i, ii, and/or iii shall not, however, terminate the license to the **KAPS® SOFTWARE** absent termination of the **CONTRACT** as set forth in Section 9 *Termination* of State of New Hampshire General Provisions, Form P-37 comprising Part 1 of the **CONTRACT**.

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2. LICENSE RESTRICTIONS.

Except as otherwise permitted under the **CONTRACT**, the **STATE** agrees not to:

- i. Provide access to the **KAPS® SOFTWARE**, any **SOFTWARE DELIVERABLE** and/or the **DOCUMENTATION** to any person or entity that is not an **AUTHORIZED USER**. For purposes of this **CONTRACT**, an **AUTHORIZED USER** is defined as an employee, agent, or third-party contractor of the **STATE** who: (i) is connecting to the **KAPS® SOFTWARE** from a **STATE** IP address; (ii) has a need to access and use the **KAPS® SOFTWARE** solely in connection with **STATE's** abandoned property program and business related thereto; and (iii) shall be bound to the terms and conditions of this **CONTRACT**. An **AUTHORIZED USER** shall *not* include, and the Parties agree expressly precludes, any third-party consultants, contractors, outsourcers, or representatives providing competitive services to **KELMAR**; and
- ii. Sell, market, make copies, translations, adaptations, or modifications of or to the **KAPS® SOFTWARE** or any portion thereof, except as expressly agreed in writing by **KELMAR**; and
- iii. Remove or modify any program markings or any notice of **KELMAR's** proprietary rights; and
- iv. Make the programs or materials available in any manner to any third party for use in the third party's business operations, except as permitted herein; and
- v. Cause or permit reverse engineering, reverse-translating, disassembly or recompilation of the **KAPS® SOFTWARE**, the **SOFTWARE DELIVERABLES** or the **DOCUMENTATION** or any portion thereof, or attempt to do so, or otherwise attempt to discover the Source Code and/or the techniques incorporated into the **KAPS® SOFTWARE**, nor shall the **STATE** hire, direct, influence or aid any other person or entity to do or attempt to do the same; and
- vi. Create any derivative work based upon the **KAPS® SOFTWARE** by altering, modifying, or translating the Source Code or any portion thereof, and that it shall not hire, direct, influence or aid any other person or entity to do or attempt to do the same.

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3. SOFTWARE DOCUMENTATION.

KELMAR shall provide the **STATE** with a license to use and access copies of all **DOCUMENTATION** associated with the **SOFTWARE** in the Help Center Documentation tab directly via the **KAPS® SYSTEM**. The **STATE** shall have the right to print and copy the **DOCUMENTATION** for its abandoned property program and related internal business needs. The **STATE** agrees not to alter and to include all copyright and proprietary notices on any and all copies of the **DOCUMENTATION** made by the **STATE**.

4. AUDIT

Except as provided in this **ATTACHMENT 2** to **EXHIBIT A**, upon forty-five (45) days written notice, **KELMAR** may audit the **STATE**'s use of the **SOFTWARE** at **KELMAR**'s sole expense. The **STATE** agrees to cooperate with **KELMAR**'s audit and provide reasonable assistance and access to information. The **STATE** agrees that **KELMAR** shall not be responsible for any of the **STATE**'s reasonable costs incurred in cooperating with the audit. Notwithstanding the foregoing, **KELMAR**'s audit rights are subject to applicable **STATE** and federal laws and regulations.

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SCHEDULE 1: KAPS®LN SERVICES**

This **EXHIBIT A, ATTACHMENT 2, SCHEDULE 1** sets forth the subscription terms and conditions applicable to the **STATE's** license to utilize the **KAPS® LexisNexis® Instant Verify®** and **LexID® Identification and Authentication Services** under the **CONTRACT** by and between the State of New Hampshire, acting through the Treasury ("**STATE**"), and Kelmar Associates, LLC, a Delaware limited liability company, ("**KELMAR**" or the "**CONTRACTOR**"), having its principal place of business at 500 Edgewater Drive, Suite 525, Wakefield, Massachusetts 01880.

1. RESTRICTED LICENSE. **KELMAR** hereby grants to the **STATE** a restricted license to use the **LexisNexis® Instant Verify®** and **LexID® Identification and Authentication Services** integrated with the **KAPS® SOFTWARE** (collectively hereinafter the "**KAPS® LN Services**") and any data contained therein, subject to the restrictions and limitations set forth below:

(i) **Generally.** **KELMAR** hereby grants to the **STATE** a restricted license to use the **KAPS® LN Services** solely for the **STATE's** own internal government purposes. The **STATE** represents and warrants that all of the **STATE's** use of the **KAPS® LN Services** shall be for only legitimate government purposes, including those specified by the **STATE** in connection with a specific information request, relating to the administration of the **STATE's** unclaimed property program and as otherwise governed by the Agreement. The **STATE** shall not use the **KAPS® LN Services** for marketing purposes or to resell or broker the **KAPS® LN Services** to any third party and shall not use the **KAPS® LN Services** for personal (non-government) purposes. The **STATE** shall not use the **KAPS® LN Services** to provide data processing services to third-parties or evaluate the data of or for third-parties. The **STATE** agrees that if Kelmar determines or reasonably suspects that continued provision of **KAPS® LN Services** to the **STATE** entails a potential security risk, or that the **STATE** is engaging in marketing activities, reselling, brokering or processing or evaluating the data of or for third-parties, or using the **KAPS® LN Services** for personal (non-government) purposes or using the **KAPS® LN Services'** information, programs, computer applications, or data, or is otherwise violating any provision of this Agreement, or any of the laws, regulations, or rules described herein, Kelmar may take immediate action, including, without limitation, terminating the delivery of, and the license to use, the **KAPS® LN Services**. The **STATE** shall not access the **KAPS® LN Services** from Internet Protocol addresses located outside of the United States and its territories without **KELMAR's** prior written approval. The **STATE** shall comply with all laws, regulations and rules which govern the use of the **KAPS® LN Services** and information provided therein. **KELMAR** may at any time mask or cease to provide the **STATE** access to any **KAPS® LN Services** or portions thereof which **KELMAR** may deem, in **KELMAR's** sole discretion, to be sensitive or restricted information.

(ii) **GLBA Data.** Some of the information contained in the **KAPS® LN Services** is "nonpublic personal information," as defined in the Gramm-Leach-Bliley Act (15 U.S.C. § 6801, et seq.) and related **STATE** laws, (collectively, the "**GLBA**"), and is regulated by the

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GLBA (“**GLBA Data**”). The **STATE** shall not obtain and/or use **GLBA Data** through the **LN Services**, in any manner that would violate the **GLBA**, or any similar **STATE** or local laws, regulations and rules. The **STATE** acknowledges and agrees that it may be required to certify its permissible use of **GLBA Data** falling within an exception set forth in the **GLBA** at the time it requests information in connection with certain **KAPS® LN Services** and will recertify upon request by **KELMAR**. The **STATE** certifies with respect to **GLBA Data** received through the **KAPS® LN Services** that it complies with the Interagency Standards for Safeguarding Information issued pursuant to the **GLBA**.

(iii) **DPPA Data**. Some of the information contained in the **KAPS® LN Services** is “personal information,” as defined in the Drivers Privacy Protection Act (18 U.S.C. § 2721, et seq.) and related **STATE** laws, (collectively, the “**DPPA**”), and is regulated by the **DPPA** (“**DPPA Data**”). The **STATE** shall not obtain and/or use **DPPA Data** through the **KAPS® LN Services** in any manner that would violate the **DPPA**. The **STATE** acknowledges and agrees that it may be required to certify its permissible use of **DPPA Data** at the time it requests information in connection with certain **KAPS® LN Services** and will recertify upon request by **KELMAR**.

(iv) **Social Security and Driver’s License Numbers**. **KELMAR** may in its sole discretion permit the **STATE** to access **QA Data** (as defined as Social Security or Driver’s License numbers). If the **STATE** is authorized by **KELMAR** to receive **QA Data**, and the **STATE** obtains **QA Data** through the **KAPS® LN Services**, the **STATE** certifies it will not use the **QA Data** for any purpose other than as expressly authorized by **KELMAR**’s policies, the terms and conditions herein, and applicable laws and regulations. In addition to the restrictions on distribution otherwise set forth in Paragraph 2 below, the **STATE** agrees that it will not permit **QA Data** obtained through the **KAPS® LN Services** to be used by an employee or contractor that is not an Authorized User with an Authorized Use. The **STATE** agrees it will certify, in writing, its uses for **QA Data** and recertify upon request by **KELMAR**. The **STATE** may not, to the extent permitted by the terms of this **EXHIBIT A, ATTACHMENT 2, SCHEDULE 1** to the **CONTRACT**, transfer **QA Data** via email or ftp without **KELMAR**’s prior written consent. However, the **STATE** shall be permitted to transfer such information so long as: (a) a secured method (for example, sftp) is used, (b) transfer is not to any third party, and (c) such transfer is limited to such use as permitted under this **EXHIBIT A, ATTACHMENT 3** to the **CONTRACT**. **KELMAR** may at any time and for any or no reason cease to provide or limit the provision of **QA Data** to the **STATE**.

(v) **Copyrighted and Trademarked Materials**. The **STATE** shall not remove or obscure any trademarks, copyright notices or other notices contained on materials accessed through the **KAPS® LN Services**.

(vi) **National Change of Address Database**. **KELMAR** is a licensee of the United States Postal Service’s **NCOALINK** database (“**NCOA Database**”). The information

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contained in the **NCOA Database** is regulated by the Privacy Act of 1974 and may be used only to provide a mailing list correction service for lists that will be used for preparation of mailings. If the **STATE** receives all or a portion of the **NCOA Database** through the **KAPS® LN Services**, the **STATE** hereby certifies to **KELMAR** that it will not use such information for any other purpose.

(vii) **Additional Terms.** Certain materials contained within the **KAPS® LN Services** are subject to additional obligations and restrictions. Without limitation, these services include news, business information (e.g., Dun & Bradstreet reports), and federal legislative and regulatory materials. To the extent that the **STATE** receives such materials through the **KAPS® LN Services**, the **STATE** agrees to comply with the Supplemental Terms and Conditions for Use of **KAPS® LN Services** contained at the following website: www.lexisnexis.com/terms/supplemental.aspx (the “Supplemental Terms”). The Supplemental Terms are hereby incorporated into this **EXHIBIT A, ATTACHMENT 3** by reference.

(viii) **Fair Credit Reporting Act.** The **KAPS® LN Services** provided pursuant to this Agreement are not provided by “consumer reporting agencies,” as that term is defined in the Fair Credit Reporting Act, (15 U.S.C. §1681, et seq.), (the “FCRA”), and do not constitute “consumer reports” as that term is defined in the FCRA. Accordingly, the **KAPS® LN Services** may not be used in whole or in part as a factor in determining eligibility for credit, insurance, employment or another purpose in connection with which a consumer report may be used under the FCRA. Further, (a) the **STATE** certifies that it will not use any of the information it receives through the **KAPS® LN Services** to determine, in whole or in part an individual’s eligibility for any of the following products, services or transactions: (1) credit or insurance to be used primarily for personal, family or household purposes; (2) employment purposes; (3) a license or other benefit granted by a government agency; or (4) any other product, service or transaction in connection with which a consumer report may be used under the FCRA or any similar State statute, including without limitation apartment rental, check-cashing, or the opening of a deposit or transaction account; (b) by way of clarification, without limiting the foregoing, the **STATE** may use, except as otherwise prohibited or limited by this Agreement, information received through the **KAPS® LN Services** for the following purposes: (1) to verify or authenticate an individual’s identity; (2) to prevent or detect fraud or other unlawful activity; (3) to locate an individual; (4) to review the status of a legal proceeding; (5) to collect a debt, provided that such debt collection does not constitute in whole or in part, a determination of an individual consumer’s eligibility for credit or insurance to be used primarily for personal, family or household purposes; or (6) to determine whether to buy or sell consumer debt or a portfolio of consumer debt in a commercial secondary market transaction, provided that such determination does not constitute in whole or in part, a determination of an individual consumer’s eligibility for credit or insurance to be used primarily for personal, family or household purposes; (c) specifically, if the **STATE** is using the **KAPS® LN Services** in connection with collection of a consumer debt on its own behalf,

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or on behalf of a third party, the STATE shall not use the KAPS® LN Services: (1) to revoke consumer credit; (2) to accelerate, set or change repayment terms; or (3) for the purpose of determining a consumer's eligibility for any repayment plan; provided, however, that the STATE may, consistent with the certification and limitations set forth in this Subparagraph (viii), use the KAPS® LN Services for identifying, locating, or contacting a consumer in connection with the collection of a consumer's debt or for prioritizing collection activities; and (d) the STATE shall not use any of the information it receives through the KAPS® LN Services to take any "adverse action," as that term is defined in the FCRA.

(ix) **MVR Data.** If the STATE is permitted to access Motor Vehicle Records ("MVR Data") from KELMAR, without in any way limiting the STATE's obligations to comply with all State and federal laws governing use of MVR Data, the following specific restrictions apply and are subject to change:

- (a) The STATE shall not use any MVR Data provided by KELMAR, or portions of information contained therein, to create or update a file that the STATE uses to develop its own source of driving history information.
- (b) As requested by KELMAR, the STATE shall complete any STATE forms that KELMAR is legally or contractually bound to obtain from the STATE before providing the STATE with MVR Data.
- (c) KELMAR (and certain third party vendors) may conduct reasonable and periodic audits of the STATE's use of MVR Data. Further, in response to any audit, the STATE must be able to substantiate the reason for each MVR Data order.

(ix) **HIPAA.** The STATE represents and warrants that the STATE will not provide KELMAR with any Protected Health Information (as that term is defined in 45 C.F.R. Sec. 160.103) or with Electronic Health Records or Patient Health Records (as those terms are defined in 42 U.S.C. Sec. 17921(5), and 42 U.S.C. Sec. 17921(11), respectively) or with information from such records without the execution of a separate agreement between the Parties.

(x) **Retention of Records.** For uses of GLB Data, DPPA Data and MVR Data, as described in Paragraphs 1(ii), 1(iii) and 1(ix), the STATE shall maintain for a period of five (5) years a complete and accurate record (including consumer identity, purpose and, if applicable, consumer authorization) pertaining to every access to such data.

2. SECURITY. The STATE acknowledges that the information available through the KAPS® LN Services may include personally identifiable information and it is the STATE's obligation to keep all such accessed information confidential and secure. Accordingly, the STATE shall: (a) restrict access to KAPS® LN Services to those employees who have a need to know as part of their official duties; (b) ensure that none of its employees shall (i) obtain

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and/or use any information from the **KAPS® LN Services** for personal reasons, or (ii) transfer any information received through the **KAPS® LN Services** to any party except as permitted hereunder; (c) keep all user identification numbers, and related passwords, or other security measures (collectively, “User IDs”) confidential and prohibit the sharing of User IDs; (d) immediately deactivate the User ID of any employee who no longer has a need to know, or for terminated employees on or prior to the date of termination; (e) in addition to any obligations under Paragraph 1, take all commercially reasonable measures to prevent unauthorized access to, or use of, the **KAPS® LN Services** or data received therefrom, whether the same is in electronic form or hard copy, by any person or entity; (f) maintain and enforce data destruction procedures to protect the security and confidentiality of all information obtained through the **KAPS® LN Services** as it is being disposed; (g) unless otherwise required by law, purge all information received through the **KAPS® LN Services** and stored electronically or on hard copy by the **STATE** within ninety (90) days of initial receipt; (h) be capable of receiving the **KAPS® LN Services** where the same are provided utilizing “secure socket layer,” or such other means of secure transmission as is deemed reasonable by **KELMAR**; (i) not access and/or use the **KAPS® LN Services** via mechanical, programmatic, robotic, scripted or other automated search means, other than through batch or machine-to-machine applications approved by **KELMAR**; and (j) take all steps to protect their networks and computer environments, or those used to access the **KAPS® LN Services**, from compromise. The **STATE** agrees that on at least a quarterly basis it will review searches performed by its User IDs to ensure that such searches were performed for a legitimate business purpose and in compliance with all terms and conditions herein. The **STATE** will implement policies and procedures to prevent unauthorized use of User IDs and the **KAPS® LN Services** and will immediately notify **KELMAR**, in writing to **KELMAR** if the **STATE** suspects, has reason to believe or confirms that a User ID or the **KAPS® LN Services** (or data derived directly or indirectly therefrom) is or has been lost, stolen, compromised, misused or used, accessed or acquired in an unauthorized manner or by any unauthorized person, or for any purpose other than legitimate business reasons. The **STATE** shall remain solely liable for all costs associated therewith and shall further reimburse **KELMAR** for any expenses it incurs due to the **STATE**’s failure to prevent such impermissible use or access of User IDs and/or the **KAPS® LN Services**, or any actions required as a result thereof. Furthermore, in the event that the **KAPS® LN Services** provided to the **STATE** include personally identifiable information (including, but not limited to, social security numbers, driver’s license numbers or dates of birth), and to the extent such personally identifiable information is stored or otherwise maintained by the **STATE** or its employees *outside of* the **KAPS® SYSTEM**, the following shall apply: The **STATE** acknowledges that, upon unauthorized acquisition or access of or to such personally identifiable information, including but not limited to that which is due to use by an unauthorized person or due to unauthorized use (a “**Security Event**”), the **STATE** shall, in compliance with law, notify the individuals whose information was potentially accessed or acquired that a **Security Event** has occurred, and shall also notify any other parties (including but not limited to regulatory entities and credit reporting agencies) as may be required in **KELMAR**’s reasonable discretion. The **STATE** agrees that such

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notification shall not reference **KELMAR** or the product through which the data was provided, nor shall **KELMAR** be otherwise identified or referenced in connection with the **Security Event**, without **KELMAR**'s express written consent. The **STATE** shall be solely responsible for any other legal or regulatory obligations which may arise under applicable law in connection with such a **Security Event** and shall bear all costs associated with complying with legal and regulatory obligations in connection therewith. The **STATE** shall remain solely liable for claims that may arise from a **Security Event**, including, but not limited to, costs for litigation (including attorneys' fees), and reimbursement sought by individuals, including but not limited to, costs for credit monitoring or allegations of loss in connection with the **Security Event**. The **STATE** shall provide samples of all proposed materials to notify consumers and any third-parties, including regulatory entities, to **KELMAR** for review and approval prior to distribution. In the event of a **Security Event**, **KELMAR** may, in its sole discretion, take immediate action, including suspension or termination of the **STATE**'s account, without further obligation or liability of any kind.

3. **PERFORMANCE.** **KELMAR** will use commercially reasonable efforts to deliver the **KAPS® LN Services** requested by the **STATE** and to compile information gathered from selected public records and other sources used in the provision of the **KAPS® LN Services**; provided, however, that the **STATE** accepts all information "AS IS." The **STATE** acknowledges and agrees that **KELMAR** obtains its data from third party sources, which may or may not be completely thorough and accurate, and that the **STATE** shall not rely on **KELMAR** for the accuracy or completeness of information supplied through the **KAPS® LN Services**. Without limiting the foregoing, the criminal record data that may be provided as part of the **KAPS® LN Services** may include records that have been expunged, sealed, or otherwise have become inaccessible to the public since the date on which the data was last updated or collected. The **STATE** understands that the **STATE** may be restricted from accessing certain **KAPS® LN Services** which may be otherwise available. **KELMAR** reserves the right to add materials and features to, and to discontinue offering any of the materials and features that are currently a part of, the **KAPS® LN Services**.

4. **INTELLECTUAL PROPERTY; CONFIDENTIALITY.** The **STATE** agrees that the **STATE** shall not reproduce, retransmit, republish, or otherwise transfer for any commercial purposes the **KAPS® LN Services**' information, programs or computer applications. The **STATE** shall use such materials in a manner consistent with **Kelmar**'s interests and the terms and conditions herein, and shall notify **KELMAR** of any threatened or actual infringement of **KELMAR**'s rights. Notwithstanding anything in this **CONTRACT** to the contrary, **KELMAR** or **KELMAR**'s data provider shall own the **STATE**'s search inquiry data used to access the **KAPS® LN Services** (in the past or future) and may use such data for any purpose consistent with applicable federal, State, and local laws, rules and regulations. The **STATE** and **KELMAR** acknowledge that they each may have access to confidential information of the disclosing party ("Disclosing Party") relating to the Disclosing Party's business including, without limitation, technical, financial, strategies and related information,

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computer programs, algorithms, know-how, processes, ideas, inventions (whether patentable or not), schematics, Trade Secrets (as defined below) and other information (whether written or oral), and in the case of **KELMAR**'s information, product information, pricing information, product development plans, forecasts, data contained in **KAPS® LN Services**, and other business information ("Confidential Information"). "Trade Secret" shall be deemed to include any information which gives the Disclosing Party an advantage over competitors who do not have access to such information as well as all information that fits the definition of "trade secret" set forth in the New Hampshire Trades Secrets Act. Each receiving party ("Receiving Party") agrees not to divulge any Confidential Information or information derived therefrom to any third party and shall protect the confidentiality of the Confidential Information with the same degree of care it uses to protect the confidentiality of its own confidential information and trade secrets, but in no event less than a reasonable degree of care. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information solely to the extent required by subpoena, court order or other governmental authority, provided that the Receiving Party shall give the Disclosing Party prompt written notice of such subpoena, court order or other governmental authority so as to allow the Disclosing Party to have an opportunity to obtain a protective order to prohibit or restrict such disclosure at its sole cost and expense. Confidential Information disclosed pursuant to subpoena, court order or other governmental authority shall otherwise remain subject to the terms applicable to Confidential Information. Each Party's obligations with respect to Confidential Information shall continue for the term of this Agreement and for a period of five (5) years thereafter, provided however, that with respect Trade Secrets, each party's obligations shall continue for so long as such Confidential Information continues to constitute a Trade Secret.

5. WARRANTIES/LIMITATION OF LIABILITY. Neither **KELMAR**, nor its subsidiaries and affiliates, nor any third party data provider (for purposes of indemnification, warranties, and limitations on liability, **KELMAR**, its subsidiaries and affiliates, and its data providers are hereby collectively referred to as "**KELMAR**") shall be liable to the **STATE** (or to any person claiming through the **STATE** to whom the **STATE** may have provided data from the **KAPS® LN Services**) for any loss or injury arising out of or caused in whole or in part by **KELMAR**'s acts or omissions in procuring, compiling, collecting, interpreting, reporting, communicating, or delivering the **KAPS® LN Services**. If, notwithstanding the foregoing, liability can be imposed on **KELMAR**, then the **STATE** agrees that **KELMAR**'s aggregate liability for any and all losses or injuries arising out of any act or omission of **KELMAR** in connection with anything to be done or furnished under this **EXHIBIT A, ATTACHMENT 2, SCHEDULE 1** to the **CONTRACT**, regardless of the cause of the loss or injury, and regardless of the nature of the legal or equitable right claimed to have been violated, shall never exceed One Hundred Dollars (\$100.00); and the **STATE** covenants and promises that it will not sue **KELMAR** for an amount greater than such sum even if the **STATE** and/or third parties were advised of the possibility of such damages and that it will not seek punitive damages in any suit against **KELMAR**. **KELMAR** does not make and hereby disclaims any warranty, express or implied with respect to the **KAPS® LN Services**.

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KELMAR does not guarantee or warrant the correctness, completeness, merchantability, or fitness for a particular purpose of the **KAPS® LN Services** or information provided therein. In no event shall **KELMAR** be liable for any indirect, incidental, or consequential damages, however arising, incurred by the **STATE** from receipt or use of information delivered using the **KAPS® LN Services** or the unavailability thereof. Due to the nature of public record information, the public records and commercially available data sources used in **KAPS® LN Services** may contain errors. Source data is sometimes reported or entered inaccurately, processed poorly or incorrectly, and is generally not free from defect. **KAPS® LN Services** are not the source of data, nor are they a comprehensive compilation of the data. Before relying on any data, it should be independently verified.

6. INDEMNIFICATION. The **STATE** acknowledges and agrees **KELMAR** will not have any duty to indemnify, defend or hold harmless the **STATE** with respect to any claim of infringement resulting from (1) the **STATE**'s **MISUSE** of the **KAPS® LN Services**; (2) the **STATE**'s failure to use any corrections made available by **KELMAR**; (3) the **STATE**'s use of the **KAPS® LN Services** in combination with any product or information not provided or authorized in writing by **KELMAR**; or (4) any information, direction, specification or materials provided by the **STATE** or any third party.

7. AUDIT. The **STATE** understands and agrees that, in order to ensure compliance with the **FCRA**, **GLBA**, **DPPA**, other applicable State or federal laws, regulations or rules, regulatory agency requirements, this **EXHIBIT A, ATTACHMENT 2, SCHEDULE 1**, and **KELMAR**'s obligations under its contracts with its data providers and **KELMAR**'s policies, **KELMAR** may conduct periodic reviews of the **STATE**'s use of the **KAPS® LN Services** and may, upon reasonable notice, audit the **STATE**'s records, processes and procedures related to the **STATE**'s use, storage and disposal of the **KAPS® LN Services** and information received therefrom. The **STATE** agrees to cooperate fully with any and all audits and to respond to any such audit inquiry within ten (10) business days, unless an expedited response is required. Violations discovered in any review and/or audit by **KELMAR** will be subject to immediate action including, but not limited to, suspension or termination of the license to use the **KAPS® LN Services**, reactivation fees, legal action, and/or referral to federal or State regulatory agencies.

8. EMPLOYEE TRAINING. As part of the on-going support provided by **KELMAR** to the **STATE**, **KELMAR** shall provide the **STATE** with training on the **STATE**'s obligations under this **EXHIBIT A, ATTACHMENT 2, SCHEDULE 1**, including, but not limited to, the licensing requirements and restrictions under Paragraph 1 and the security requirements of Paragraph 2, and make available the training materials for the **STATE**'s continued use. Thereafter, the **STATE** shall train new employees prior to allowing access to **KAPS® LN Services** on the **STATE**'s obligations hereunder, including, but not limited to, the licensing requirements and restrictions under Paragraph 1 and the security requirements of Paragraph 2. The **STATE** shall conduct a similar review of its obligations under this

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EXHIBIT A, ATTACHMENT 2, SCHEDULE 1 with existing employees who have access to **KAPS® LN Services** no less than annually. The **STATE** shall keep records of such training.

9. CHANGE IN AGREEMENT. The **STATE** acknowledges and agrees that upon written notice, **KELMAR** may alter the Restricted License granted the **STATE** in Paragraph 1 herein. To that end, **KELMAR** may, at any time, impose restrictions and/or prohibitions on the **STATE's** use of the **KAPS® LN Services** or certain data. The **STATE** understands that such restrictions or changes in access may be the result of a modification in **KELMAR** policy, a modification of third party agreements, a modification in industry standards, a Security Event or a change in law or regulation, or the interpretation thereof. Upon written notification by **KELMAR** of such changes, the **STATE** agrees to comply therewith.

10. END USER CHANGES. The **STATE** shall notify **KELMAR** immediately of any changes to the information on its Application for the **KAPS® LN Services** including, without limitation, changes in contact information, address, designated administrators, etc. If at any time the **STATE** no longer meets the required criteria for accessing the **KAPS® LN Services**, **KELMAR** expressly reserves its right to terminate such access.

11. PUBLICITY. To the extent legally permissible, the **STATE** will not name **KELMAR** or refer to its use of the **KAPS® LN Services** in any press releases, advertisements, promotional or marketing materials, or make any other third party disclosures regarding **KELMAR** or the **STATE's** use of the **KAPS® LN Services**.

12. PRIVACY PRINCIPLES. With respect to personally identifiable information regarding consumers, the Parties further agree as follows: **KELMAR** has adopted the "Kelmar Data Privacy Principles" ("Principles"), which may be modified from time to time, recognizing the importance of appropriate privacy protections for consumer data, and the **STATE** agrees that the **STATE** (including its directors, officers, employees or agents) will comply with the Principles *or* the **STATE's** own comparable privacy principles, policies, or practices. The Principles are available at: <http://www.lexisnexis.com/privacy/data-privacy-principles.aspx>.

13. ENTIRE AGREEMENT. Except as otherwise provided herein, this **EXHIBIT A, ATTACHMENT 2, SCHEDULE 1** constitutes the final written agreement and understanding of the Parties concerning the **KAPS® LN Services** and is intended as a complete and exclusive statement of the terms of the **CONTRACT** with respect to the licensing of the **KAPS® LN Services**, which shall supersede all other representations, agreements, and understandings, whether oral or written, which relate to the use of the **KAPS® LN Services**. Any new, other, or different terms supplied by the **STATE** beyond the terms contained herein are specifically and expressly rejected by **KELMAR** unless **KELMAR** agrees to them in a signed writing specifically including those new, other, or different terms. The terms contained

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herein shall supersede and govern in the event of a conflict between these terms and any new, other, or different terms in any other writing including Form P-37.

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EXHIBIT A - ATTACHMENT 2**

This **EXHIBIT A, ATTACHMENT 2, SCHEDULE 2** sets forth the subscription terms and conditions applicable to the **STATE's** license to utilize **KELMAR'S** advanced fraud profiling system offered in connection with the Kelmar Fraud Index and LexisNexis' ThreatMetrix® solution in connection with the **CONTRACT** by and between the State of New Hampshire, acting through the Treasury ("**STATE**"), and Kelmar Associates, LLC, a Delaware limited liability company, ("**KELMAR**" or the "**CONTRACTOR**"), having its principal place of business at 500 Edgewater Drive, Suite 525, Wakefield, Massachusetts 01880.

1. Restricted License. In conjunction with the **STATE's** license to the **KAPS® SOFTWARE**, **KELMAR** hereby grants the **STATE** a limited, revocable, non-exclusive, nontransferable right to use certain services of ThreatMetrix, Inc. ("**THREATMETRIX**") in connection with the delivery of **Kelmar's** advanced fraud profiling solution and the Kelmar Fraud Index ("**KFI**") (collectively, the "**KFI SERVICES**"), and any other materials or intellectual property **Kelmar** provides to the **STATE** using **THREATMETRIX** (the "**THREATMETRIX MATERIALS**"), solely for the **STATE's** own internal business purposes, namely: (i) identity verification; (ii) mitigation of financial and business risk; (iii) detection, investigation, assessment, monitoring and prevention of fraud and other crimes; and/or (iv) compliance with anti-money laundering (AML), counter-terrorism financing (CTF), anti-bribery and corruption (ABC) and similar laws. As a condition to this license, the **STATE** shall not: (I) interfere with or disrupt the integrity or performance of **THREATMETRIX** or the **THREATMETRIX MATERIALS** and data contained therein ("**THREATMETRIX SERVICES DATA**"); or (ii) attempt to gain unauthorized access to **THREATMETRIX SERVICES DATA** or its related systems or networks. "**THREATMETRIX SERVICES DATA**" shall include the following: any technology embodied or implemented as part of the **STATE's** use of **THREATMETRIX** or **THREATMETRIX MATERIALS**; any computer code provided by **THREATMETRIX** for the unclaimed property portion of **STATE's** website or computer network; any suggestions, ideas, enhancement requests, or feedback related to the **KFI SERVICES**; any user device data, Internet Protocol (IP) addresses, anonymous device information, machine learning data, user data persistent in the **THREATMETRIX** network, device reports, or transaction histories; and any corollaries, associations, and **THREATMETRIX** and/or **KFI** conclusions pertaining to or arising out of any of the foregoing. The **STATE** will provide **THREATMETRIX SERVICES DATA** via the unclaimed property portion of the **STATE's** website as may be necessary in connection with the use of the **KFI SERVICES**. The **STATE** will take such actions as may be legally and technically necessary to allow **THREATMETRIX** to collect the **THREATMETRIX SERVICES DATA** and such other information the **STATE** decides to receive in connection with the use of **THREATMETRIX**.

2. Legal Compliance. The **STATE** will use, and the **STATE** will require that it's employees and representatives use, the **KFI SERVICES** and **THREATMETRIX** in compliance with all applicable laws including, without limitation, those laws related to data privacy, International communications (where applicable), and the transmission of technical or personal data. Without limiting the generality of the foregoing, **STATE** will be responsible for any notifications or approvals required from claimants and individuals accessing the **STATE's** website, arising out of

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any use of the **KFI SERVICES** including, without limitation, those relating to any computer code deposited on any device and any information secured from such customers or clients (or their respective devices). The **STATE** also will be responsible for compliance with laws and regulations in all applicable jurisdictions concerning the data of the **STATE's** claimants or individuals accessing the unclaimed property portion of the **STATE's** website.

3. Ownership. As between the **STATE** and **KELMAR**, **KELMAR** owns all right, title, and interest, including any intellectual property rights, in and to, the **KFI** and any technology embodied or implemented in connection with **KFI SERVICES**; provided, however, **THREATMETRIX** owns all right, title, and interest, including all related intellectual property rights, in and to **THREATMETRIX** and the **THREATMETRIX MATERIALS**, any **THREATMETRIX** software delivered to the **STATE**, any technology embodied or implemented in connection with the **THREATMETRIX** software and the **THREATMETRIX MATERIALS**, any computer code provided by **THREATMETRIX** for the **STATE's** particular unclaimed property website and related computer network, and any **ThreatMetrix Data**. The **THREATMETRIX** name, the **THREATMETRIX** logo, and the product names associated with **THREATMETRIX** are trademarks of **THREATMETRIX** or third parties, and no right or license is granted to use them. All rights not expressly granted to **KELMAR** or the **STATE** relating to the **THREATMETRIX** software and **THREATMETRIX MATERIALS** are reserved by **THREATMETRIX**, and neither **KELMAR** nor the **STATE** shall have any rights which arise by implication or estoppel.

4. Limitations. **THREATMETRIX** analyzes activities and other attributes of devices used in transactions, and provide information, including device reports generated by **THREATMETRIX** ("Device Reports"), based on the data analyzed and the policies defined by the **STATE** when using the product. **THREATMETRIX** provides information as to whether a device contains attributes which correlate to a device(s) used in a fraudulent transaction, but do not determine the eligibility of any individual for credit. The **STATE** acknowledges and agrees that neither **KELMAR** nor **THREATMETRIX** intends that the **Device Reports**, or any **KFI** or **THREATMETRIX MATERIALS**, be considered consumer reports subject to the federal Fair Credit Reporting Act ("FCRA") and the **STATE** represents that it will not use the **KFI** information and/or **Device Reports** (or any other data provided in connection with the **KFI SERVICES**) for making credit eligibility decisions or for any other impermissible purpose listed in Section 604 of the FCRA (15 U.S.C. 1681b). In addition, the **STATE** shall not, and shall not permit any representative or third party to: (a) copy all or any portion of any **KFI** materials and/or **THREATMETRIX MATERIALS** (except where such copies are used for the **STATE's** internal use); (b) decompile, disassemble or otherwise reverse engineer (except to the extent expressly permitted by applicable law, notwithstanding a contractual obligation to the contrary) the **KFI** module, the **THREATMETRIX** software, or **THREATMETRIX MATERIALS**, or any portion thereof, or determine or attempt to determine any source code, algorithms, methods, or techniques used or embodied in the **KFI SERVICES** inclusive of **THREATMETRIX** or any **THREATMETRIX MATERIALS** or any portion thereof; (c) modify, translate, or otherwise create any derivative works based upon the information received from **KELMAR** in connection with the **KFI SERVICES**, **THREATMETRIX** or **THREATMETRIX MATERIALS**; (d)

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distribute, disclose, market, rent, lease, assign, sublicense, pledge, or otherwise transfer the **KFI SERVICES, ThreatMetrix, or THREATMETRIX MATERIALS**, in whole or in part, to any third party; or (e) remove or alter any copyright, trademark, or other proprietary notices, legends, symbols, or labels appearing on the **KFI data, THREATMETRIX data** or in any **THREATMETRIX MATERIALS**.

5. Limitation of Liability. **KELMAR'S DELIVERY OF THE KFI SERVICES AND THREATMETRIX, INCLUDING, WITHOUT LIMITATION, THE DEVICE REPORTS, AND ANY OTHER THREATMETRIX MATERIALS, ARE PROVIDED "AS IS". KELMAR AND THREATMETRIX HEREBY DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, WITH RESPECT TO THE STATE'S USE OF THE KFI SERVICES, THE KFI, THREATMETRIX, AND THREATMETRIX MATERIALS INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES THAT MAY ARISE FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE PRACTICE. IN NO EVENT SHALL THREATMETRIX AND/OR ITS LICENSORS, INCLUDING SPECIFICALLY, KELMAR, BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE KFI SERVICES, THREATMETRIX, THREATMETRIX MATERIALS, OR RELATED SUPPORT SERVICES INCLUDING, BUT NOT LIMITED TO, THE USE OR INABILITY TO USE THE KFI SERVICES, THREATMETRIX, THREATMETRIX MATERIALS, OR RELATED SUPPORT SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, EVEN IF KELMAR OR THREATMETRIX HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

6. Third Party Rights. This **EXHIBIT A, ATTACHMENT 2, SCHEDULE 2** confers rights and remedies upon **THREATMETRIX**, an intended third-party beneficiary. The parties may not modify or terminate this **EXHIBIT A, ATTACHMENT 2, SCHEDULE 2** without the prior written consent of **THREATMETRIX**.

7. Restricted Rights of Government Users. Use, duplication, reproduction, release, modification, disclosure, or transfer of the **THREATMETRIX software or THREATMETRIX MATERIALS** including the **Device Reports** is restricted by a license agreement and, in the United States, is further restricted in accordance with FAR 12.212 and DFARS 227.7202. The contractor is ThreatMetrix, Inc., located at 160 West Santa Clara Street, Suite 1400, San Jose, CA 95133, U.S.A.

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EXHIBIT B – SCOPE OF SERVICES**

This **EXHIBIT B – Scope of Services** to the **CONTRACT** incorporates all exhibits, appendices, and other attachments to the **CONTRACT** by reference as if fully set forth herein.

1. OVERVIEW OF SERVICES.

Throughout the Term of the **CONTRACT**, **KELMAR** shall undertake the technical administration of a hosted software as a service (“SaaS”) unclaimed property management solution (“**KAPS®**”) to support the **STATE**’s abandoned property operations. **KELMAR**’s **KAPS®** services shall include licensing and use the **KAPS®** Unclaimed Property Management System; the **KAPS®** State Website Solution; the **KAPS®** Integrated Imaging and Document Management Solution; the **KAPS®** LN Services for identification authentication inclusive of LexisNexis Instant Verify® and LexID®, the **KELMAR** Fraud Index, an advanced fraud profiling system that utilizes information derived from LexisNexis’ ThreatMetrix® Solution; application security for the **SOFTWARE** and all **STATE DATA**; technical support, maintenance, and upkeep of the **SOFTWARE**; administrator help desk services; and training for use of the **SOFTWARE** and all modules associated therewith (collectively the “**SERVICES**”).

2. THE KAPS® UNCLAIMED PROPERTY MANAGEMENT SYSTEM.

KELMAR shall host and provide the **STATE** with access to the **KAPS®** Unclaimed Property Management System (the “**KAPS® SYSTEM**”) on the terms and conditions of the **CONTRACT**. The **KAPS® SYSTEM** shall provide the **STATE** with complete on-screen capabilities to manage the entire unclaimed property process and includes operational capacities for: administrative and workflow handling; holder report processing; cash and securities receipts processing; tangible property; claims processing and payment; owner outreach; holder compliance / audit business intelligence capability; reporting; website/Internet search capacity; and application security. The **KAPS® SYSTEM** functionality is more particularly described in **Schedule 1** to this **EXHIBIT B**, attached hereto and incorporated herein by reference.

3. KAPS® STATE WEBSITE SOLUTION – KELMAR MANAGED.

KELMAR shall deliver and maintain the unclaimed portion of the **STATE**’s public website through a seamless integration with the **KAPS® SYSTEM**. In providing the **KAPS®** State Website Solution (“**SWS**”), **KELMAR** shall manage the following website functions:

- Search & claim of properties by the public
- Import of claims into the **KAPS® SYSTEM**, and management of claims workflow, fast track, LexisNexis® integration and emails to claimants.
- Delivery of claims created on the website to the **KAPS® SYSTEM**.
- Public user query of Claim Status information
- Daily removal of ineligible properties.
- Holder capture and upload of annual positive and negative unclaimed property reports, and direct import of associated data into the **KAPS® SYSTEM**.

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- Holder manual online entry of unclaimed property reports, and direct import of associated data into the **KAPS® SYSTEM**.
- Static pages for unclaimed property specific content, including FAQs, Holder reporting information, departmental contact information and other key pages.

The SWS shall provide the STATE with the following functionality:

- *Holder Reporting Portal:* The SWS includes a secure, comprehensive portal for holders of unclaimed property to meet their annual reporting requirements. SWS allows holders to upload both positive reports in the NAUPA II format, as well as enter information related to negative (or ‘nothing to report’) reports. The upload of invalid reports is prohibited, requiring all uploaded files to meet the NAUPA II standard, and supports cash, securities and tangible reports. Reports are encrypted while in transit via SSL and are encrypted immediately as they are stored for processing. The Holder Reporting Portal also allows Holders who do not have an electronic report to manually enter their data through the secure Manual Online Reporting tool.
- *KAPS® Report Processing:* Once reports are loaded from SWS, they are loaded into the **KAPS® SYSTEM** report processing area, and each report is automatically checked for potential errors and warnings. Should the uploaded report pass the initial NAUPA format check, but fail a later more detailed error check, the report can be rejected, and the holder notified via email with the details of the rejection, indicating what needs to be corrected. When reports complete processing, they are moved into the production area of the **KAPS® SYSTEM**, and cash and securities receipts are automatically linked to the report.
- *Fraud Detection:* SWS contains sound security/protection to minimize risk of fraud, including but not limited to: hacking, phishing, breach of confidential information, and exposure of sensitive data, which could compromise the integrity of software system records. IP addresses and other geolocation attributes are tracked and stored in the **KAPS® SYSTEM** for further analysis by state clients.

4. KAPS® INTEGRATED IMAGING & DOCUMENT MANAGEMENT SOLUTION.

Throughout the term of the **CONTRACT**, **KELMAR** shall provide the **STATE** with access to the **KAPS® Integrated Imaging and Document Management Solution** (the “**KAPS® SYSTEM IMAGING MODULE**”) which will allow the **STATE** to efficiently and seamlessly organize, secure, capture, digitize, tag, and approve images and documents within the **KAPS® SYSTEM**. In providing these **SERVICES**, **KELMAR** takes full responsibility for image storage, software maintenance, and integration. The **KAPS® SYSTEM IMAGING MODULE** integrates with Hyland Software LLC’s OnBase Document Management Solution (the “**DM System**”), a cloud-based document management system. The **KAPS® SYSTEM IMAGING MODULE** includes the following:

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- all licensing and support associated with the **DM System**;
- all image storage and backup of imaged data up to 1 TB;
- continued assistance to the **STATE** with workflow and status changes based on incoming images;
- direct access to images from all key areas of the **KAPS® SYSTEM**; and
- secure upload of images from the **SWS** directly into the **DM System** and indexed to applicable claim.

5. KAPS® LEXISNEXIS® INSTANT VERIFY® AND LEXID® IDENTIFICATION SERVICES.

To maximize claims processing capabilities in the **KAPS® SYSTEM**, **KELMAR** will provide the **STATE** with a license to utilize **KELMAR's KAPS® LexisNexis® Instant Verify®** and **LexID®** identification authentication services (“**KAPS® LN Services**”). Using the **KAPS® LN Services**, the **STATE** will have the ability to automate and fast track, paperless claims while minimizing fraudulent claims. Results of the **KAPS® LN Services** and decisions shall be stored within **KAPS® SYSTEM** for review by the **STATE's** designated end users of the **KAPS® SYSTEM**.

Details of the **KAPS® LN Services** include:

For claims that meet the **STATE's** approved eligible criteria and are initiated via the website, claimant details will be sent to **LexisNexis®** in real time. **LexisNexis®** will send back a **LexID®** for the claimant along with four scores and an overall score based on Name, Address, DOB, and SSN.

For properties that have a **LexID®** that match the claimant **LexID®** and where the claimant score is over the pre-determined ‘passing’ score, the auto-approval of all claim workflow steps, including approval, will be triggered. This process is described as “FastTrack claims”. Throughout the Term, **KELMAR** will apply the FastTrack criteria established by the **STATE** to determine all workflow steps and the auto-approval process.

Additionally, **KELMAR** will also configure the **KAPS® SYSTEM** to address auto approval of workflow steps based on **LexisNexis®** scores for non-FastTrack eligible claims.

6. KELMAR'S ADVANCED FRAUD PROFILING SYSTEM.

As an enhancement to the claims processing module within the **KAPS® SYSTEM**, **KELMAR** shall seamlessly integrate and provide the **STATE** with a license to access the **Kelmar Fraud Index (“KFI”)**, an advanced fraud profiling system that utilizes information derived from **LexisNexis' ThreatMetrix®** solution (collectively, the “**KFI Services**”). **KELMAR** shall perform certain programming services and integrate the **KFI Services** into the Claims Approval process in the **KAPS® SYSTEM**. Working with **STATE** personnel, **KELMAR** will configure the **KFI** risk factors to create a scoring matrix and a detailed, easy to understand reference list for claims processors. **KELMAR** will then customize the claims processing module in the **KAPS®**

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SYSTEM so that a **KFI** score will appear on the top left of the Claims Processing screen. Utilizing the **KFI** score, **STATE** claims processors will have the ability to quickly identify and evaluate high-risk elements on a claim submitted through the **SWS**. **KELMAR** will customize the fraud profiling system so that if a claim has a **KFI** score that exceeds a configured value established by the **STATE**, the claim cannot be approved until the risk elements are resolved.

7. VIRUSES

KELMAR shall provide the above described **SOFTWARE** which shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the **SOFTWARE** in accordance with the **SPECIFICATIONS**.

As a part of its internal development process, **KELMAR** shall use reasonable efforts to test the **SOFTWARE** for viruses. **KELMAR** shall also maintain a backup and master copy of the latest version of the **SOFTWARE**, free of viruses. If the **STATE** believes a virus may be present in the **SOFTWARE**, then upon its request, **KELMAR** shall roll back any **SOFTWARE DELIVERABLE** and provide the **STATE** with a prior version of the **SOFTWARE**, free of viruses. Thereafter, **KELMAR** shall retest the **SOFTWARE** and, once viruses free, provide the **STATE** with a new copy of the latest **SOFTWARE** version.

8. KAPS® SYSTEM AVAILABILITY.

KELMAR will ensure that the **KAPS® SYSTEM** is available for **STATE** access between the hours of 6:00 a.m. and 6:00 p.m. Eastern Standard Time, Monday through Friday, and 8:00 a.m. through 4:00 p.m. on Saturday, Eastern Standard Time. **KELMAR** reserves a daily maintenance window between the hours of 9:00 p.m. and 1:00 a.m. Eastern Standard Time, Monday through Friday, and all day on Sunday. The **KAPS® SYSTEM** shall not be available during these maintenance hours. System availability may be modified by prior arrangement, with at least forty-eight (48) hours advance notice.

In addition, the **KAPS® SYSTEM** may be unavailable during the following: a) scheduled periods when backup of hosted servers takes place – timing to be coordinated with the **STATE**; b) emergency (non-scheduled) outages; and c) scheduled outages for application of patches or other modifications requested by the **STATE**.

8.1 KAPS® SYSTEM ACCESS ASSUMPTIONS

Set forth below are the conditions and assumptions related to **KAPS® SYSTEM** access:

- a. Multiple customers may share the same computer server; the **STATE** instances shall be separated from other instances located on the same server using password protection.

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- b. The **STATE** acknowledges that **KELMAR** may use server and network equipment owned by **KELMAR** or third-party hosting provider.
- c. **KELMAR** will provide sufficient servers, disk space and other hardware to support the **STATE**'s current departmental size and processing levels as part of its obligations under the **CONTRACT** inclusive of accommodating the need for additional capacity during cyclical peaks. Requests for dedicated or additional servers, additional disk space, or other additional hardware will require a contractual amendment.
- d. The equipment and network connections provided for the **SERVICES** are designed to accommodate all **STATE** employees that perform abandoned property functions.

9. HELP DESK AND TECHNICAL SUPPORT.

KELMAR will provide a dedicated help desk and technical support team to assist authorized staff from the State with matters involving the **KAPS® SYSTEM** during Normal Working Hours (8:00 a.m. to 6:00 p.m. Eastern Time excluding federal and **KELMAR** holidays). The help desk can be accessed by calling 1-888-953-5627, emailing kaps@kelmarassoc.com or accessing **KELMAR**'s online **KAPS®** issue management system. Messages received after Normal Working Hours will be returned on the following business day.

10. SYSTEM MAINTENANCE ACTIVITIES.

KELMAR will maintain the **SOFTWARE** throughout the term of the **CONTRACT** and provide System Maintenance and support to ensure the proper operation of all hardware, software, and network support related to the **SERVICES**. System Maintenance refers to regular and routine work performed by **KELMAR** on the **KAPS® SYSTEM**. This includes any work required to correct defects in the system operation as required to meet system requirements. This also includes any routine file maintenance to update any information required for operation of the **KAPS® SYSTEM** such as data changes, constructing new edits, investigating batch job failures, investigating and correcting application defaults, repairing jobs run incorrectly, repairing problems due to system software failures, repairing problems due to operator or schedule error, rectifying problems due to web page, program, object, class, scripts, control language, or database errors, repairing security problems, repairing and restoring corrupted files, table structures, and databases, rectifying incorrect documentation, and repairing problems due to jobs run with incorrect data. Likewise, System Maintenance includes the performance of backups of the **KAPS® SYSTEM** (inclusive of architecture and **STATE DATA**) on a nightly basis.

KELMAR shall not be responsible for maintenance and support for **SOFTWARE** developed or modified by the **STATE**.

Additional details concerning System Maintenance include the following:

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- a. **KELMAR** will perform System Maintenance for the component parts of the System and shall ensure that the technical and professional activities required for establishing, managing, and maintaining the hosted environment are completed in a diligent manner.
- b. All System Maintenance will be performed by qualified personnel who are familiar with the **KAPS® SYSTEM**.
- c. **KELMAR** will provide backup maintenance resources.
- d. **KELMAR** will provide for escalation of maintenance issues to ensure critical issues are resolved. Any issues not resolved by the Client Service Representative (“CSR”) will be escalated for resolution.
- e. **KELMAR** will provide remote diagnostic capabilities.
- f. **KELMAR** will provide one point of contact to report system malfunction whether malfunction is due to the **SOFTWARE** or is of unknown origin. **KELMAR** will then be responsible for providing the appropriate remedy. The CSR will be the primary point of contact for **SYSTEM DEFICIENCIES** and/or malfunctions and will determine the appropriate path for resolution.
- g. **SYSTEM DEFICIENCIES** will be addressed by **KELMAR** in accordance with the procedures outlined in Section 22 below.
- i. The CSR will coordinate implementing enhancements, new releases, and other changes to the **KAPS® SYSTEM** with **STATE** personnel. In so doing, advance notice shall be given by **KELMAR** to the **STATE** of any major upgrades or system changes. For the purpose of this **CONTRACT** a major upgrade shall include the replacement of hardware, software, or firmware with a newer or better version, in order to bring the existing system up to date or to improve its characteristics.

11. ADAPTIVE AND PREVENTIVE MAINTENANCE ACTIVITIES.

- a. **KELMAR** shall perform adaptive and preventative maintenance activities as set forth below. Adaptive and preventive maintenance addresses upgrades to the **KAPS® SYSTEM** due to technical **CHANGES** to system components to keep the **KAPS® SYSTEM** maintainable, including the following **SERVICES**:
 - i. Upgrades or patches of the application servers, **OPERATING SYSTEM** components, **OPERATING SYSTEMS**, or other **SYSTEM** and application **SOFTWARE**. **KELMAR** will test and install upgrades and patches of the server **OPERATING SYSTEM** and the database **SYSTEM**. Testing will occur on **KELMAR**'s non-production systems.
 - ii. **SOFTWARE** modifications and upgrades necessary because of expiring **VENDOR** support.
 - iii. **KELMAR** will test and recommend upgrades to third party **SOFTWARE** used by the **KAPS® SYSTEM**. Testing will occur on **KELMAR**'s non-production systems.

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- iv. Hardware, database, or application conversions that do not modify user functionality.
 - v. **KELMAR** is not responsible for hardware related upgrades on **STATE** equipment but will assist with testing and identifying potential issues.
-
- b. **KELMAR** will coordinate with the **STATE** in performing the above activities at a time that will provide for the least disruption for **KAPS® SYSTEM** users.
 - c. **KELMAR** will bundle the above updates and releases on a regular **SCHEDULE** as mutually agreed with the **STATE**.
 - d. For major upgrades requiring a more significant amount of time to develop, test, and implement, **KELMAR** will bundle the above updates and releases on a quarterly or other major release cycle.
 - e. With the **STATE**'s consent, **KELMAR** will release patches and fixes on an 'as requested' release schedule.

12. PERFORMANCE OF MAINTENANCE ACTIVITIES.

KELMAR will assist the **STATE**'s staff in undertaking maintenance activities to improve the performance of the **SOFTWARE**. **KELMAR** will provide database monitoring upon request to help identify any potential performance problems. Generally, maintenance updates and releases shall be implemented in six (6) week Sprints.

Activities that typically can be completed independent of a production release (e.g., **DATA** changes, **DATA** purges) may be completed on a more frequent basis (e.g., daily or weekly).

13. STATE-OWNED DOCUMENTS AND DATA

KELMAR shall provide the **STATE** with access to all **STATE DATA**, documents, materials, reports, and other work in progress relating to the **CONTRACT** (collectively the documents, materials, reports, and other work in progress relating to the **CONTRACT** shall be referred to as, "**STATE OWNED DOCUMENTS**"). Upon expiration or termination of the **CONTRACT** with the **STATE**, **KELMAR** shall turn over all **STATE DATA** and **STATE OWNED DOCUMENTS** relating to the **CONTRACT** to the **STATE** at no additional cost to the **STATE**. **STATE OWNED DOCUMENTS** shall be provided in electronic format.

On a semi-annual basis, **KELMAR** shall deliver to, or otherwise make available for download by, the **STATE** a complete backup of all **STATE DATA** held by **KELMAR**.

14. RECORDS RETENTION AND ACCESS REQUIREMENTS

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

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KELMAR 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**. **Kelmar** and its **SUBCONTRACTORS** shall retain all such records for three (3) years following termination of the **CONTRACT**, including any extensions. Records relating to any litigation matters regarding the **CONTRACT** shall be kept for one (1) year following the termination of all litigation, including the termination of all appeals or the expiration of the appeal period.

Upon prior notice and subject to reasonable time frames, all such records shall be subject to inspection, examination, audit and copying by personnel so authorized by the **STATE** and federal officials so authorized by law, rule, regulation, or contract, as applicable. Access to these items shall be provided within Merrimack County of the State of New Hampshire, unless otherwise agreed by the **STATE**. Delivery of and access to such records shall be at no cost to the **STATE** during the three (3) year period following termination of the **CONTRACT** and one (1) year term following litigation relating to the **CONTRACT**, including all appeals or the expiration of the appeal period. **KELMAR** shall include the record retention and review requirements of this Section 14 in any of its subcontracts.

The **STATE** agrees that books, records, documents, and other evidence of accounting procedures and practices related to **KELMAR**'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.

15. DOCUMENTATION UPDATES.

KELMAR will provide **DOCUMENTATION** with each new release or **CHANGE** to the **KAPS® SYSTEM**. Such **DOCUMENTATION** will be made available electronically. Any customized or unique **CHANGE** made to the **SOFTWARE** expressly for the **STATE** will be documented and provided to the **STATE**.

16. SYSTEM TESTING.

KELMAR will be responsible for System Testing each **SOFTWARE DELIVERABLE** in **KELMAR**'s development environment prior to turning over the **SOFTWARE DELIVERABLE** to the **STATE** for **USER ACCEPTANCE TESTING** ("UAT") and approval. **KELMAR**'s System Testing shall include the following, at a minimum:

- a. Unit Testing and incremental Integration Testing of the components of each **SOFTWARE DELIVERABLE**;
- b. Integration Testing of each **SOFTWARE DELIVERABLE** to ensure proper inter-operation with all prior **SOFTWARE DELIVERABLES**, interfaces and other

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components that are intended to inter-operate with such **SOFTWARE DELIVERABLE**. Such testing will include Regression Testing, volume and stress testing to ensure that the **SOFTWARE DELIVERABLE** meet the **STATE's** projected growth in the number and size of transactions to be processed by the **KAPS@ SYSTEM** and the number of users; and

- c. Business Function Testing and Technical Testing of each Application comprising **KAPS** in a simulated production environment. Within ten (10) days prior to the commencement of such testing, **KELMAR** shall provide the **STATE** with the Business Function Test Plan for its review and approval (which approval shall not be unreasonably conditioned or delayed). Business Function Testing shall include testing of full work streams that flow through the Application as incorporated within the **STATE's** computing environment. The **STATE** shall participate in and provide support for the Business Function Testing to the extent reasonably requested by **KELMAR**.

Within five (5) Business Days following the completion of System Testing pursuant to this Section 16, **KELMAR** shall provide the **STATE**, upon its request, with a testing matrix evidencing the conduct and successful completion of all testing associated with each condition identified in the System Testing plans. To the extent that testing occurs on **STATE** premises, the **STATE** may, in its sole discretion, observe or otherwise participate in the testing performed under this Section.

17. APPROVAL OF DELIVERABLES, IN GENERAL.

The **STATE** shall approve in writing a **DELIVERABLE** upon confirming that it conforms to and, in the case of a **SOFTWARE DELIVERABLE**, performs in accordance with, the **STATE's** documented **SPECIFICATIONS** without material deficiency. The **STATE** may, but shall not be required to, conditionally approve in writing a **DELIVERABLE** that contains material **DEFICIENCIES** if the **STATE** elects to permit **KELMAR** to rectify them post-approval. In any case, **KELMAR** will be responsible for working diligently to correct within a reasonable time at **KELMAR's** expense all **DEFICIENCIES** in the **DELIVERABLE** that remain outstanding at the time of **STATE** approval.

The **STATE**, at any time and in its own discretion, may halt the **UAT** or approval process if such process reveals **DEFICIENCIES** in, or problems with, a **DELIVERABLE** in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the **STATE** may return the applicable **DELIVERABLE** to **KELMAR** for correction and re-delivery prior to resuming the **REVIEW** or **UAT** process. In such an event, **KELMAR** will correct the **DEFICIENCIES** in the **DELIVERABLE** in accordance with the **AGREEMENT**, as the case may be.

Approval in writing of a **DELIVERABLE** by the **STATE** shall be provisional; that is, such approval shall not preclude the **STATE** from later identifying **DEFICIENCIES** in, and declining to accept, a subsequent **DELIVERABLE** based on or which incorporates or inter-operates with

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an approved **DELIVERABLE**, to the extent that the results of subsequent **REVIEW** or testing indicate the existence of **DEFICIENCIES** in the subsequent **DELIVERABLE**, or if the Application of which the subsequent **DELIVERABLE** is a component otherwise fails to be accepted.

18. PROCESS FOR APPROVAL OF SOFTWARE DELIVERABLES.

The **STATE** will conduct **UAT** of each **SOFTWARE DELIVERABLE** in accordance with the following procedures to determine whether it meets the criteria for **STATE** approval – i.e., whether it conforms to and performs in accordance with its **SPECIFICATIONS** without material **DEFICIENCIES**.

The **STATE REVIEW PERIOD** shall be the number of days agreed in writing by the Parties (failing which it shall be forty-five (45) days by default). The **STATE REVIEW PERIOD** for each **SOFTWARE DELIVERABLE** will begin when **KELMAR** has delivered the **SOFTWARE DELIVERABLE** to the **STATE** and the **STATE**'s inspection of the **DELIVERABLE** has confirmed that all components of it have been delivered.

If the **STATE** determines during the **UAT** that the **SOFTWARE DELIVERABLE** contains any **DEFICIENCIES**, the **STATE** will notify **KELMAR** of the deficiency by making an entry in an incident reporting system available to both **KELMAR** and the **STATE**.

KELMAR will use reasonable commercial efforts to correct all reported **DEFICIENCIES** with the **SOFTWARE DELIVERABLE**, conduct appropriate system testing (including, where applicable, Regression Testing) to confirm the proper correction of the **DEFICIENCIES**, and re-deliver the corrected version to the **STATE** for re-testing in **UAT**. **KELMAR** will coordinate the re-delivery of corrected versions of **SOFTWARE DELIVERABLES** with the **STATE** so as not to disrupt the **STATE**'s **UAT** process. The **STATE** will promptly re-test the corrected version of the **SOFTWARE DELIVERABLE** after receiving it from **KELMAR**.

Within three (3) business days after the end of the **STATE REVIEW PERIOD**, the **STATE** will give **KELMAR** a written notice indicating the **STATE**'s approval or rejection of the **SOFTWARE DELIVERABLE** according to the criteria and process set out in this Section 18. If the **STATE** has given notice of non-acceptance, **KELMAR** will again act to diligently correct, modify, or improve such **SOFTWARE DELIVERABLE** to address the cause of non-acceptance. This process will be repeated as may be necessary until the **SOFTWARE DELIVERABLES** are accepted or deemed accepted by the **STATE** as provided in Section 19 below.

19. ACCEPTANCE.

“**ACCEPTANCE**” shall occur when the **SOFTWARE DELIVERABLE** has been approved by the **STATE** and has been operating in production without any material deficiency for fourteen (14) consecutive days. If the **STATE** elects to defer putting a **SOFTWARE DELIVERABLE** into live production for its own reasons unrelated to concerns about outstanding material

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DEFICIENCIES in the **DELIVERABLE**, the **STATE** shall nevertheless grant **ACCEPTANCE** of the **DELIVERABLE**.

20. SUBSEQUENT SYSTEMS CHANGES.

In the event the **STATE** desires to modify its **SYSTEMS** to accommodate a **SOFTWARE DELIVERABLE** or other **CHANGE**, **KELMAR** shall perform such modification upon receipt of written approval of the same by the **STATE**'s designated **CONTRACT MANAGER**. No system modifications shall be made by **KELMAR** without the prior written consent of the **STATE**. In addition, all **CHANGES** shall be requested utilizing the **CHANGE ORDER** procedures outlined in Section 21 below. Further, any **CHANGE** made by **KELMAR** to the **STATE**'s **SYSTEMS** shall be done according to applicable **STATE** procedures, including security, access, and configuration management procedures.

21. CHANGE REQUEST / CHANGE NOTICE

The **STATE** reserves the right to request from time to time any **CHANGES** to the requirements and **SPECIFICATIONS** of the **SERVICES** under the **CONTRACT**. If the **STATE** requests or directs **KELMAR** to perform any work beyond the scope of the **SERVICES** set forth in this **EXHIBIT B** (all such work shall hereinafter be referred to as "**NEW WORK**"), **KELMAR** shall, prior to performing any **NEW WORK**, provide a **CHANGE PROPOSAL** that includes a detailed outline of all work to be done including tasks necessary to accomplish the **NEW WORK**, timeframes, listing of key personnel assigned, the estimated hours for each individual per task, and the estimated overall price of the **NEW WORK**. **KELMAR** expressly agrees that it shall not perform any **NEW WORK** until such time as approved in writing by the **STATE** in a **CHANGE NOTICE**.

The approval of **NEW WORK** shall be governed by the **CHANGE REQUEST** procedure set forth below:

- a. *CHANGE REQUESTs sought by the STATE:* If the **STATE** requires **KELMAR** to perform **NEW WORK** or make **CHANGES** to the **SERVICES** that would affect the **CONTRACT SPECIFICATIONS** or the amount of compensation due **KELMAR** (a "**CHANGE**"), the **STATE** shall submit a written request for **KELMAR** to furnish a **CHANGE PROPOSAL** for carrying out the requested **CHANGE** (a "**CHANGE REQUEST**").
- b. *KELMAR Recommendation for CHANGE REQUESTs:* **KELMAR** shall be entitled to propose a **CHANGE** to the **STATE**, on its own initiative, should **KELMAR** believe the proposed **CHANGE** would benefit the **STATE**.
- c. Upon receipt of a **CHANGE REQUEST** or on its own initiative, **KELMAR** shall examine the implications of the requested **CHANGE** on the technical **SPECIFICATIONS** and the **SERVICES** provided under the **CONTRACT**, and then price out the **NEW WORK**. **KELMAR** shall then submit to the **STATE**,

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without undue delay, a written **CHANGE PROPOSAL** for carrying out the **CHANGE**. **KELMAR's CHANGE PROPOSAL** shall include a detailed outline of all work to be done including tasks necessary to accomplish the **CHANGE**, timeframes, listing of key personnel assigned, any associated **CHANGES** in the technical **SPECIFICATIONS**, the estimated hours for each individual per task, and the estimated overall price, and/or method of pricing of the **SERVICES**. If **KELMAR** provides a written **PROPOSAL** and should **KELMAR** believe a requested **CHANGE** is not to be recommended, it shall communicate its opinion to the **STATE** but shall nevertheless carry out the **CHANGE** as specified in the written **CHANGE PROPOSAL** if the **STATE** directs it to do so.

- d. By giving **KELMAR** written notice within a reasonable time, the **STATE** shall be entitled to accept **KELMAR's CHANGE PROPOSAL**, to reject it, or to reach another agreement with **KELMAR**. Should the Parties agree on carrying out a **CHANGE**, a written **CONTRACT CHANGE NOTICE** must be prepared and issued under this **CONTRACT**, describing the **CHANGE** and its effects on the **SERVICES** and any affected components of this **CONTRACT** (a "**CHANGE NOTICE**").
- e. If the **STATE** requests or directs **KELMAR** to perform any **SERVICES** or provide **DELIVERABLES** that are consistent with and similar to the **SERVICES** being provided by **KELMAR** under the **CONTRACT**, but which **KELMAR** reasonably and in good faith believes are not included within the scope of the **SERVICES**, then before performing the activities, **KELMAR** shall notify the **STATE** in writing that it considers the requested activities to constitute a **CHANGE** for which **KELMAR** should receive additional compensation. Along with the notice, **KELMAR** shall include a written **CHANGE PROPOSAL** that identifies the **CHANGE** and any associated **CHANGES** in the technical **SPECIFICATIONS** and the price for the **NEW WORK**. If **KELMAR** fails to notify the **STATE** before beginning the **NEW WORK** constituting a **CHANGE**, then **KELMAR** shall waive any right to assert any claim for additional compensation or time for performing the requested activities. Upon receipt of **KELMAR's** notice, the **STATE** shall follow the procedure outlined in subsection (c) above.
- f. No proposed **CHANGE** shall be performed until the proposed **CHANGE** has been specified in a duly executed **CHANGE NOTICE** issued by the **STATE** and signed by the Parties.

22. SYSTEM SUPPORT / SERVICE LEVEL AGREEMENTS

KELMAR will be responsible for performing on-site or remote technical support in accordance with the terms and conditions set forth below. As part of the **CONTRACT**, ongoing **SOFTWARE** maintenance and support levels, including all new **SOFTWARE** releases,

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KELMAR shall address **SYSTEM DEFICIENCIES**. A **SYSTEM DEFICIENCY** shall mean a failure, deficiency or defect in a **DELIVERABLE** resulting in a **DELIVERABLE**, the **SOFTWARE**, or the **KAPS® SYSTEM**, not conforming to its **SPECIFICATIONS**. **DEFICIENCIES** are defined as follows:

Class A Deficiency – SOFTWARE - Critical, does not allow the **KAPS® SYSTEM** to operate, no work around, demands immediate action; Written **DOCUMENTATION** - missing significant portions of information or unintelligible to **STATE**; **NON SOFTWARE - SERVICES** were inadequate and require re-performance of the Service.

Class B Deficiency – SOFTWARE - important, does not stop operation and/or there is a work around and user can perform tasks; Written **DOCUMENTATION** - portions of information are missing but not enough to make the document unintelligible; **NON SOFTWARE - SERVICES** were deficient, require reworking, but do not require re-performance of the Service.

Class C Deficiency – SOFTWARE - minimal, cosmetic in nature, minimal effect on the **KAPS® SYSTEM**, low priority and/or user can use **KAPS® SYSTEM**; Written **DOCUMENTATION** - minimal **CHANGES** required and of minor editing nature; **NON SOFTWARE - SERVICES** require only minor reworking and do not require re-performance of the Service.

DEFICIENCIES shall be corrected according to the following schedule:

<i>Class of Deficiency</i>	<i>KELMAR Acknowledgement</i>	<i>Issue Resolution*</i>
<i>Class A Deficiency</i>	<i>4 hours</i>	<i>Two (2) business days</i>
<i>Class B Deficiency</i>	<i>24 hours</i>	<i>Thirty (30) days</i>
<i>Class C Deficiency</i>	<i>5 business days</i>	<i>Next major KAPS release or time agreed between STATE and KELMAR</i>

*The issue resolution time period shall conform to that which is identified above; provided, however, the Parties may mutually agree to extend the issue resolution time period to reasonably accommodate **KELMAR**'s corrective action where **KELMAR** has diligently commenced such resolution within the designated resolution period and thereafter diligently proceeds to rectify and complete said resolution as soon as possible.

KELMAR shall roll back any **KAPS® SYSTEM** updates or **SOFTWARE** component that **KELMAR** controls as part of the **KAPS® SYSTEM** within four (4) hours of notification that the update may have caused the **DEFICIENCY**. This does not include any roll back related to software installed on the **STATE'S** user's workstation.

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Nothing contained herein shall obligate **KELMAR** to be responsible for correcting **DEFICIENCIES** resulting from misuse, negligence, revision, modification, adjustments, reconfigurations, or improper use by the **STATE** of the **SOFTWARE** or any **SOFTWARE DELIVERABLE** or any portion thereof ("**MISUSE**"). In the event of **MISUSE**, the **STATE** shall be responsible for paying **KELMAR** for its services to correct **DEFICIENCIES** resulting therefrom at **KELMAR**'s hourly rates set forth in **EXHIBIT C - Price and Payment Schedule**.

23. SYSTEM SECURITY REVIEW / LOGS & RELATED SECURITY DOCUMENTATION.

KELMAR shall ensure that appropriate levels of security are implemented and maintained in order to protect the integrity and reliability of the **STATE**'s **INFORMATION TECHNOLOGY** resources, information, and services. Security requirements shall include, but not be limited to, computer and network encryption protocols developed and endorsed by the United States Department of Defense, full disk encryption, complex password protection for all electronic devices and user accounts and files, state of the art antivirus and antispymware software, patch management, the latest intrusion prevention and detection software programs, extensive firewalls and access systems, and around the clock daily monitoring of all systems. **KELMAR** shall provide the **STATE** resources, information, and services on an ongoing basis, with the appropriate infrastructure and security controls to ensure business continuity and to safeguard the confidentiality and integrity of **STATE** networks, Systems and **STATE DATA**.

KELMAR shall document its information security management system through the creation and definition of security policies, procedures and controls covering such areas as **IDENTIFICATION**, **AUTHENTICATION**, and **NON-REPUDIATION**. **KELMAR** shall disclose its non-proprietary security processes and technical limitation to the **STATE** to ensure adequate protection and flexibility can be attained between the Parties.

Throughout the term of the Contract, all components of the **SOFTWARE** shall be reviewed and tested to ensure they protect the **STATE**'s hardware, the **SOFTWARE**, and related **STATE DATA** assets. Tests shall focus on the technical, administrative, and physical security controls that have been designed into the **SYSTEM** architecture in order to provide the necessary confidentiality, integrity and availability. Tests shall, at a minimum, cover each of the service components. Test procedures shall include Penetration Tests (pen test) or code analysis and review.

Service Component	Defines the set of capabilities that:
Identification and Authentication	Supports obtaining information about those parties attempting to log onto a system or application for security purposes and the validation of users
Access Control	Supports the management of permissions for logging onto a computer or network

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EXHIBIT B – SCOPE OF SERVICES**

Encryption	Supports the encoding of STATE DATA for security purposes
Intrusion Detection	Supports the detection of illegal entrance into a computer system
Verification	Supports the confirmation of authority to enter a computer system, application or network
Digital Signature	Guarantees the unaltered state of a file
User Management	Supports the administration of computer, application and network accounts within an organization.
Role/Privilege Management	Supports the granting of abilities to users or groups of users of a computer, application or network
Audit Trail Capture and Analysis	Supports the identification and monitoring of activities within an application or system
Input Validation	Ensures the application is protected from buffer overflow, cross-site scripting, SQL injection, and unauthorized access of files and/or directories on the server.

Annually **KELMAR** shall undergo a Statement on Standards for Attestation Engagement (SSAE) No. 18, Service Organization Control (SOC) 2 Type II audit during which **KELMAR**'s controls as they relate to security, availability, processing integrity, and confidentiality of the **KAPS® SYSTEM** shall be examined. **KELMAR** shall provide the **STATE** with a copy of the confidential SOC 2 Type II audit results promptly upon receipt from its independent examiner as well as its plan to correct any negative findings, if any. The **STATE** shall treat the report any remediation plan as confidential and exempt from public disclosure. **KELMAR** shall also make available copies of the SOC 2 Type II or SOC 3 reports for all data centers and/or infrastructure providers utilized by **KELMAR** in the delivery of the Services, including those used in disaster recovery operations. These SOC 2 Type 2 or SOC 3 reports shall also be maintained by the **STATE** as confidential and exempt from public disclosure.

Upon request, **KELMAR** shall also provide the **STATE** with records demonstrating **KELMAR**'s internal security testing including system scans, penetration tests and other similar reports. Additionally, **KELMAR** shall permit the **STATE** to access the **KAPS® SYSTEM** security logs for the **STATE**'s dedicated Server and, upon request, shall provide the **STATE** with copies of latency statistics, user access reports, and other records of a similar manner relating to the **STATE**'s use of the **KAPS® SYSTEM**.

24. LICENSE TERMINATION/EXPIRATION

Upon completion or termination of the licenses granted under the **CONTRACT**, **KELMAR** shall create a copy of the **STATE**'s **KAPS®** instance, using a medium agreed upon in advance, to facilitate transition of such information to other computer hardware ("Decommission Backup").

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EXHIBIT B – SCOPE OF SERVICES**

Transition and migration services are not provided as part of the **SERVICES** but may be acquired separately from **KELMAR** by the **STATE**.

25. SERVICE & SOFTWARE WARRANTIES

25.1 SOLUTION

KELMAR warrants that the **SOLUTION** will operate to conform to the **SPECIFICATIONS**, terms, and requirements of the **CONTRACT**.

25.2 SOFTWARE

Kelmar warrants that the **SOFTWARE** including but not limited to the individual modules or integrations furnished under the **CONTRACT**, shall (a) function properly within the **SOLUTION**, (b) be compliant with the requirements of the **CONTRACT**, and (c) will operate in accordance with the **SPECIFICATIONS** and terms of the **CONTRACT**.

25.3 SERVICES

Kelmar warrants that all **SERVICES** to be provided under the **CONTRACT**, including but not limited to the **SOFTWARE** Support and Maintenance **SERVICES** described in this **EXHIBIT B**, will be provided expediently, in a professional manner, in accordance with industry standards and that all **SERVICES** will comply with performance standards, **SPECIFICATIONS**, and terms of the **CONTRACT**.

25.4 NON-INFRINGEMENT

Kelmar warrants that it has good title to, or the right to allow the **STATE** to use, all **SERVICES**, equipment, and **SOFTWARE** provided under this **CONTRACT**, and that such **SERVICES**, equipment, and **SOFTWARE** do not violate or infringe any patent, trademark, copyright, trade name or other intellectual property rights or misappropriate a trade secret of any third party.

The **STATE**'s remedies and **KELMAR**'s obligations with respect to a breach of this non-infringement warranty shall be governed by Section 5 *Software Noninfringement / Indemnification* set forth in **EXHIBIT A**.

25.5 Viruses; Destructive Programming

KELMAR warrants that the **SOFTWARE** shall not contain any viruses, destructive programming, or mechanisms designed to disrupt the performance of the **SOFTWARE** in accordance with the **SPECIFICATIONS**.

25.6 Compatibility

KELMAR warrants that all **SOLUTION** components, including but not limited to the components of the **SOFTWARE**, including any replacement or upgraded **SOFTWARE** components, provided by **KELMAR** to correct **DEFICIENCIES** or as an **ENHANCEMENT**, shall operate with the rest of the **SOLUTION** without loss of any functionality.

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25.7 Personnel

KELMAR warrants that all personnel engaged in the **SERVICES** shall be qualified to perform the **SERVICES** and shall be properly licensed and otherwise authorized to do so under all applicable laws.

25.8 Third Party Materials

As between **KELMAR** and the **STATE**, all third-party hardware and **SOFTWARE** are provided "AS IS" and without warranty of any kind. If **KELMAR** has the right to pass through to the **STATE** warranties made by any third-party supplier with respect to the third-party hardware or **SOFTWARE**, **KELMAR** will pass through such warranties. All such warranties will run directly between the **STATE** and the respective third-party supplier.

26. WARRANTY SERVICES

For any breach of the above warranties (but for the warranty against infringement which shall be governed by Section 5 of **EXHIBIT A** of this **CONTRACT**), **KELMAR** shall:

(a) correct all **DEFECTS DEFICIENCIES** in the **SOFTWARE** that cause the breach of the warranty, or if **KELMAR** cannot substantially correct such breach in a commercially reasonable manner, **KELMAR** may replace the **SOFTWARE DELIVERABLE**; provided, however, if **KELMAR** determines that the aforementioned remedies are not practicable, **KELMAR** shall refund the fees paid to **KELMAR** by the **STATE** allocable to such **SOFTWARE DELIVERABLE** along with any unused, prepaid technical support fees paid by the **STATE** for the **SOFTWARE DELIVERABLE**; or

(b) re-perform the Deficient **SERVICES**, or

(c) if **KELMAR** cannot substantially correct a breach in the **SERVICES** in a commercially reasonable manner, the **STATE** may terminate the relevant **SERVICES** or the **CONTRACT** and recover the fees paid to **KELMAR** for the Deficient **SERVICES**.

Notwithstanding, the above warranties shall be void if the **STATE** or any third-party (other than any person selected by **KELMAR** to act on **KELMAR**'s behalf) modifies, adjusts, or re-configures the **SOFTWARE** or any **SOFTWARE DELIVERABLE**. Further, **KELMAR** shall not be responsible for correcting errors or **DEFICIENCIES** resulting from the **STATE**'s **MISUSE** of the **SOFTWARE** or any portion thereof. In such instances, the **STATE** shall be responsible to pay **KELMAR** for **SERVICES** to correct errors and/or **DEFECTS** and/or **DEFINICIENCES** resulting from **MISUSE** at **KELMAR**'s hourly rates as set forth on **EXHIBIT C – Price and Pricing Schedule**. **KELMAR** does not warrant that operation of the **SOFTWARE** or any **SOFTWARE DELIVERABLES** will be uninterrupted or error free.

If **KELMAR** fails to correct a **DEFECT** and/or **DEFICIENCY** in the **SOFTWARE** or any

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component or module thereof that occurs not as a result of **MISUSE** within the time period identified in Section 22 of this **EXHIBIT B** or any mutually agreed upon extension thereof, the **STATE** may, at its option: 1) declare **KELMAR** in default, terminate the **CONTRACT**, in whole or in part, without penalty or liability to the **STATE**; and 2) pursue its remedies available at law and in equity.

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EXHIBIT C: PRICE AND PAYMENT SCHEDULE**

1. PAYMENT SCHEDULE

1.1 Firm Fixed Price

This is a **FIRM FIXED PRICE (FFP) CONTRACT** totaling \$3,247,741.00 for the period between the **COMMENCEMENT DATE** through the **COMMENCEMENT DATE** plus ten (10) years. **KELMAR** shall be responsible for performing its obligations in accordance with the **CONTRACT**. This **CONTRACT** will allow **KELMAR** to invoice the **STATE** in accordance with Section 3 and Section 7 of this **EXHIBIT C**.

2. TOTAL CONTRACT PRICE

Notwithstanding any provision in the **CONTRACT** to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments made by the **STATE** exceed \$3,247,741.00 ("Total Contract Price"). The payment by the **STATE** of the total **CONTRACT** price shall be the only, and the complete reimbursement to **KELMAR** for all fees and expenses, of whatever nature, incurred by **KELMAR** in the performance hereof.

The **STATE** will not be responsible for any travel or out of pocket expenses incurred in the performance of the **SERVICES** performed under this **CONTRACT**.

3. INVOICING

KELMAR shall submit correct invoices to the **STATE** for all amounts to be paid by the **STATE**. All invoices submitted shall be subject to the **STATE**'s prior written approval, which shall not be unreasonably conditioned or withheld. **KELMAR** shall only submit invoices for **SERVICES** or **DELIVERABLES** as permitted by the **CONTRACT**. Invoices must be in a format as determined by the **STATE** and contain detailed information, including without limitation: itemization of each **DELIVERABLE** and identification of the **DELIVERABLE** for which payment is sought, and the **ACCEPTANCE** date triggering such payment; monthly license, maintenance, and support charges; any other **PROJECT** costs if applicable.

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

Invoices shall be sent via email to:

State of New Hampshire Treasury
Abandoned Property Division
James Karas, Abandoned Property Director
James.R.Karas@treasury.nh.gov

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EXHIBIT C: PRICE AND PAYMENT SCHEDULE**

A copy of the invoice shall be sent via email to:

State of New Hampshire Treasury
Business Office
TREA-BusinessOffice@treasury.nh.gov

4. PAYMENT ADDRESS

All payments to **KELMAR** shall be sent to **KELMAR** via Automated Clearing House.

Questions concerning invoices or payment shall be directed to the following address:

Kelmar Associates, LLC
Attn: Michael J. LeBlanc, Chief Financial Officer & Member
500 Edgewater Drive, Suite 525
Wakefield, MA 01880

5. OVERPAYMENTS TO KELMAR

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

6. CREDITS

The **STATE** may apply credits due to the **STATE** arising out of this **CONTRACT**, against **KELMAR's** invoices with appropriate information attached.

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EXHIBIT C: PRICE AND PAYMENT SCHEDULE**

7. FEES

7.1. SERVICE FEES. In exchange for the **SERVICES** under the **CONTRACT**, the **STATE** shall pay **KELMAR** the following fees:

Service	Year 1	Year 2	Year 3	Year 4	Year 5
KAPS® System License inclusive of SWS	\$165,416	\$171,205	\$177,197	\$183,398	\$189,816
KAPS® Integrated Imaging & Document Management Solution	\$34,947	\$36,170	\$37,435	\$38,745	\$40,101
Excess Storage (per TB over 1TB)	\$4,200	\$4,200	\$4,200	\$4,200	\$4,200
KAPS LN Services: Claimant Authentication per Claim*	\$20,000	\$21,000	\$22,050	\$23,153	\$24,311
KAPS LN Services: LexIDs (Real Time) Per Owner**	\$5,000	\$5,250	\$5,513	\$5,789	\$6,078
KFI Services per Claim created online***	\$33,000	\$34,650	\$36,383	\$38,202	\$40,112

Service	Year 6	Year 7	Year 8	Year 9	Year 10
KAPS® System License inclusive of SWS	\$196,459	\$203,335	\$210,451	\$217,816	\$225,439
KAPS® Integrated Imaging & Document Management Solution	\$41,504	\$42,956	\$44,459	\$46,015	\$47,625
Excess Storage (per TB over 1TB)	\$4,200	\$4,200	\$4,200	\$4,200	\$4,200
KAPS LN Services: Claimant Authentication per Claim*	\$25,526	\$26,802	\$28,142	\$29,549	\$31,026
KAPS LN Services: LexIDs (Real Time) Per Owner**	\$6,379	\$6,697	\$7,031	\$7,382	\$7,751
KFI Services per Claim created online***	\$42,116	\$44,221	\$46,432	\$48,753	\$51,190

* KAPS® LN Services Calls made for claimant authentication are billed at a transactional rate of \$1.25 per Call. Fees identified in the table above are annual estimates and express the maximum total spend for Calls involving claimant authentication for the respective Term Year.

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EXHIBIT C: PRICE AND PAYMENT SCHEDULE**

** KAPS® LN Services Calls for verification services for previous addresses of a claimant with a LexID® in the KAPS® System submitted on an ad hoc basis in Real Time are billed at a transactional rate of \$0.25 per Call. Fees identified in the table above are annual estimates and express the maximum total spend for the per owner real time LexID Calls processed for the respective Term Year.

*** Kelmar's KFI Services are billed on a transactional basis at a rate of \$0.50 per internet claim filed and assigned a KFI score. Fees identified in the table above are annual estimates and express the maximum total spend for the KFI Services for the respective Term Year.

B. NEW WORK – LOCKED IN DEVELOPMENT RATES

In the event the STATE elects, in its sole discretion, to approve a **CHANGE ORDER** for **NEW WORK**, the following maximum development costs for additional software development, programming, and/or reconfiguration to correct **ERRORS** associated with **MISUSE** as defined in Section 21 of **EXHIBIT B** to the **CONTRACT** shall apply.

Development / Software Programming / Customization*	Year 1)	Year 2)	Year 3)	Year 4)	Year 5)
Estimated Development Services	\$10,000	\$10,500	\$11,025	\$11,576	\$12,155

Development / Software Programming / Customization*	Year 6)	Year 7)	Year 8)	Year 9)	Year 10)
Estimated Development Services	\$12,761	\$13,399	\$14,068	\$14,771	\$15,509

* The above estimates for development/software programming and/or customization services are based on the hourly fee structure set forth below which the Parties agree shall remain applicable throughout the **TERM** of the **CONTRACT**.

KELMAR ASSOCIATES, LLC

UNANIMOUS WRITTEN CONSENT OF MANAGEMENT COMMITTEE

The undersigned, being all of the Members of the Management Committee of Kelmar Associates, LLC, a Delaware limited liability company (the "Company"), hereby unanimously consent, approve, and adopt as of the 13th day of June 2024 the following resolutions pursuant to Article 5.1 of the Operating Agreement:

RESOLVED: That the Company shall enter a contract with the State of New Hampshire (the "State") for the purpose of providing the State with: (a) a limited, non-transferable, non-exclusive license to utilize the Company's unclaimed property management system, KAPS[®] with integrated State Website Solution; (b) a restricted license to the KAPS[®] Integrated Imaging and Document Management Solution, (c) a restricted license to utilize the KAPS[®] LexisNexis[®] Instant Verify[®] and LexID[®] Identification Verification Services; (d) a restricted license to utilize the Kelmar Fraud Index with integrated LexisNexis[®] ThreatMetrix[®] Solution; and (e) maintenance and support services associated therewith, for a period of five (5) years (the "New Hampshire KAPS Contract").

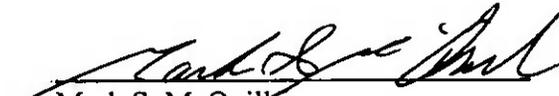
RESOLVED: That, pursuant to Section 5.1 (a) of the Operating Agreement, the Members hereby authorize David P. Kennedy, General Counsel & Member of Kelmar Associates, LLC (hereinafter the "General Counsel") to enter into the New Hampshire KAPS Contract. The terms of such contract shall be at the discretion of the General Counsel as he deems appropriate, and upon which the General Counsel is authorized to sign and bind the Company to the terms of the New Hampshire KAPS Contract.

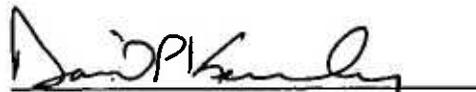
RESOLVED: That the General Counsel, acting on behalf of the Company, be authorized and directed by the Members to execute and deliver, and to file with the

proper governmental officials, all certificates and instruments contemplated by the New Hampshire KAPS Contract and/or the renewal thereof, with such changes therein and additions thereto as the General Counsel shall in his sole discretion approve, such approval to be evidenced conclusively by his execution and delivery thereof.

This Unanimous Written Consent of the Management Committee may be executed in one or more counterparts, and shall be filed with the minutes of the meetings of the Management Committee of the Company and shall be treated for all purposes as resolutions taken at a meeting on the 13th day of June, 2024.

MEMBERS:


Mark S. McQuillen


David P. Kennedy


Michael J. LeBlanc


Mark X. Russo

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that KELMAR ASSOCIATES, LLC is a Delaware Limited Liability Company registered to transact business in New Hampshire on January 11, 2002. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 388804

Certificate Number: 0006703953



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 13th day of June A.D. 2024.

A handwritten signature in black ink, appearing to read "D. Scanlan", is written over a faint circular outline.

David M. Scanlan
Secretary of State



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/13/2024

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

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

PRODUCER THE BURKE INSURANCE AGENCY 18 Brown Street Salem, MA 01970-3830 BURKE INSURANCE 978-741-7800	CONTACT NAME: Eric P. Husgen, CIC, AAI PHONE (A/C, No, Ext): 978-741-7800 FAX (A/C, No): 978-741-7805 E-MAIL ADDRESS: eric@burkeins.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED KELMAR ASSOCIATES, LLC Catherine Graham Zejnulahu 500 Edgewater Drive - Ste 525 Wakefield, MA 01880	INSURER A: Continental Casualty Co NAIC # 20443	
	INSURER B: Travelers Casualty and Surety 31194	
	INSURER C: Gemini Insurance Company 10833	
	INSURER D: Ironshore Specialty Ins. Co. 25445	
	INSURER E: Berkley Insurance Company 32603	
	INSURER F:	

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

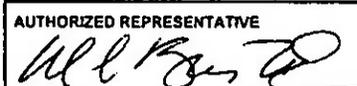
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE 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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			B 5092208691	09/25/2023	09/25/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 Emp Ben. \$ 1,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			B 5092208691	09/25/2023	09/25/2024	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 <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			B 5092208738	09/25/2023	09/26/2024	EACH OCCURRENCE \$ 8,000,000 AGGREGATE \$ 8,000,000
	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				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Mgmt. Liability			107153209	09/25/2023	09/25/2024	See Notes
C	E&O			VNPL014069	09/25/2023	09/25/2024	E&O 5,000,000

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

State of New Hampshire Treasury, Abandoned Property Division, Contract for Abandoned Property SAAS Solution

30 days' notice for cancellation except 10 days in the event of nonpayment

CERTIFICATE HOLDER NEWHAMP New Hampshire State Treasury Abandoned Property Division 25 Capitol Street, Room 121 Concord, NH 03301	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.
	AUTHORIZED REPRESENTATIVE 

NOTEPADINSURED'S NAME **KELMAR ASSOCIATES, LLC****KELMA-1
OP ID: EH**PAGE 2
Date **06/13/2024**

**A. Continental Casualty Co. Data Privacy & Cyber Liability
Limit of Liability \$10,000,000**

**F. Underwriters at Lloyds of London Excess Data Privacy & Cyber
Liability
Limit of Liability \$5,000,000 - Excess of \$10,000,000**

**G. At-Bay Specialty Insurance Company Excess Data Privacy & Cyber
Liability
Limit of Liability \$5,000,000 - Excess of \$15,000,000**

**H. Crum & Forster Specialty Insurance Company Excess Data Privacy &
Cyber Liability
Limit of Liability \$5,000,000 - Excess of \$20,000,000**

**I. AXIS Surplus Insurance Company Excess Data Privacy & Cyber Liability
Limit of Liability \$5,000,000 - Excess of \$25,000,000**

**J. Great American Fidelity Insurance Company Excess Data Privacy &
Cyber Liability
Limit of Liability \$5,000,000 - Excess of \$30,000,000**

**K. Continental Casualty Company Excess Data Privacy & Cyber Liability
Limit of Liability \$5,000,000 - Excess of \$35,000,000**

**L. Indian Harbor Insurance Company Excess Data Privacy & Cyber
Liability
Limit of Liability \$5,000,000 - Excess of \$40,000,000**

**M. Evanston Insurance Company Excess Data Privacy & Cyber Liability
Limit of Liability \$5,000,000 - Excess of \$45,000,000**

**B. Travelers Casualty and Surety - Management Liability
Directors & Officers \$3,000,000 Occurrence/\$5,000,000 Aggregate
Employment Practices Liability \$5,000,000 Occurrence/\$5,000,000 Aggregate
Fiduciary Liability \$3,000,000 Occurrence/\$5,000,000 Aggregate
Employed Lawyers \$1,000,000 Occurrence/\$5,000,000 Aggregate
Crime \$5,000,000 Occurrence/\$5,000,000 Aggregate
Social Engineering Fraud \$1,000,000 Occurrence/\$1,000,000 Aggregate**

**D. Ironshore Specialty Insurance Company - Excess E&O
Excess E&O \$5,000,000 Occurrence/\$5,000,000 Aggregate**

