

CONTRACT

State of Vermont

Green Mountain Care Board
Montpelier VT
United States



Vendor ID 0000322436
Adaptive Planning Inc
2041 Landings Drive
Mountain View CA 94043
United States

Contract ID 0000000000000000000024077		Page 1 of 2
Contract Dates 02/18/2013 to 02/17/2018		Origin GMC
Description: GMCB PERFORMANCE MGMT SYSTEM		Contract Maximum \$260,224.00
Buyer Name Wortman, Linda	Buyer Phone 828-5684	Contract Status Approved

Phone #:

Line #	Item ID	Item Desc	UOM	Unit Price	Max Qty	Max Amt
1		Implementing an integrated hospital performance planning, budgeting, forecasting, and reporting solution for the State of Vermont	JOB	0.01000	0.00	260,224.00

CONTRACT TERMS AND ADDITIONAL INFORMATION

1. Parties. This is a contract for Services between the State of Vermont, Green Mountain Care Board (hereafter called "State") and Adaptive Planning, Inc. with a principal place of business in Mountain View, CA, (hereafter called "Contractor"). Contractor's form of business organization is a corporation. It is the contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the contractor is required to have a Vermont Department of Taxes Business Account Number.

2. Subject Matter. The subject matter of this contract is services generally on the subject of implementing an integrated hospital performance planning, budgeting, forecasting, and reporting solution for the State. Detailed Services to be provided by the Contractor are described in Attachment A.

3. Maximum Amount. In consideration of the Services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$260,224.00.

4. Contract Term. The period of Contractor's performance shall begin as of February 18, 2013 and end on February 17, 2018. The parties may agree to extend the term of this contract.

5. Prior Approvals. If approval by the Attorney General's Office, Secretary of Administration, DII CIO/Commissioner, or Chief Marketing Officer is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by such persons.

- Approval by the Attorney General's Office is required.
- Approval by the Secretary of Administration is required.
- Approval by the CIO/Commissioner of DII is required.

6. Amendment. This contract represents the entire agreement between the parties; No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. Cancellation. This contract may be canceled by the State by giving written notice at least 30 days in advance.

8. Attachments. This contract consists of 50 pages including the following attachments which are incorporated herein:

- Attachment A - Specifications of Work to be Performed
- Exhibit 1 - Tools and Functionality Requirements
- Attachment B - Payment Provisions
- Attachment C - "Standard State Provisions for Contracts and Grants" a preprinted form (revision date 1/7/12)
- Attachment D - Other Terms
- Attachment E -- Technical Support, Security Policy, and Disaster Recovery Plan
- Exhibit A - State Technical and Functional Requirements of the System

9. Order of Precedence. Any ambiguity, conflict or inconsistency in the Contract Documents shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment D
- (3) Attachment C (Standard Contract Provisions for Contracts and Grants)
- (4) Attachment A (Specifications of Work to be Performed)

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ATTACHMENT A
SPECIFICATIONS OF WORK TO BE PERFORMED1. OVERVIEW

The purpose of this contract is for the Contractor to provide the State with an integrated hospital performance planning, budgeting, forecasting, and reporting solution for the GMCB (the "Project"). State currently collects and analyzes data from the following healthcare entities:

14 Vermont community hospitals (1 Major Teaching Hospital, 8 Critical Access Hospitals, 5 PPS hospitals). This may be expanded during the term of this Contract to include three (3) other unique hospitals.

Physician Practices, Nursing Homes, Home Health Agencies, Other Professionals, Durable Equipment companies, Pharmaceuticals, Community health Agencies, various smaller medical/health care professional entities

Payer entities

- Major payers include commercial insurers (5), Medicare, Medicaid
- Minor payers include largely local and federal government

The System (as defined below), will be required to integrate information from these data sources, provide data validation tools, and allow data updates with varying work cycles. It is anticipated that the initial implementation of the System will give the State access to 10 years of hospital and expenditure analysis data along with advance analytical and reporting capabilities to facilitate the hospital budget review process and the annual expenditure analysis. In the second year, reporting organizations will be able to directly upload data into the system substantially reducing the burden of data collection and validation on State staff.

2. THE SERVICES; SYSTEM AND PROFESSIONAL SERVICES.

The scope of this Contract is the implementation ("Professional Services") of the Contractor's web-based Business Performance Management (BPM) solution including its Software as a Service infrastructure and the BPM engine (the "System") (the Professional Services and the System shall be referred to herein together as the "Services"). The focus of the Services to be provided, among other things, will be to:

- license access to and use of the System
- configure, construct and deploy to deliver the Tools and Functionality set forth in Exhibit 1 to this Attachment A;
- train State staff in the configuration and use of the System;
- provide System updates and technical support to the State;
- manage the System in the Contractor's hosting environment;
- provide State technical staff with management and monitoring access to the System in the Contractor's hosting environment;

The State consents to the Contractor's subcontract with Carlson Management Consulting (CMC) to provide the following Professional Services: project management, administrator and end-user training, System

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configuration, data modeling, data metrics, data integration, and System documentation necessary for a successful implementation of the System (the “Professional Services”).

3. PERIOD OF PERFORMANCE

The period of installation and implementation and training shall not exceed five (5) months from the date of this Contract unless otherwise mutually agreed. The contract term remaining after the implementation of the system is for software subscription.

4. CONTRACTOR PROJECT MANAGEMENT AND SUPPORT

4.1. CONTRACTOR’S PROJECT MANAGER

Contractor’s project manager (PM) shall be responsible for keeping the Project on budget, in scope and on schedule. Tasks associated with this include documenting requirements, developing and updating project plans, scheduling meetings, developing and publishing status reports, addressing Project issues, risks, and change orders, and preparing presentations for the State (as requested). The Contractor PM shall be responsible to the State’s Project Manager (PM).

Contractor’s PM shall be responsible for the successful delivery of all Contractor tasks and subtasks defined in the Plan of Operations (as defined herein). Progress will be monitored and plans adjusted, as necessary and in agreement with the State’s PM.

4.2 PROJECT MANAGEMENT METHODOLOGIES AND DELIVERABLES

The Contractor PM will follow project management processes and methodologies that are consistent with the Project Management Institute’s (PMI) Project Management Body of Knowledge (PMBOK) Guide (4th Edition) and the Vermont Department of Information and Innovation’s Enterprise Project Management Office (EPMO). Unless otherwise approved by the EPMO, the Contractor PM will use the tools and templates provided by the EPMO.

The Contractor PM shall be responsible for meeting the minimum Project Management Deliverables (documentation and activities) as defined by the EPMO.

4.2.1. Project Management Deliverable Documentation:

- a) Project Charter: a comprehensive document that outlines project scope, deliverables, timeline, milestones, roles and responsibilities, risks, assumptions and overall project approach. The Project Charter requires approval by the State Project Manager, key Stakeholders and Sponsor.
- b) Microsoft Project Plan (“Plan of Operations”): an ongoing tool to be updated at least weekly, for anticipating and tracking changes to all Project tasks, deliverables and milestones.
- c) Communications Plan: describes the types, modes, frequency and recipients for Project communications.
- d) Change Management Plan: describes the process for managing changes to scope that will impact Project cost or schedule.
- e) Change Management Log: tracks the specific change requests approved and their impact to the Project scope, budget and schedule.

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- f) Risk Log: tracks the Project risks (current and past) and their specific risk management strategies.
- g) Budget Log: outlines original contract costs by deliverable with billed and paid-to-date information by deliverable and in total.
- h) Weekly Project Status Reports: provides a weekly update on the Project health, accomplishments, upcoming tasks, risks and significant issues.
- i) Monthly Executive Status Reports: a high level summary from the Weekly Status Reports.
- j) Meeting Agendas: all scheduled meetings will have an agenda to be provided to the meeting participants in advance of the meeting.
- k) Meeting Minutes: all meetings will have a written summary of the topics discussed, the action items, and decisions made.
- l) Issues/Actions Log: issues and any action items (not already being tracked in the Plan of Operations) will be tracked in this Log, which will also serve as a historical record of their resolutions.
- m) Decision Log: a log will be used to keep a historical record of Project decisions.
- n) Detailed Requirements: a finalized list of the Project requirements to be approved by the State PM, key Stakeholders and Sponsor.
- o) Design/Development Plan: the specific plan for the design and development of what will be implemented for the State. This plan requires State PM approval.
- p) Test Plan and Test Cases: The testing approach and specific test cases of what will be tested. Test cases will tie back to the Project requirements to ensure each one has been met. The plan and test cases require State PM approval.
- q) Training Plan: describes the approach, methods, topics, goals, timing and participants for training and will be approved by the State PM.
- r) Implementation Plan: a comprehensive plan that describes the implementation tasks, schedule of events, communications, and post-implementation success verification tasks. This Plan requires State PM approval.

4.2.2 Project Management Deliverable Activities:

The Contractor PM shall:

- a) Obtain written sign-off on the completion of the Project Management Deliverables Documentation (as specified in 4.2.1) and from the State PM at the completion of each project phase;
- b) Maintain all project related documentation on the State's SharePoint site (or other EPMO approved documentation storage and collaboration tool);
- c) Schedule, plan and facilitate (in collaboration with the State PM) the following:
 - A Project Kick-off meeting where the Contractor PM will walk through the Project Charter, the project management processes, overall approach and a high level Plan of Operations;
 - Weekly Project Team Meetings;
 - Monthly Sponsor Meetings;
 - Requirements gathering session(s);
 - Issue resolution meetings as needed; and
 - Other meetings as needed.
- d) If requested, assist the State's PM in creating and presenting materials for periodic project related presentations to the Sponsor and key Stakeholders;

4.3 KEY PROJECT STAFF

The Contract shall provide a Project Manager (Contractor PM), Ethan Carlson, who will be responsible for managing the Project to keep it on budget, in scope, and on schedule. The Contractor PM shall work cooperatively with the State PM.

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The Contractor shall also provide a technical lead, and senior implementation consultant for this Project.

4.4 BASELINE PROJECT PLAN

The Contractor has compiled a baseline project plan ("Plan of Operations") using the best available knowledge at the time of Contract signing as follows:

Number	Step	Hours	Comments		
Initiation Phase					
1	General Project Management	60	Create and maintain project management deliverables throughout the Project.	03/01/2013	6/25/2013
Discovery Phase					
2	Kick-Off Meetings and Design Documents	80	Two to three days of onsite requirements gathering meetings coupled with a two half day of Administrator training. We will then deliver the system design document and final Project plan.	3/11/2013	4/10/2013
Design/Build Phase					
3	System Build and Configuration	280		4/10/2013	4/30/2013
Deploy Phase					
4.1	Training	25	Creation of an end user guide, as well as leading 2 training classes of 1-1.5 hours in duration.	4/24/2013	5/20/2013
4.2	Testing	50	Performance of testing of the fully developed model performed collaboratively by Carlson and Company staff. The State has final responsibility for system testing and validation	5/1/2013	5/15/2013
4.3	Post "Go-Live" Inquiries and Troubleshooting	25	Responding to model functionality inquiries, as well as assisting Company in troubleshooting any issues not uncovered during testing or prior to "go-live".	5/20/2013	6/25/2013
Total Estimated Effort		520			

4.5 PROJECT IMPLEMENTATION

4.6.1. System Licensing and Scope of Professional Services

This section describes the System Licensing and the Professional Services deliverables and key assumptions.

The Contractor shall, at a minimum, provide access to the System with the tools and functionality requirements of the State set forth in Exhibit 1 to this Attachment A and further detailed in a system design document to be agreed by the parties that will be signed off using the Acceptance Criteria in section 13 of this document.

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4.6.2. Location of Professional Services.

Unless otherwise agreed or already provided for within the Project Deliverables, Professional Services will be performed remotely in the offices of the Contractor and the State. Contractor agrees that at any point in time, all copies of State data (production, backup, and otherwise) are maintained in data centers that are located in the continental United States. Any location other than the continental United States must be approved by the State in writing.

4.6.3. System License, Professional Services Overview and Work Product.

(1) State System Licensing ("System License")

- (1.1) This System License governs access and use of the System provided by the Contractor through its website ("Site") where such terms are not provided for elsewhere within this Contract.
- (1.2) Term. This System License will be in effect for the time period set forth in Attachment B and subsequent amendments to this Contract (the "Subscription Term") and may be renewed for additional subscription terms with the mutual consent of the parties and the payment of the applicable renewal fees for the next term prior to the end of the then-current term.
- (1.3) Subject to the State's compliance with the terms and conditions of this Contract, the Contractor hereby grants the State a non-exclusive, nontransferable, revocable, limited license during the Subscription Term to use the System for the State's internal business purposes. The System to be provided by the Contractor shall include the configuration in Attachment B which is further described as:
 1. Production instance of the System: An integrated performance planning, budgeting, forecasting, and reporting solution for the State.
 2. Administrator, Standard, and Analysis seats to allow for role-appropriate access to the System.
 3. Discovery Module: A business intelligence product for the purposes of providing organizational dashboard, visualization functionality and business intelligence interface for the System.
 4. Sandbox: A test environment identical to the final production environment set up for five users. The sandbox allows users to test modifications of data and reports which does not impact the existing production environment. The sandbox should allow users to add external data which interacts with the data existing in the tool.
- (1.4) Restrictions. State agrees not to: (i) use the System except as expressly authorized in this contract; (ii) use any device, software, or routine that (a) interferes with any application, function, or use of the System, or (b) is intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or communication; (iii) resell, sublicense, time-share, or otherwise share the Services with any third party; (iv) frame or mirror the System; (v) decompile, disassemble or reverse-engineer the underlying software that is part of the System or otherwise attempt to derive its source code; (vi) use the System either directly or indirectly to support any activity that is illegal; (vii) access the System for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes; or (viii) authorize any third parties to do any of the above.

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- (1.5) **Ownership.** Contractor will exclusively own all rights, title and interest in and to any software programs or tools, utilities, technology, processes, inventions, devices, methodologies, specifications, documentation, techniques and materials of any kind used or developed by Contractor or its personnel in connection with providing the System or Professional Services (collectively "*Contractor Materials*"), including all worldwide patent rights (including patent applications and disclosures), copyright rights, moral rights, trade secret rights, know-how and any other intellectual property rights therein. State will have no rights in the Contractor Materials except as expressly agreed to in writing by the parties. Nothing in the Agreement or the Scope of Work will be deemed to restrict or limit Contractor's right to perform similar services for any other party or to assign any employees or subcontractors to perform similar services for any other party. Contractor and/or its licensors own all worldwide right, title and interest in and to the Services, including all worldwide intellectual property rights therein. The State may not delete or in any manner alter the copyright, trademark, and other proprietary rights notices appearing in or on the Services as provided.
- (1.6) **Limitation of Liability.** WITH REGARD TO THE SYSTEM LICENSE ONLY, IN NO EVENT SHALL THE STATE'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU FOR THE CURRENT SUBSCRIPTION TERM AND IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, OR FOR ANY INFORMATION OBTAINED FROM OR THROUGH THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT (OR SUCH PARTY'S LICENSORS) HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The foregoing limitations will not apply to breach of Section 1.4 above.

(2) Scope of Professional Services**Phase 1: Project Discovery Phase**

Project Discovery includes validating the Project scope, deliverables, Plan of Operations, resources, schedule, and project management structure. During this phase of the Project, the Contractor team will work with the State's Project Manager to develop a Project Charter, refine the project Timeline, review State data and other materials, develop and specify the data model and reports. The Contractor shall work with the State to obtain the State's approval and sign-off.

Deliverables/Outputs:

Contractor shall transform the requirements into complete and detailed specifications to guide the development work. The documentation produced in this phase will detail how the System will meet the defined functional, non-functional, physical, interface, and data requirements of State. These activities shall be conducted in an iterative fashion, focusing first on the general system design that emphasizes the functional features of the system, and then expanding to include the lower level business rules and technical detail.

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Contractor will implement an information system that meets the agreed upon State requirements. Contractor will install and configure Contractor's Software. Contractor shall utilize working prototypes and walkthroughs after each segment to ensure that State's System is progressing in a direction that satisfies the agreed upon requirements and expectations. This allows for early buy-in from the stakeholders, catches anomalies in the approach, and provides informal training value to the resources that will most likely be testing the System in following phases.

Phase 2: Design/Development

Contractor shall lead the collecting, documenting and verifying of requirements. State is responsible for validating the requirements. Analysis will be conducted in such a manner to include State users and administrators of the current process, key stakeholders, and subject matter experts.

Deliverables / Outputs:

Creation of Basic Structure
Creation of Model Assumptions and Drivers
Create Detailed Model Elements for Expenses
Create Detailed Model Elements fo Revenue
Consolidation Modeling
Financial Statements
Custom Financial Statement Formats, Key Metrics, Basic Reporting
Documentation of the System Implementation

Phase 3: Deployment, Training and Close-Out. In this Phase, the system is fully tested by the State's team against the requirements identified in this Contract and detailed during the design stages.

Acceptance testing is designed to provide assurance that all system and performance issues have been identified and resolved during previous test stages, and that the implementation meets documented specifications. Contractor will to guide the users through the creation and successful performance of acceptance testing. Error reporting issue tracking and management shall be provided via Sharepoint. Upon successful completion of the acceptance testing, training is conducted for the user groups.

Phase 4 shall only begin after the System has been tested and accepted by the State and signed off by the State Project Manager.

Implementation and testing will take place at workstations or conference rooms at the State offices.

Phase 4: Warranty Period and Transition to Maintenance and Support

The warranty period will begin the day the complete System is accepted, live and deployed on the production server. The System warranty will cover application bug fixes (on the deployed code) to support production related issues.

Contractor hereby agrees that all code customizations necessary for the Software to satisfy the functional and non-functional requirements of the State will be supported in new releases, minor and major patches.

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5. ACCESS TO SYSTEM

Contractor shall grant State access to the System and web-based portal with the tools and functionality set forth herein. Contractor further agrees that, other than Contractor licensing as agreed in this Contract, there are no additional hardware or software licensing requirements except as required to by State to access the System.

6. CONTRACTOR HOSTING ENVIRONMENT

Contractor's hosting environment (Production Instances) shall be located at Savvis. Both Contractor and Savvis are is SSAE-16 certified. The Contractor shall give the State not less than thirty (30) days advance written notice of any change on where the State's System is being hosted. The State may terminate this Contract if it determines, in its sole discretion that such change is not in the best interest of the State.

Any third party hosting environment on which the State's System is hosted shall meet the requirements of this Contract. The State shall have no direct contractual relationship with the hosting provider, nor any obligation to manage the Contractor's relationship with a hosting provider.

7. INTELLECTUAL PROPERTY/WORK PRODUCT OWNERSHIP

The State shall retain all right, title and interest in and to all data from health care entities and to all Information that is created under this Contract as a result of the provision of Services and Professional Services, including, but not limited to, all data that is generated under this Contract and used by Contractor to deliver the Professional Services under this Contract.

All Work Product shall belong exclusively to the State, with the State having the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name and/or for its own benefit, all patents and copyrights, and all applications and registrations, renewals and continuations thereof and/or any and all other appropriate protection. To the extent exclusive title and/or complete and exclusive ownership rights in and to any Work Product may not originally vest in the State by operation of laws or otherwise as contemplated hereunder, Contractor shall immediately upon request, unconditionally and irrevocably assign, transfer and convey to the State all right, title and interest therein. Without any additional cost to the State, Contractor shall promptly give the State all reasonable assistance and execute all documents State may reasonably request to assist and enable the State to perfect, preserve, enforce, register and record its rights in and to all Work Product; provided, however, the State shall reimburse Contractor for reasonable out-of-pocket expenses incurred at the specific request of the State in connection therewith.

"Work Product" means any tangible work product, creation, material, item or deliverable, documentation, information and/or other items created by Contractor, either solely or jointly with others, and which are developed, conceived of, prepared, procured, generated or produced by Contractor. Work Product includes all unique configurations of the System made for the State and all data provided by State as part of any Professional Services engagement or entered or imported into, or calculated by the System and all unique documentation created for the State to support its use of the System, whether or not protectable under Title 17 of the U.S. Code and whether or not patentable or otherwise protectable under Title 35 of the U.S. Code, that are developed, conceived of, prepared, arise, procured, generated or produced in connection with this Contract, whether as individual items or a combination of components and whether or not the Professional Services or the intended Work Product itself are or is completed or the same are or is reduced to practice during the Term. References to Professional Services in this Contract shall be deemed to include all Work Product unless

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specifically stated to the contrary or the context clearly requires otherwise. For the avoidance of doubt, Work Product shall not be deemed to include Contractor Intellectual Property or conflict with Contractor's right to Ownership provided for herein, provided the State shall be granted a license to any such Contractor Intellectual Property that is incorporated into Work Product.

Contractor acknowledges and agrees that all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Agreement shall be the property of State. All content and all property, data and information furnished by or on behalf of the State or any related agency, commission or board thereof, to Contractor to facilitate Contractor's performance under the Agreement shall be and remain the sole property of the State and that Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Information for its own purposes. In no event shall the Contractor claim any security interest in the State Information.

8. CONFIDENTIALITY

A. State Information.

Contractor agrees to keep confidential all information received and collected by Contractor in connection with this Contract, including, but not limited to hospital budget data, expenditure analysis data, and supporting meta-data such as reporting organizations, code sets, data validation rules, and calculations documentation. ("State Data") unless otherwise instructed by the State. The Contractor agrees not to publish, reproduce, or otherwise divulge any such State Data in whole or in part, in any manner or form or authorize or permit others to do so. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to those employees on his/her staff who must have the information on a "need to know" basis. Contractor shall only access State Data as required to perform the Services. Contractor may disclose State Data if required: (a) to comply with the law, regulatory requirements, or legal or regulatory process; (b) to enforce this Agreement; or (c) to respond to claims that the State is using the Services to perform or support activities that violate the law or the rights of third parties. The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

B. Contractor Information.

The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 VSA § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three business days of the State's receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act or in response to a binding order from a court or governmental body or agency

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compelling its production. Contractor shall indemnify the State for any costs or expenses incurred by the State, including attorneys' fees awarded in accordance with 1 V.S.A. § 320, or otherwise incurred by the State, in connection with any action brought by Contractor or a third party in connection with Contractor's attempts to prevent public disclosure of Contractor's information.

9. SYSTEM BACK-UPS.

Contractor shall conduct incremental on-line back-ups, daily, and weekly full back-ups. All weekly backups shall be stored in a secure off-site facility. Contractor shall maintain a contemporaneous backup of all State data, database definitions and database creation scripts, that can be recovered within two (2) hours at any point in time.

10. DISASTER RECOVERY

The Contractor will adhere to its Disaster Recovery Plan which is provided in Attachment E. The Disaster Recovery Plan will be updated from time to time but will never materially decline in its provisions. The then current Disaster Recovery Plan shall be provided to the State upon written request.

11. SECURITY

The Contractor represents and warrants that it has implemented and it shall maintain during the Term of this Agreement the industry standard administrative, technical, and physical safeguards and controls designed to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of State Data. Such measures include at a minimum, as applicable: (1) access controls on information systems, including controls to authenticate and permit access to State Data only to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) measures to ensure that the State Data shall not be altered or corrupted without the prior written consent of the State; (7) measures to protect against destruction, loss or damage of State Data due to potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion.

The Contractor has provided the State with its Security Policy in Attachment E. The Security Policy shall be updated from time to time but will never materially decline its provisions. The then current Security Policy shall be provided to the State upon written request.

12. SECURITY BREACH REPORTING.

The Contractor acknowledges that in the performance of its obligations under this Agreement, it will be a "data collector" pursuant to Chapter 62 of Title 9 of the Vermont Statutes (9 V.S.A. §2430(3)). In the event of any actual or suspected security breach the Contractor either suffers or learns of that either compromises or could compromise State Data in any format or media, whether encrypted or unencrypted (including PII, PHI or ePHI) (for example, but not limited to, physical trespass on a secure facility, intrusion or hacking or other brute force attack on any State environment, loss/theft of a PC or other portable device (laptop, desktop, tablet, smartphone,

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removable data storage device), loss/theft of printed materials, failure of security policies, etc.) (collectively, a “Security Breach”), and in accordance with 9 V.S.A. §2435(b)(2), the Contractor will notify appropriate State personnel of such Security Breach in accordance with its Technical Support and Mutual Escalation Policy which is provided in Attachment E. The Technical Support and Mutual Escalation Policy shall be updated from time to time but will never materially decline its provisions. The then current Technical Support and Mutual Escalation Policy shall be provided to the State upon written request.

13. ACCEPTANCE CRITERIA AND PROCESS

The proposed criteria and procedures required to verify and confirm the completeness, accuracy and acceptability of the Services and the Professional Services and the conformance of such Services and Professional Services to the Requirements related to the Project are described below.

Project Phase	Product	Deliverable Expectation Document	Submission	Resubmission
Initiation Phase	Project Timeline and Communication Plan Administrator Training Complete	No - consensus	Third day of on-site scope meeting	1 week
Discovery Phase	Data Integration Document	Yes	April 10, 2013	1 week
Design Phase	Review Design Documents	No - Confirmation	April 30 2013	1 week
Development Phase	Report testing complete	Yes	April 30, 2013	1 week
Deploy Phase	Final Testing	Yes	June 15, 2013	1 week
	Go Live	Confirmation	June 15, 2013	1 week
	Board Presentation	No –Post Hoc Review	June 30, 2013	N / A

For each Deliverable, a template or outline will be delivered to the State Project Manager for comment. The goal of this exchange is to proactively adjust the framework, if necessary, before the Deliverable is drafted. The State Project Manager is responsible for reviewing Deliverables and responding to the Contractor as appropriate.

Each Deliverable will be assigned a due date during the development of the Plan of Operations. The Contractor will submit the Deliverable to the State Project Manager on or before the due date.

This section outlines the process that will be used to govern the review, revision and approval of Project Deliverables. Each written Deliverable will follow the review, comment, revision and final approval process outlined in this section. If the State finds material deficiencies in a Deliverable, it will communicate them in writing to the Contractor, describing in reasonable detail deficiencies that must be corrected prior to acceptance of the Deliverable. The Contractor shall correct deficiencies and resubmit the corrected Deliverable for review within the agreed upon time period for correction. Subsequent reviews will be used to validate that the previously identified deficiencies have been corrected and will not be used to raise additional deficiencies. The State will not unreasonably withhold or delay its approval of a Deliverable.

The Project will utilize the review tasks identified in the following chart:

Deliverable Review Example

Task Name	Standard Duration
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Task Name	Standard Duration
Contractor Internal Review of Deliverable including application of quality control standards	2 days
Update Deliverable	1 day
Submit Deliverable to State	0 days
State Review and Approve Deliverable	7 days
Contractor Incorporate Final Comments to Deliverable (if necessary)	2 days
State Review Incorporated Changes to Deliverable (if necessary)	3 days
Contractor make Final Updates to Deliverable (if necessary)	1 day
Submit Final Deliverable	0 days

For each Deliverable, the State Project Manager is responsible for coordinating comments and input from various State project team members and stakeholders. It will be the responsibility of the State's Project Manager or designee to provide clear guidance and direction to the team in the event of divergent feedback from various team members.

The State's Project Manager or designee will provide written feedback on all Deliverables in the form of a point sheet of issues to be addressed prior to approval; a point sheet is a list of specific and actionable comments provided by the State to Contractor with what it feels are deficiencies in the associated deliverable.

Contractor will return this point sheet when the Deliverable is re-submitted with brief remarks indicating the action taken or the disposition of each comment. The State will confine comments on second and subsequent reviews of a Deliverable to determining that the points that were raised in the prior review have been addressed. No new comments will be made on second and subsequent reviews unless a new issue occurs as a result of the changes Contractor made to the prior version of the Deliverable in the course of addressing issues that were raised by the State. Exceptions to this process will be reviewed by the State and Contractor Project Managers to evaluate impacts to Project schedule.

Deliverable Acceptance Sheet and Process Form

A Deliverables Acceptance Form, in a form agreed by the parties, must accompany all approved Deliverables. The form must include dates and signatures indicating approval by the State's Project Manager.

14. STATE ROLES AND RESPONSIBILITIES

A. State Project Management

The State project manager (State PM) is responsible for monitoring the Contractor's compliance with this Contract and the agreed-to Plan of Operation, and allocating appropriate State resources to accomplish the agreed-to objectives. The State PM will be responsible to engage the Project executive sponsors, as required, in the event of any problems or issues needing their intervention.

The State shall be responsible for milestone review and acceptance or rejection, as the case may be. Contractor shall be directly responsible to the State's Project Manager, Stacey Murdock. The State may designate a replacement Project Manager as it may determine in its discretion, and will provide notice to the Contractor as soon as practicable. Additional responsibilities of the State's Project Manager includes:

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- Identify State Project resources needed for performing work, as reasonably required;
- Coordinate activities between State Project team and Contractor Project Manager, as reasonably required;
- Identify and report any issues or problems of which the State becomes aware to the Contractor Project Manager;
- Engage State Project sponsors, project Governance Committee and others as may be required, to make policy decisions and address issues, risks, scope, resources, budget, or other problems requiring sponsor involvement; and
- Provide regular Project status reports to project sponsors and other stakeholders.

B. Project Data Requirements

The State will supply the following implementation project data requirements.

1) Current Planning Process

The State shall provide all of the files currently use for budgeting, forecasting, and reporting and any supporting documentation. If additional documentation regarding the planning process (e.g. flowcharts, guidelines, project team structure, project objectives, etc.) exist, they should be provided as part of the Project Data.

2) Organizational Hierarchy

The State shall provide:

1. A complete list of all entities for which a budget/forecast is prepared (e.g. departments, profit/cost centers, regions, business units). This listing should include State specified primary organizational hierarchy structure as used for planning purposes (e.g. show how cost centers roll up to divisions which roll up to the corporate parent).
2. Any other rollup hierarchies that may be required for reporting purposes (e.g. cost centers that rollup into divisions may also be reported under a different legal entity rollup structure).

3) Accounts

The State shall provide:

1. General Ledger chart of accounts (COA) showing all natural accounts and any required rollup accounts (e.g. Payroll & Benefits, Travel & Entertainment). Include all P&L and Balance Sheet accounts which will be used for planning and/or for holding imported actual data; this may be a subset of entire GL COA.
2. General Ledger accounts for all segments other than the natural accounts. Provide a complete listing of all account names and codes for each additional COA segment. These segments will typically describe the organizational entities requested above in the Organizational Hierarchy section.
3. Currencies (if planning in more than one currency) and list the planning currencies by entity.
4. Foreign exchange rates for each currency for planning periods (if known).

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5. Historical foreign exchange rates for months in which actual data will be imported (this exchange rate will be used by Contractor to convert historical data into a single parent company currency during consolidation).

4) Revenue

The State shall provide:

1. All spreadsheets currently used for revenue and cost of sales planning and forecasting.
2. Description of revenue recognition and invoicing methodology, including a listing of all revenue recognition and invoicing patterns (e.g. same month as booking; spread over life of contract, etc.).
3. Listing of any assumptions used and all formula logic utilized in revenue planning.
4. If applicable, details of deferred revenue to be recognized in future periods and/or revenue backlog for planning process.

5) Personnel

The State shall provide:

1. All spreadsheets currently used for planning salary and related expenses
2. A single file listing all current personnel, if employees are to be planned individually and the level of detail required for State's planning process (e.g. include last name, first name, department/planning entity, start date, annual salary or hourly rate, and any other important identifying or personnel cost information used for planning purposes (taxes, benefit types, bonus, commission, raise assumptions, overtime, etc.)).
3. Files showing how all personnel-related expenses are to be calculated (e.g. taxes, benefits, bonuses, commissions, raises, overtime, etc.).

6) Expenses

The State shall provide:

1. All spreadsheets currently distributed to budget managers for expense planning.
2. Description of any assumptions used and all formula logic utilized in expense planning

7) Prepaid Expenses

The State shall provide:

1. List of departments/planning entities which plan prepaid expenses and/or receive the amortization of prepaid expenses
2. Prepaid accounts/class (e.g. prepaid insurance and/or "by insurance contract").
3. Amortization lives and patterns for each prepaid account/class (e.g. evenly over 12 months)
4. Prepaid expense forecast for existing prepaids by department, account, and month.

8) Capital

The State shall provide:

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1. List of departments/planning entities which participate in capital planning and/or are charged depreciation expense.
2. Listing of all Asset classes (e.g. hardware, software, office equipment, leasehold improvements).
3. Listing of all depreciation methods and patterns for each asset class (e.g. straight-line 5 years).
4. Depreciation expense forecast for existing assets by department and month.

9) Allocations

The State shall provide:

1. Written description of overhead, personnel, or other allocations; include department/account of allocation source(s) and recipient(s)
2. Spreadsheets that illustrates all allocations, and a description of the methodology used for each (e.g. rent allocated on square footage)

10) Reporting

The State shall provide:

1. A listing of all reports and dashboards required from Contractor
2. A sample of each report to be created by Contractor

11) Actual Data (can be delivered after Project Kickoff)

The State shall provide:

1. Actual data from General Ledger for as many months as desired
2. For Balance Sheet accounts, monthly *ending balance* by department and account
3. For P&L accounts, monthly *activity* by department and account
4. Copy of current trial balance and financial statements for all periods for which data was provided (for reconciling the imported actual data)

12) Prior Plan Data (optional, can be delivered after Project Kickoff)

The State shall provide:

1. Prior plan data in the same format required for actual data (e.g. FY2011 budget data)

C. System Acceptance and Testing

The State will be responsible for final testing of system once build is complete and for validation (using testing scripts provided by contractor) to validate, confirm and accept that the system is working as designed and calculating correctly. Contractor will provide the testing plan, however, final responsibility for validation of data integrity and system calculations will be The State's responsibility.

D. Facilities, Equipment And State Resources

The State will supply computers, internet access, telephone lines, conference rooms, conference calls, and online meetings as reasonably required to complete the Project.

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E. State User Accounts

The State shall be responsible for all activity occurring under State user accounts and will: (i) maintain the accuracy, completeness, and timeliness (within 30 days of any change) of the information the State provides in accordance with this Contract; and (ii) notify the Contractor immediately of any unauthorized use of any password or account or any other known or breach of security. The State shall obtain, maintain, and support all internet access, computer hardware, and other equipment and services needed for its access to the Services. All State Data, as defined below, will be stored on Contractor's servers. The State shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with State use of the Services, including those related to export regulations, data privacy, international communications and the transmission of technical or personal data. The Services shall not be exported or re-exported directly or indirectly in violation of any applicable export laws or used for any purposes prohibited by such export laws.

SECTION 15. CHANGE REQUESTS

Any change to this Contract that alters one or more aspects of the Project scope, schedule, deliverables, or cost, may require a formal Change Request. While such changes may typically incur additional costs and possible delays relative to the Project schedule, some changes may result in less cost to the State (i.e.; the State decides we no longer need a deliverable in whole or part) or less effort on the part of the Contractor. The change order must define the effort involved in implementing the change, the total cost or associated savings to the State, of implementing the change, and the effect, if any, of implementing the change on the Project schedule.

Change Orders will be developed jointly and every effort will be made to adhere to the Plan of Operations. The State Project Manager and the Contractor Project Manager will decide whether a formal Change Request is necessary. If a formal Change Request is necessary, the Project Manager for requesting party will prepare a Change Request in a form acceptable to the State detailing the impacts on scope, schedule, deliverables, resources, and cost. Once completed, the Change Request will be submitted to the non-requesting party for review. The non-requesting party will make its best efforts to either approve or deny the Change Request in writing within ten (10) business days. In no event shall any delay in the approval or denial of a Change Request constitute a deemed approval by the State. The State, in its discretion, may determine whether a Change order will also require an amendment to this Contract.

SECTION 16. NOTICE.

All notices given hereunder shall be in writing. Such notices shall be given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, or (iv) by email to the address of the party specified below or such other address as either party may specify in writing:

IF TO CONTRACTOR:

David Pefley, CFO, Adaptive Planning, Inc.
2041 Landings Drive
Mountain View, CA 94043
(650) 528-7500

IF TO STATE :

Georgia Maheras, Green Mountain Care Board

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89 Main Street
Montpelier, VT 05641

17. CONTRACTOR AUDIT RESPONSIBILITIES

Contractor shall conduct an SSAE 16 Type II audit certification (or the then equivalent) on an annual basis. The Contractor shall deliver the audit results and Contractor's plan for addressing or resolution of the audit results to the State upon written request. In addition to the audit requirements of Attachment C, Contractor shall maintain a complete audit trail of all transactions and activities, financial and non-financial, in connection with this Contract. Contractor will make available to the State, its internal or external auditors and other designated representatives, at reasonable times, access to Contractor personnel and to any and all Contractor facilities or where the required information, data and records are maintained, for the purpose of performing audits and inspections (including unannounced and random audits) of the Contractor and/or Contractor personnel and/or any or all of the records, data and information applicable to this Contract.

At a minimum, such inspections shall be conducted to the extent permitted or required by applicable laws to (i) verify the integrity of State Data and examine the systems that process, store, maintain, support and transmit that data; (ii) examine and verify Contractor's operations and security procedures and controls; (iii) examine and verify Contractor's disaster recovery planning and testing, business resumption and continuity planning and testing, contingency arrangements and insurance coverage; and (iv) examine and verify Contractor's performance under this Contract including audits of: (1) practices and procedures; (2) systems, communications and information technology; (3) general controls and physical and data/information security practices and procedures; (4) quality initiatives and quality assurance; (5) contingency and continuity planning, disaster recovery and back-up procedures for processes, resources and data; (6) compliance with the terms of this Contract; and (7) any other matters reasonably requested by the State. Contractor shall provide and cause its permitted contractors, where appropriate, to provide full cooperation to such auditors, inspectors and representatives in connection with audit functions.

18. SUPPORT AND SERVICE LEVELS.**A. Upgrades and Corrections:**

- During the contract term, the Contractor will provide, test and install bug fixes, error corrections, updates and upgrades (additional features, functionality and/or improvements) to the then-current System at no additional cost to the State.
- Upgrades and corrections will support any customization provided to the State as part of the initial System configuration and implementation.
- The Contractor shall notify the State as soon as possible of any known System bugs, errors or problems that they can reasonably assume may impact the State.

B. System Availability: The Software and Services provided hereunder will be operational and available to the State at least 99.5% of the time in any calendar month.

C. Technical Support Hours: The Contractor provides technical support phone and email services Monday through Friday, 9 AM to 9 PM EST with the exception of recognized US holidays.

D. System and Hosted Service Monitoring, Escalation, Problem Reporting and Response Time: The Contractor shall provide 24/7 support and monitoring of the Hosted Service infrastructure that delivers the software to the State. This monitoring includes ensuring availability in accordance with the Service Level Agreement and appropriate monitoring of user activity, usage and other interactions with the System. At all times Contractor will operate in accordance with its Technical Support and Mutual Escalation Policy which is provided in Attachment E. The Technical Support and Mutual Escalation Policy shall be updated from time to time but will

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never materially decline its provisions. The then current Technical Support and Mutual Escalation Policy shall be provided to the State upon written request.

E. Technical Support Contact Information: support@adaptiveplanning.com

F. Scheduled Maintenance and Upgrades: The Contractor shall notify the State of periods of scheduled maintenance at least three days prior to the commencement of any downtime period (defined as a period of 10 consecutive minutes of system unavailability). Notification of scheduled maintenance and downtime associated with the implementation of upgrades will be pre-announced via email communication to the State's designated contact. Scheduled Downtime will occur outside of the State's normal working hours or 7:45 am EST to 4:30 pm EST, Monday through Friday. Scheduled Downtime is not considered Downtime for purposes of this Contractor SLA, and will not be counted towards any Downtime Periods

G. Escalation: The Contractor will provide the State with management contract information for escalation in the event that a reported problem is not resolved to the State's satisfaction.

H. Service Level Reporting: The Contractor will publish the actual uptime on a monthly basis at: <http://www.adaptiveplanning.com/technology/saas-infrastructure/saas-performance/> or the then public equivalent. A hard copy shall be made available upon request.

J. Service Level Performance Credits: If in a calendar month the 99.5% uptime commitment is not met, Contractor will credit State with one month of Subscription Fees. Except as stated below, this credit is the State's sole and exclusive remedy, and must be requested in writing prior to the tenth day of the month following such service level interruption. This credit will extend the current subscription term by one month. Notwithstanding the foregoing, the operation of and access to the Services may be interfered with by numerous factors outside of Contractor's control and Contractor will not be liable for any such costs, losses, expenses, damages, or liabilities arising out of or related to any delay or failure in performance under this Agreement resulting directly or indirectly from causes beyond Contractor's control.

If Contractor fails to meet uptime commitment in any two consecutive months within a six month period, State may, after receipt of written request, receive a pro-rata refund of all prepaid Subscription Fees from the date of receipt of such notification.

19. TERMINATION.

Without limiting any other remedies available to it, Contractor may immediately suspend access to the Services and/or terminate this Agreement if: (a) State breaches any material provision of this Agreement that, (if it is capable of being cured) is not cured within thirty (30) days from written notice to State (and ten (10) days in the case of non-payment); or (b) Contractor determines that State's actions are likely to cause legal liability for Contractor or its suppliers and other States.

Effects of Termination. Upon any expiration or termination of this Contract, the rights and licenses granted hereunder will automatically terminate, and the State may not continue to use the Service. Furthermore, Contractor shall, at State's request, delete State Data from the Production Hosted Service and certify to State that it has done so. The provisions on Restrictions, Ownership, Fees and Billing, State's Responsibilities, Contractor's Responsibilities, Data Storage, Support and Service Levels, Indemnification and Termination will survive termination of this Agreement.

20. SERVICES AND WARRANTY DISCLAIMER.

Contractor does not offer financial or accounting advice. Contractor may provide general information about standard accounting principles, but such general information is intended for informational purposes only, and is not intended to be relied upon as professional accounting advice. Contractor does not warrant that the operation of the Services will be error free or uninterrupted. EXCEPT FOR THOSE EXPRESS WARRANTIES SET

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FORTH IN THIS CONTRACT, CONTRACTOR HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE.

21. USAGE DATA

In addition to certain information about users, including user account information, authorized user information, and services and support information, that is needed to provide users with the Services, Contractor may maintain other information about users, including the duration and frequency of user use of the Services, the pages viewed and searches performed, and other such anonymous usage data (collectively "Usage Data"). Contractor uses the Usage Data for internal business purposes only, including improving, testing and providing the Services and additional services. Contractor may disclose Usage Data in aggregate form (e.g., data aggregated from user and other States' use of the Services, but does not identify user or State) for promotion, statistical analysis, market analysis, financial analysis, and other such purposes.

22. MISCELLANEOUS.

This Contract is intended for the sole and exclusive benefit of the parties and is not intended to benefit any third party. Only the parties to this Contract may enforce it. If any portion hereof is found to be void or unenforceable, the remaining provisions of this Contract shall remain in full force and effect.

23. CONTRACTOR WARRANTIES.

The Contractor represents, warrants and covenants that:

- (i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Agreement and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.
- (ii) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Contract.
- (iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.
- (iv) All deliverables will be free from material errors and shall perform in accordance with the specifications therefor.
- (v) The Contractor owns or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the deliverables as set forth in this Contract and none of the deliverables or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party.
- (vi) Each and all of the Services shall be performed in a timely, diligent, professional and workpersonlike manner, in accordance with the highest professional or technical standards applicable to such Services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment. At its own expense and without limiting any other rights or remedies of the State hereunder, the Contractor shall re-perform any Professional Services that the State has determined to be unsatisfactory in its reasonable discretion.
- (vii) The Contractor has adequate resources to fulfill its obligations under this Contract.

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24. VIRUS PROTECTION.

Contractor warrants and represents that any time software is delivered to the State, whether delivered via electronic media or the internet, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.

25. CONTINUITY OF PERFORMANCE.

In the event of a dispute between the Contractor and the State, each party will continue to perform its obligations under this Contract during the resolution of such dispute unless and until this Contract is terminated in accordance with its terms.

26. CONTRACTOR BANKRUPTCY.

Contractor acknowledges that if it, as a debtor in possession, or a trustee in bankruptcy in a case under Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"), rejects this Agreement, State may elect to retain its rights under this Contract as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the State to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the State as provided in this Contract, including the right to obtain State Data.

27. ACCESS TO STATE DATA.

Within thirty (30) days after the effective date of termination of this Contract and upon written request by State, Contractor will make available to State in a then currently supported format a complete and secure download file of State Data. In the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the Contractor shall immediately return all State Data to State control; including, but not limited to, making all necessary access to applicable remote systems available to the State for purposes of downloading all State Data.

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EXHIBIT 1

State Technical and Functional Requirements

1. High Level Requirements by Data Type

A. Hospital Budget Data

- i. Establish a data base to maintain historical data for the hospital budgets.
- ii. Build standard input maps and documents from EXCEL to database for initial data load of historical data. Data will be entered directly into Adaptive Planning going forward for future budget input or into spreadsheet templates that are uploaded into the system.
- iii. Prepare standard outputs for selected audiences that will be easily accessed, consistent, and do not require intimate knowledge of data nuances and definitions.
- iv. Provide a budget system that provides the level of detail and sophistication as agreed to in the system design document delivered as part of the project.

B. Expenditure Analysis Provider and Payer Data

- i. Establish a database to maintain historical data for the Expenditure Analysis in line with current level of sophistication of data analysis.
- ii. Prepare standard outputs for selected audiences that will be easily accessed, consistent, and do not require intimate knowledge of data nuances and definitions.
- iii. Expand and/or enhance capability of system to house data from multiple sources to provide more detailed information for the providers and payers. Subsets or different cuts of spending might include demographics, geography, specialized provider types, etc.
- iv. Future phase – Build direct linkages to VCHURES (Vermont Healthcare Claims Uniform Reporting and Evaluation System), UHDDS, and other data sets to provide more current updates and other unique reporting needs. This linkage is not included in this contract and would be work performed under a subsequent phase and contract.

C. Build an Expenditure Analysis data base within a web structure that will:

- i. Provide data integrity – spending by year by payer source by provider/service type
- ii. Allow updates; i.e., need for version control
- iii. Allow access in a web environment for policy makers and the public provided licenses are purchased and users are assigned in the system.
- iv. Provide a series of standard reports that are easily accessed on the web
- v. This initial phase of the project will provide for an expenditure analysis database that matches the level of complexity currently in use in Excel. The project will provide for some planning and ground work for future functionality as highlighted in bullet point vi but since GMCB does not have this level of detail and clarity of claims data, delivery of this functionality will be part of a subsequent phase and statement of work.
- vi. The administrative data (Expenditure Analysis) needs to eventually be supported by much of the claims data (but not all). So we need to provide for an expansion of the data base that will provide more granular data for the expenditures. For the avoidance of doubt this requirement is not part of this contract and would be covered in a subsequent contract. Preparation and design considerations will prepare for future options, however, this will not be deployed. This may include:
 - a. People served
 - b. Provider type of service
 - c. Types of utilization
 - d. Geographic areas
 - e. Other (to be determined)

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- vii. Develop specialized analyses:
 - a. Forecasting by provider
 - b. Develop unique indicators for each service to be forecast
 - c. Develop proper sequencing of various indicators
 - d. Consider alternative approach using profit and loss statement
 - e. Forecasting by Payer
 - f. Provide for direct inputs by payers, providers
 - g. Ability to connect to other data sets in the future

2. Detailed System Requirements

A. Planning/Budgeting/Forecasting

1. Top-down / Bottom-up budgeting with target exception reporting and reconciliations
2. Driver-based modeling
3. Revenue planning
4. Individualized data entry templates at multiple levels
5. Multi-dimensional planning
6. Multiple budget and forecast data entry options
7. Financial and operational metrics and data
8. Multiple budget line item detail with annotation capabilities
9. Reporting on Multiple time periods
10. Capital expenditure planning
11. Rolling forecasts
12. Multiple "What-if" scenario modeling and contingency planning using versions in Adaptive Planning
13. Version control:
14. Collaborative planning
15. Complex calculations and rules
16. Top level management adjustment to profit and loss statement line items
- 17.

B. Reporting and Analysis

1. Standardized financial and operating statement reporting
2. Integrated financial statements
3. Standard report generation and centralized report repository
4. Variance reporting with e-mail and graphical exception reporting
5. Performance variance analysis capabilities
6. Criteria based performance exception reports
7. Ad-hoc reporting and query capabilities
8. Historical trend reporting and analysis including rolling trends
9. Cell level annotation
10. Unstructured data
11. Built-in graphing capabilities
12. Microsoft Office suite integration through template reports and import templates.
13. Multiple reporting output formats (HTML, Excel and PDF)

C. User Interface

1. User-friendly, intuitive, and easy to learn interface
2. Performance management dashboards with standardized layouts
3. Excel integration through import templates
4. Data Entry
5. On-line documentation and instructions

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D. System Administration

1. Multiple site application administration
2. Performance optimization requirements through a convenient, easy-to-use, application system administration interface
3. Centralized data repositories
4. Chart of accounts maintenance
5. Electronic external data integration (Not provided in this phase but possible in future phase)
6. Data access security
7. Ease of formula building
8. Multiple organizational structures
9. Workflow process modeling and real time status visibility and management
10. Impacted application aggregation
11. Establishment of valid ranges to be monitored through exception reporting
12. Usage Monitoring
13. Audit trails

E. Technical Requirements

1. Cloud-based solution
2. Network access support
3. Multiple source data integration capabilities:
4. Ability to roll up data input from disparate sources
5. User Security
6. Automated data refreshes of model data.
7. Minimal IT support with no program customization required
8. Remote connectivity

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ATTACHMENT B
PAYMENT PROVISIONS

The State shall pay Contractor a sum not to exceed \$260,224.00 as follows:

1. A certificate of insurance must be submitted prior to commencement of work and release of payments (Attachment C, Section 7).
2. Invoices must be rendered on Contractor's standard billhead or official letterhead. Contractor shall submit invoicing as indicated below (#4). Invoices shall be submitted to:

Janet Richard
Green Mountain Care Board
89 Main Street
Montpelier, VT 05620

Payment terms shall be Net 30.

3. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing as required by 32 VSA §463. Invoicing must contain a detail of services including dates and hours of work performed and rates of pay. Invoicing must also contain a detail of items and cost for any allowable reimbursable expenses stated below. Contractor must provide receipts for allowable reimbursable expenses, with the exception of mileage. The State shall not be responsible for any expenses of the Contractor unless specifically stated below.
4. **SERVICES**
Contractor shall be paid for Services based on the following rates or schedule:

Item	Amount	Frequency	Total Payable	Invoice Date
License and Support Fee for Five Year Term	\$152,974	One-time	\$152,974	Contract Signing
Kick off Meeting	\$42,900	One-time	\$195,874	02/18/2013
Sign off on Design	\$21,450	One-Time	\$217,324	03/20/2013
Sign off on Development	\$21,450	One-Time	\$238,774	04/26/2013
Completion of System Testing	\$10,,725	One-Time	\$249,499	05/17/2013
Completion of Training and Deployment	\$10,725	One-Time	\$260,225	05/31/2013

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5. LICENSE AND SUPPORT.

The State shall pay a one time System License (includes Support) Fee of \$152,974 for the System configuration and access as follows:

System Product Name	Quantity
Instances:	
Production Instance	1
Sandbox Instance (5 Seats)	1
Modules:	
Discovery Module	1
Seats (Users)	
Administrator Seats	3
Standard Seats	35
Analysis Seats	<u>15</u>
Total	53

6. DATA STORAGE - State will be provided with up to 5 GB of disk space for the storage of data at no extra charge. If the State requires or uses additional storage space, the State agrees to pay an additional storage fee for excess storage of one thousand five hundred dollars (\$1,500) per year per additional 5 GB (or any fraction thereof) of storage space.
7. EXPENSES - The Fees for Professional Services shall be inclusive of expenses.
8. OTHER - In the event the State terminates this Contract for a breach by the Contractor, the Contractor shall refund the License and Support Fee pro rata based on the number of years remaining in the contract.

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ATTACHMENT C
STANDARD STATE PROVISIONS
REVISED NOVEMBER 7, 2012

ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS

1. **Entire Agreement:** This Contract, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law:** This Contract will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Contract and consistent with the form of the Contract.
4. **Appropriations:** If this Contract extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Contract, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Contract is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Contract. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Contract income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

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The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. Insurance: Before commencing work on this Contract the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Contract. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence

\$1,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Contract.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Contract. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Contract.

8. Reliance by the State on Representations: All payments by the State under this Contract will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.

9. Requirement to Have a Single Audit: In the case that this Contract is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a single audit is required for the prior fiscal year. If a single audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

A single audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a single audit is required.

10. Records Available for Audit: The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this Contract and make

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them available at reasonable times during the period of the Contract and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Contract.

11. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Contract. Party further agrees to include this provision in all subcontracts.

12. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Contract; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

13. Taxes Due to the State: a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

b. Party certifies under the pains and penalties of perjury that, as of the date the Contract is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.

c. Party understands that final payment under this Contract may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

14. Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.)

Party states that, as of the date the Contract is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

15. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of his Contract or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

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16. No Gifts or Gratuities: Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Contract.

17. Copies: All written reports prepared under this Contract will be printed using both sides of the paper.

18. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Contract is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Contract is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

19. Certification Regarding Use of State Funds: In the case that Party is an employer and this Contract is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

(End of Standard Provisions)

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ATTACHMENT D

Other Terms

1. Order of Precedence; Contractor Documentation. The parties specifically agree that any language or provisions contained in a Contractor Document is of no force and effect if such language or provisions conflict with the terms of this Contract.

For purposes of this contract, "Contractor Document" shall mean one or more document, agreement or other instrument required by the Contractor in connection with the performance of the Services set forth in Attachment A hereto regardless of format, including any "shrinkwrap," "clickwrap" or other electronic version thereof.

2. The express warranties set forth in this Contract shall be in lieu of all other warranties, express or implied.

3. Liability. Notwithstanding anything to the Contrary in Attachment C or in a Contractor Document:

(i) The Contractor shall defend the State and its officers and employees against all third party claims or suits and any damages or losses from such third party claims or suits which arise in whole or in part from any negligent act or omission or intentional misconduct of the Contractor or of any agent of the Contractor. The State shall promptly notify the Contractor in the event of receipt of notice of any such claim or suit, and the Contractor shall promptly retain counsel and, at its option, either provide a complete defense against or settle the third party claim or suit.

(ii) After a final judgment or settlement the Contractor may request recoupment of specific defense costs and may file suit in the Superior Court of the State of Vermont, Washington Civil Division requesting recoupment. The Contractor shall be entitled to recoup costs upon a showing that such costs were entirely unrelated to the defense of any claim arising from a negligent act or omission or intentional misconduct of the Contractor.

(iii) The Contractor shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any third party claims or suits for which the Contractor is obligated to defend the State and its officers and employees pursuant to subparagraph (a) above.

(iv) *IN NO EVENT SHALL THE CONTRACTOR'S AGGREGATE LIABILITY TO THE STATE EXCEED THE GREATER OF THE LIMIT OF CONTRACTOR'S PROFESSIONAL LIABILITY INSURANCE AND \$260,224.00 (REDUCED ON A PRO-RATA BASIS WITH THE ACTUAL SUBSCRIPTION TERM TO A MINMUM OF CONTRACTOR'S PROFESSIONAL LIABILITY INSURANCE AND TOTAL FEES RECEIVED BY CONTRACTOR IN LAST 12 MONTHS). THIS LIMITATION SHALL NOT APPLY TO STATE CLAIMS ARISING OUT OF (A) CONTRACTOR'S OBLIGATION TO INDEMNIFY THE STATE FOR COPYRIGHT, PATENT OR OTHER INTELLECTUAL PROPERTY INFRINGEMENT; (B) CONTRACTOR'S CONFIDENTIALITY OBLIGATIONS TO THE STATE; (C) PERSONAL*

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INJURY OR DAMAGE TO REAL OR PERSONAL PROPERTY; OR (D) CONTRACTOR'S GROSS NEGLIGENCE, FRAUD OR INTENTIONAL MISCONDUCT. IN NO EVENT SHALL CONTRACTOR'S LIABILITY BE LIMITED FOR THIRD PARTY CLAIMS AGAINST THE CONTRACTOR WHICH MAY ARISE OUT OF CONTRACTOR'S ACTS OR OMISSIONS IN THE PERFORMANCE OF THIS CONTRACT.

THE CONTRACTOR SHALL NOT BE LIABLE TO THE STATE FOR ANY INDIRECT, INCIDENTAL OR SPECIAL DAMAGES, DAMAGES WHICH ARE UNFORESEEABLE TO THE PARTIES AT THE TIME OF CONTRACTING, DAMAGES WHICH ARE NOT PROXIMATELY CAUSED BY A PARTY OR LOSS OF ANTICIPATED BUSINESS OR PROFITS IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT.

(v) The provisions of this Section shall apply notwithstanding any other provisions of this Contract or any other agreement. The provisions of this Section shall survive the expiration or termination of this Contract.

4. Copyright, Patent or Other Intellectual Property Infringement; Indemnity. Contractor will defend, indemnify and hold the State harmless from and against any loss, damage, liability or cost (including reasonable attorneys' fees) to the extent that it is based upon a third party claim that the Services, as provided by Contractor and used within the scope of this Agreement, infringes or violates any third party's U.S. copyright or trademark rights; provided that the State promptly notifies Contractor in writing of any and all such claims. In the event of any loss, damage, liability or cost for which Contractor is obligated to indemnify the State hereunder, Contractor shall have sole control of the defense and all related settlement negotiations, and the State shall reasonably cooperate with Contractor in the defense and/or settlement thereof at Contractor's expense; provided that the State may participate in such defense using its own counsel, at its own expense. If the State's use of the Services is, or in Contractor's opinion is likely to be, enjoined due to a claim specified above, Contractor may, at its sole option and expense: (a) procure for the State the right to continue using the Services under the terms of this Agreement; (b) replace or modify the Services so that they are non-infringing; or (c) if options (a) and (b) above cannot be accomplished despite Contractor's reasonable efforts, then Contractor may terminate the license rights and Contractor's obligations hereunder with respect to the Services and refund the State the unused portion of the Subscription Fees paid for the Services.

Notwithstanding anything to the contrary in this Agreement regarding intellectual property and infringement claims, the State shall not be deemed to waive any of its rights or remedies at law or in equity in the event of Contractor's trade secret, patent and/or copyright infringement.

5. Trial by Jury. The Contractor acknowledges and agrees that the State shall not agree to arbitration. Further, the State is prohibited by policy, and shall not waive any right to a trial by jury.

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6. Jurisdiction. The Contractor agrees that any action or proceeding brought by either the State or the Contractor in connection with this Contract shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Contractor irrevocably submits to the jurisdiction of such court in respect of any such action or proceeding.

7. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of his Contract or any portion thereof to any other Party without the prior written approval of the State excluding where related to the provision of the System. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

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ATTACHMENT E**TECHNICAL SUPPORT SERVICES AND MUTUAL ESCALATION PROCESS,
HOSTED OPERATIONS PRODUCTION INFORMATION SECURITY POLICY, AND
DISASTER RECOVERY PLAN****A. TECHNICAL SUPPORT SERVICES AND MUTUAL ESCALATION PROCESS**

Subject to Customer's payment to Adaptive of the Subscription Fees in accordance with the Order Form, during the Subscription Term, Adaptive will provide to Customer with bug fixes, error corrections, updates, and upgrades (additional features, functionality and/or improvements) to the then-current release of the Software that are released by Adaptive for general availability to its other commercial customers, or to its most favored customers.

Any updates and upgrades provided to Customer by Adaptive will be deemed to be Software for purposes of the Agreement and subject to all of the terms, conditions and restrictions related thereto. Adaptive shall have no obligation to maintain any versions of the Software other than the then-most current version of the Software and the immediately preceding version.

Technical Support for Customer. Adaptive provides Technical Support ("Response Line Support"), as follows and as set forth in Section 10 of your current End User Subscription Agreement.

Technical Support Hours of Operation and Contact Information.

Service	Hours of Operation (excluding major holidays)	Contact
Support Center	Monday – Friday, 6 AM – 6 PM PST	support@adaptiveplanning.com 650-810-0556

Procedure for Customer. Customer shall make all requests for Response Line Support to Adaptive's Response Line Support personnel (a "**Request**"). If the Request was made to report an Error ("**Error Report**"), then Adaptive shall provide corrective maintenance. If Adaptive becomes aware of any problem associated with the Software that Adaptive reasonably believes may impact the performance of the Software, Adaptive will use reasonable efforts to notify Customer of such problem and to correct the problem.

Escalation Process in Response to Request. Unless otherwise agreed or Adaptive Planning reduces the Response Time the Problem Reporting and Response Time process shall be agreed as per the table below. Customer will promptly notify Adaptive of any problem and severity regarding the Software. "Problem" means a failure of the Software to function properly in accordance with its Documentation and includes all concerns related to Software Performance, Response Time, Error Messages and any other reasonable concern with the operation and use of the Software.

All Requests, Error Reports and Problems will be supervised by a member of the Technical Support Team. This individual will own supporting Customer at all times and will own providing

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resolution, coordinate any escalation and will engaging appropriate Adaptive Planning resources as needed.

Escalation Table

Severity Level	Description	Response Times
Severity 1	Problem that causes a catastrophic failure of the Software or renders the Software inoperative by any Customer such that no business can be conducted using the Services.	Adaptive Planning will begin to investigate the Problem within four (4) hours of receiving an Error Report.
Severity 2	Problem that causes the performance of the Software to be substantially degraded (such as a loss of significant functionality where there is no workaround), directly affecting Customer's business, but where all or substantially all Customers can still use the Software.	Adaptive will begin to investigate the Problem within one (1) hour of receiving an Error Report
Severity 3	Problem in which certain elements of usability or certain functionality are impacted but most operations of the Software function normally.	Adaptive will begin to investigate the Problem within one (1) day of receiving an Error Report.
Severity 4	Problem that causes little or no impact on the performance of the Software, but Customer requires assistance or advice on using the Software.	Adaptive will begin to investigate the Problem within five (5) days of receiving an Error Report.

Resolution. Resolution to a Request, Error Report or Problem will include (but are not limited to):

- Directing Customer to Documentation (e.g. Manual, Guide, Video Training, etc.).
- Assisting "hands on" via telephone/webex (e.g. guiding through action required).
- If authorized in advance and in writing, by logging into Customer application to investigate and/or perform agreed action to resolve.
- Providing recommendations such as improvements, alternative techniques, leveraging Professional Services, etc. (e.g. regarding current and potential/best practice design and use of application).
- Delivering a Software enhancement either as immediate fix or as part of future release schedule.

Procedure for Adaptive Escalating to Customer. Adaptive is providing 24/7 support and monitoring of the Hosted Service infrastructure that delivers the Software to Customers. This monitoring includes ensuring availability in accordance with the Service Level Agreement and appropriate monitoring of user activity, usage and other interactions with the Software. An Event that may trigger escalation from Adaptive to a specific Customer, group of Customers or all Customers would include:

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- Identified Hosted Service issue (e.g. specific issue related to a Customer's instance, actual or expected loss of availability, etc.).
- Unusual activity (e.g. high number of failed logins, significant change to Customer's Adaptive Planning Instance(s), etc.).
- Exceptional activity (e.g. suspicion or actual successful external "attack").
- Loss of Service (e.g. event impacting Data Center that prevents availability).

Escalation to Customer will be in the form of telephone, email, notification via the Adaptive Planning website, login page, alert banner and/or Announcements page based on the Severity level and judgment of the Adaptive Planning authorized Executive.

Severity Level	Description	Response Times
Severity 1	Event that is highly suspected or confirmed as having caused in unauthorized access to Customer's data.	Immediate escalation to Customer (and suspension of Service based on judgment of Adaptive Planning authorized Executive).
Severity 2	Event that has caused loss of availability.	Immediate investigation. Reporting (one time, periodic updates, etc.) to Customer based upon anticipated downtime and impact.
Severity 3	Event that is suspected to involve attempted unauthorized access to Customer's data.	Adaptive Planning will begin to investigate the Problem within one (1) hour of receiving an Error Report and escalate to Severity 1 as appropriate. A Severity 3 Event may be escalated to Customer based on judgment of Adaptive Planning authorized Executive.

Notification. The process for notifying Customers is as follows:

- Investigation and information gathering and determine actual and potential impact to Customers.
- Issue email notification to impacted Customers describing the situation, what procedures are underway to rectify the issue and, if possible, when resolution is expected (if only "best guess").
- Follow on communications are sent as appropriate until resolution of the issue. If issue expected to continue for extended period (defined as greater than 1 hour) additional communication media may be used such as telephone, Adaptive Planning website, login page, alert banner, and/or Announcements page.
- Post resolution, a final email is sent summarizing the situation and, if appropriate, changes made to processes to prevent a recurrence of the same issue.
- Typically, all communication is funneled through Support to ensure that all issues are logged and consistent information is distributed.
- Collaborative investigation between Customer and Adaptive to confirm actual/no actual unauthorized access occurred.

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- Moving of Customer Instance to quarantined environment while investigating (availability continues) or use of alternative Hosted Service infrastructure (e.g. change Customer “home” cluster).
- Suspension of Hosted Service until resolution (e.g. code change, password resets, Customer confirms satisfied, etc.) completed.
- Additional of Software or Hosted Service infrastructure enhancements.

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B. HOSTED OPERATIONS PRODUCTION INFORMATION SECURITY POLICY**Introduction and Purpose**

The purpose of these policies are to establish standards related to the information security of the hosted environment, associated staff and technology owned and/or operated by Adaptive Planning.

Effective implementation of this policy minimizes unauthorized access to Adaptive Planning's customer data, proprietary information, and technology.

Scope

This policy applies to the hosted operations environment, related staff, and technology owned and/or operated by Adaptive Planning.

Policies**1 Personnel****1.1 Hosted Operations Staff**

All members of the Hosted Operations department having access to systems and networks that contain customer data are subject to the following criteria before access is granted:

- Vice President of Engineering and Hosted Operations approval for hire
- Credit/Criminal background check
- Confidentiality agreement signed at time of hire
- Training on corporate security policies and practices for handling of customer data

1.2 Customer Support

All members of the Customer Support department having access to "in-application" customer data are subject to the following criteria before access is granted:

- Vice President of Professional Services and Customer Support approval for hire
- Credit/Criminal background check
- Confidentiality agreement signed at time of hire
- Training on corporate security policies and practices for handling of customer data

2 Physical Security**2.1 Physical Security at Datacenter**

Adaptive Planning uses Savvis co-location facilities to host and operate the servers on which the Adaptive Planning hosted application runs. Adaptive Planning obtains the Savvis SSAE-16 report to review controls related to physical security. Adaptive Planning's Vice President of Engineering is responsible for obtaining and reviewing the SSAE-16 report from Savvis. All SSAE-16 exceptions are researched and investigated.

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2.1.1 Description of Physical Security Controls

- Access readers and cards
- Biometric scanners
- Man-traps
- Portals
- Locked cages
- 24 x 7 Security Operations personnel
- 24 x 7 Video monitoring
- Fire Monitoring and suppression

3 Network Security**3.1 Perimeter Security**

Adaptive Planning makes every effort through preventative and detective controls to prevent information leakage. Examples include: perimeter security such as firewall, intrusion detection, internal and 3rd-party vulnerability scans, and log review. This information is also described in Adaptive Planning's SSAE-16 report under sections Internet Access and Data Transmission/Network Security.

3.2 Logical Access to the Datacenter (VPN)

Access to the data center is restricted to the approved members of the Hosted Operations team. Access is via a client-to-site VPN. All Hosted Operations employees are required to log on with a unique user ID. This ensures that accountability and traceability are available at all times.

3.3 Network Vulnerability Assessments**3.3.1 3rd-Party Network Vulnerability Assessments**

A 3rd-party network perimeter security vulnerability audit is performed by an accredited security consulting organization on a semi-annual basis. A remediation plan is approved by management to address any vulnerabilities identified.

3.3.2 Adaptive Planning Vulnerability Assessments

Adaptive Planning's Hosted Operations team performs a network perimeter security vulnerability audit on a quarterly basis. A remediation plan is approved by management to address any vulnerabilities identified.

3.4 OS Security

This section describes our policies related to operating-system-level access to systems in our secure production environment.

3.4.1 Remote Access

All remote access to production systems is limited to SSH only. All other remote access mechanisms, including telnet, FTP, VNC, etc., are disabled.

See the **Network Security** section above for network-level access that is required prior to OS-level access.

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3.4.2 Unique User IDs and Password Policy

All Hosted Operations staff are required to use unique user IDs for logon access. Usernames, password policies, and logging are enforced via a local directory services server (LDAP). The password policy enforced by directory services adheres to the following criteria:

- Minimum Character length: 8
- Password expiration: 90 days
- Password complexity: No simple or dictionary

4.3 Privileged Accounts**4.3.1 Privileged Account Access**

Adaptive Planning Hosted Operations staff make use of privileged generic administrative accounts (OS-level user IDs) to perform certain administrative functions.

Adaptive Planning has instituted preventative controls to mitigate the risk for misuse of these administrative accounts: For administrative accounts all direct remote access is disabled. Staff must first login with their unique user ID, and then switch user to a generic account with administrative privileges. This keeps record of who is using administrative logins.

4.3.2 Privileged Account Password Security

All privileged generic administrative account passwords are stored on encrypted tamper-proof USB flash drives. A master drive is maintained and replicated to secondary drives in a secured manner.

4.3.3 Other Mitigating Controls

An additional important mitigating control is the limited amount of staff that has access to these accounts. Accountability and/or misuse can be more easily determined within this limited group.

5 Database Security

This section describes our policies related to the architecture of and access to the production database in our secure production environment.

5.1 Database Administrator Access

Database administrators are restricted to command-line access to the database. As described under **OS Security** above, the DBA must first access the database server using their own unique user ID and password. They then must switch to the privileged generic database administrative user ID. Only a very limited set of staff has access to these accounts.

5.2 Application / Database Architecture

The Adaptive Planning product itself has been architected in several ways to provide for the security of customer data.

5.2.1 Database Multitenant Schemas

We have architected our product to segregate each Adaptive Planning customer's data from the data of all other Adaptive Planning customers. Oracle supports the notion of "users", and in Oracle each user has their own set of tables. Each Adaptive Planning customer is a separate Oracle "user" in the Oracle database; thus, each Adaptive Planning customer has their own separate set of database tables containing only their data.

5.2.2 Application Session-Level Control

The Adaptive Planning application has been architected to ensure that a customer will only be able to access data for the single Oracle user that corresponds to their company.

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When a person accesses the Adaptive Planning application, presents their credentials (login and password), and is authenticated, the application then is able to determine the company to which that person belongs. This company information is stored in memory as part of that user's session record; because this information is not represented in, say, the URL, it cannot be altered. Our application has been designed and implemented to always look up the logged-in user's company information in the session record before accessing the database. By this approach, the session is always tied to a single company, and thus to a single Oracle user, and thus to that company's segregated data in the Oracle database.

6 Application Security and Data Integrity**6.1 SSL (Application Data Security)**

Adaptive Planning uses industry-standard firewall technology for their main perimeter network security. The only open publicly-facing port is SSL (443), allowing traffic to the Apache web server front end.

6.2 Product Access and Password Control

User access to the Adaptive Planning application is controlled: every user must present a correct user ID and password in order to gain access. These credentials are transmitted to the application through a secure (SSL) communication.

User passwords are stored in encrypted form in the application database. They are encrypted via a one-way encryption, MD5. Passwords are not stored anywhere else in the system.

Customer administrators can configure the system to apply standard preventive controls to user passwords, including password length, strength, expiration, and reuse of previous passwords.

6.3 IP Restriction (Optional)

Customer administrators may also configure the system to restrict application access to selected IP addresses.

6.4 Data Integrity / Validation

It is our policy to HTML-encode user-entered data when displayed in a browser to prevent HTML injection and cross site scripting. It is our policy to only use typesafe bound parameters to prevent SQL injection. It is our policy to ensure that user-entered data is of the correct type.

6.5 Log Aggregation

Adaptive Planning employs the use of an application log aggregation server that is a replication of the local logs contained on individual application servers.

As described under **OS Security** above, access to the log aggregation server is highly restricted to a limited set of staff within the Hosted Operations group, who must access the log aggregation server using their own unique user ID and password.

7 Application and Database Development, Maintenance, and Production Change Management**7.1 Software Development Life Cycle**

Industry -standard best practices are employed throughout our Software Development Life Cycle.

Development practices are in place to prevent HTML injection, SQL injection, and cross site scripting.

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It is our policy to HTML-encode user-entered data when displayed in a browser to prevent HTML injection and cross site scripting. It is our policy to only use typesafe bound parameters to prevent SQL injection.

It is our policy to ensure that user-entered data is of the correct type.

Our schema is designed with extensive referential integrity constraints to ensure consistency of data, and with database triggers to detect and log any changes to the data.

All messages sent to or received by our servers from outside of the production environment are encrypted using industry-standard SSL.

Rigorous QA testing procedures, including continuous automated testing, are in place to ensure software quality control. Adaptive Planning performs extensive testing to validate output. For example, prior to releasing a new version of the software, it is our policy to validate that customer data displayed in both reports and on data entry sheets, for both customer-entered values and system calculations, is unchanged in the new version.

7.2 Source Control

Adaptive Planning uses an industry-standard source code control system. All product source, including embedded 3rd-party libraries, are stored in this system. Access to the system is restricted to licensed users in the Development, QA, and Hosted Operations teams only.

7.3 Change Management

Changes to the production system are controlled through our change management process. The process includes steps for originating a change request, capturing test results, and capturing the results of implementing the change request. Each of these steps must be reviewed and approved by management. All change requests are tracked in our 3rd-party change request tracking system.

8 Customer Data Storage, Backup, Retention, Off-site Vaulting, Encryption, and Destruction

This section documents our policies around the storage, backup, retention, and destruction of Adaptive Planning application customer data.

8.1 Storage and Replication

Adaptive Planning customer data is stored on a database server in our secure production environment. Customer data is replicated to several geographically diverse mirrors as a contingency against failure of the primary production database; see **Service Continuity and Disaster Recovery** below. Data is replicated to all mirrors within 5 minutes; transaction replay on tertiary and disaster recovery systems is delayed by 4 hours.

This data replication includes *all* data modifications, including but not limited to:

- end user data entry.
- data imports via the user interface of the Adaptive Planning API.
- deletion of an entire customer instance.

8.2 Backup

8.2.1 Backup Types

Adaptive Planning takes two types of backups of production data: a **Full Backup** and an **Export Backup**.

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A **Full Backup** is a complete backup of all data in the database. It is restored as a complete unit. Associated transaction-level Archive Logs generated between Full Backups enable restoration to any point in time given a Full Backup plus the Archive Logs that were generated after that backup.

An **Export Backup** is a backup of a single customer instance's data. An individual Export Backup can be restored without affecting other instances.

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8.2.2 Backup Frequency

A Full Backup is taken once per week; the Archive Logs are generated continuously as there is user activity on the system.

An Export Backup for a given customer instance is taken once every day in which there was activity in that instance.

8.2.3 Backup Security

Other than the offsite vaulting of encrypted Full Backups on tape (see **Retention** below), no backups ever leave the secure environment.

8.3 Retention

One Full Backup plus the prior week's Archive Logs are retained both on a database server and on a backup staging server, both in the secure production environment. In addition, every week the most recent Full Backup plus the prior week's Archive Logs are encrypted and written to a tape.

Each week's encrypted tape is retrieved by Adaptive Planning staff and sent via secure courier to offsite vaulting. Tapes older than 90 days are returned to Adaptive Planning from offsite vaulting and are destroyed or reused within one week; reuse deletes all existing data on the tape. Thus, Full Backups are retained on tape for up to approximately 100 days.

Export Backups are retained for one month on a pair of mirrored servers in the secure production environment: each day, export backups older than one month are deleted, **except** that the last Export Backup of a customer instance is not deleted: the most recent Export Backup is always retained. Export Backups are never written to tape backup, and never leave the secure environment.

8.4 Destruction

When a customer ceases with Adaptive Planning and their instance(s) are deleted, their data is destroyed as follows:

- All customer data in the production database is deleted within 24 hours of instance deletion, and this data deletion is replicated to the mirrors within 4 hours.
- The Full Backups in the secure environment that contains data of deleted customer instance(s) is deleted within one month.
- Encrypted and offsite-vaulted Full Backups that contain data of deleted customer instance(s) are retained in offsite vaulting for up to 90 days, and are overwritten or destroyed within one week of being returned to Adaptive Planning.
- Export Backups are deleted within one month of the deletion of customer instances.

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9 Service Continuity and Disaster Recovery

To ensure service continuity in the event of a major failure in the secure production environment, Adaptive Planning has established a secondary production site. This disaster recovery environment is geographically diverse from the primary production environment as mitigation for a regional service-interrupting event. Production data is replicated to the disaster recovery environment; see **Customer Data Storage, Backup, Retention, Off-site Vaulting, Encryption, and Destruction** above for more on the retention and destruction of this replicated data. This data replication occurs within 5 minutes; transaction replay is delayed by 4 hours. Thus, our recovery point objective (RPO) is 5 minutes. In the event it becomes necessary to failover to the disaster recovery site, the environment is prepared, configured, and brought online. Our recovery time objective (RTO) is one business day.

10 Data Confidentiality and Handling**10.1 Customer Data**

Adaptive Planning's policy on customer data is that no customer data is to ever leave the data center in any form with the exception of encrypted offsite backup vaulting. This includes but is not limited to: laptops, flash drives, CD/DVD, miscellaneous portable media, etc.

10.2 Production Test Environment

A separated production test environment exists within the datacenter with the same physical and logical security controls as the production environment. All testing involving production datasets is performed in this secure production test environment.

10.3 Offsite Vaulting and Data Destruction

See section 3.8 - **Customer Data Storage, Backup, Retention, Off-site Vaulting, Encryption, and Destruction** above.

11 Virus Detection / Malware Detection / Patch Management**11.1 Virus Detection and Malware Detection**

Adaptive Planning actively incorporate virus and malware detection across the organization. Software is configured such that virus and malware definitions are updated on a daily basis.

11.2 Patch Management

Changes to our secure production environment are done on an as-needed basis such as, but not limited to, upgrades to our application or critical security patches. All requests for change are reviewed by management prior to implementation; see the **Change Management** section under **Application and Database Development, Maintenance, and Production Change Management** above. Management is considered to be authoritative in determining necessity.

11.3 Adaptive Planning Access to Customer Environments

Per policy, customer systems and networks are not accessed unless explicitly requested by the customer.

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12 Encryption Policy

Adaptive Planning employs the following cryptographic controls in our production environment:

- All Adaptive Planning application-related traffic to and from the customer is encrypted via SSL. SSL version 3.0 / TLS 1.0 with a cipher strength greater than 112 bits is enforced.
- All Layer 3 network access into the production environment is constrained to a client-to-site IPSEC VPN tunnel.
- All administrative access to production servers and network devices are constrained to SSH v .2. No other administrative access protocols are permitted (telnet, VNC, etc.)
- Any administrative passwords or private cryptographic keys are stored on AES 256-bit encrypted USB flash drives (Iron Keys). These USB flash drives are configured to auto-destruct all data after 10 invalid password attempts, preventing brute force attacks. These USB flash drives are used by all members of the Hosted Operations team and Customer Support staff.
- For more information see: <https://www.ironkey.com/files/datasheets/ironkey-enterprise-s200.pdf>.
- All backup media, which includes onsite and off site tape vaulting, is encrypted.

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C. HOSTED OPERATIONS DISASTER RECOVERY PLAN**1a. Hosting Operations Statement of Intent**

This document delineates our policies and procedures for technology disaster recovery. This document is authored to summarize our high level recommended procedures. In the event of an actual emergency situation, modifications to this document may be made to ensure physical safety of our people, our systems, and our data. Our mission is to ensure information system uptime, data integrity and availability, and service continuity.

1b. Policy Statement

Corporate management has approved the following policy statement:

- The company shall maintain a comprehensive Hosting Operations disaster recovery plan.
- The disaster recovery plan should cover all essential and critical infrastructure elements, systems and networks, in accordance with key business activities.
- The disaster recovery plan should allow for operations to resume within 24 hours of the plan being enacted.
- The disaster recovery plan should be periodically tested in a simulated environment to ensure that it can be implemented in emergency situations and that the management and staff understand how it is to be executed.
- All relevant staff must be made aware of the disaster recovery plan and their own respective roles.
- The disaster recovery plan is to be kept up to date to take into account changing circumstances.

1c. Definition of a disaster

As a result of fire, water, or other hazard (physical or otherwise) there is damage or shutdown that results in the company being unable to have either access to its computer services or premises for the immediate future.

Prerequisites

In order for disaster recovery to be effective it is agreed that:

- Hosting Operations personnel are available to enact the DR plan.
- A virtual “infrastructure on-demand” hosting provider has been identified and tested.
- A list of main staff contacts will be distributed, including home numbers and addresses.
- A current approved plan is in force.
- Ongoing replication of production data transactions to the DR environment has been instantiated

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Description of failover site**3a. Virtual “Infrastructure on-demand” Cloud environment**

For the purposes of disaster recovery, a cloud based “infrastructure on-demand” approach has been established as the solution. The identified service provider includes the following elements leveraged by this plan:

- Virtual “on-demand” environment is geographically diverse from the production site.
- Virtual “on-demand” environment has a separate network provider and network topology from the production site.
- Virtual servers can be rapidly provisioned
- Virtual servers can be configured to meet the resource requirements of production servers.
- Virtual servers can be cloned to expedite environment provisioning.
- Virtual servers can be configured for immediate deployment, but dormant, to expedite recovery while reducing costs.
- Network topologies can be provisioned to mirror production site.
- Network security components can be configured to mirror production site.

Plan Overview**4a. Plan Updating**

It is necessary for the DRP updating process to be properly structured and controlled. Whenever changes are made to the plan they are to be fully tested and appropriate amendments should be made to the training materials. This will involve the use of formalized change control procedures under the control of the VP of Technical Operations.

4b. Plan Documentation Storage

Copies of this plan on CD or hard copy will be stored in secure locations to be defined by the company. Each member of senior management will be issued a CD and hard copy of this plan to be filed at home. Each member of the Disaster Recovery Team will be issued a CD or hard copy of this plan. A master protected copy will be stored on specific resources established for this purpose.

4c. Plan triggering events

Management will decide what trigger events will deem the DR site to be enacted. This may include, but are not limited to:

- Any physical site damage resulting in service inaccessibility with an anticipated recovery time greater than 72 hours.
- Any logical or network outage resulting in service inaccessibility with an anticipated recovery time greater than 72 hours.

Disaster Recovery Procedure

The following steps, listed in bulleted form, comprise the outline of offsite tape recovery and data restoration. Detailed technical operations would be performed by Hosting Operations staff who have expertise in the given area.

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5a. Virtual Server provisioning

From the Cloud service provider administrative console:

- Reinstitute redundant DB servers as primary matching system specifications to physical equivalents.
- Configure, clone, and launch an appropriate number of application servers.
- Configure and launch redundant “community” community servers.
- Configure and launch “Help” server.
- Configure and launch log aggregation server.
- Configure/reconfigure and launch monitoring services as necessary.

5b. Environment configuration

- Reduce external DNS TTL to 5 minutes.
- Ensure DB files have been restored and start the database in production mode.
- Ensure application servers have current release software installed and correct SSL certificates applied.
- Ensure community DB/applications servers are configured per production specifications.
- Ensure the Help sever is configured per production specifications.
- Ensure log aggregation server is configured per production specifications.
- Configure firewall security components and enact application servers as publicly facing.
- Configure external DNS to point to DR site.

Testing the Plan

The plan will be tested, at most, twice a year and at least once a year. Dates will be agreed to no less than two weeks before the test date.

Testing will be restricted to the following:

- Stop DB replication and start DB in a simulated production capacity
- Enact one applications server in a simulated production capacity.
- Ensuring that access to the system is possible for the client via open Internet connectivity.
- Loading of some sample data.
- Testing that the same data is accessible. It is not anticipated that testing of the following will occur, although the facilities will be checked for availability on an ad hoc basis, at most, twice a year and at least once a year:
- Full production capacity is simulated

Service Contacts

Name	Title	Phone Number(s)	Address
Savvis	Support Operations	888-638-6771	
OpSource	Support Operations	800-664-9973	
Dell	Support Operations	866-516-3115	

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Name	Title	Phone Number(s)	Address
Ryan Pryomski	Hosting Operations Manager	650-279-1990	
Rob Ceglinski	Hosting Operations Engineer	650-793-9586	
Maurizio Gianola	VP Technical Operations	650-810-0505	