



STATE OF MICHIGAN PROCUREMENT

Department of Technology, Management and Budget
320 S. Walnut, Lansing, MI 48913
P.O. Box 30023, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number 12
to
Contract Number 210000000899

CONTRACTOR	Kinetech Cloud, LLC	STATE	Program Manager	Michael Weiszbrod	DTMB
	110 East Houston St. 7th Floor			517-242-1272	
	San Antonio, TX 78205		Contract Administrator	WeiszbrodM@michigan.gov	
	Michael Guido			Todd Huhn	DTMB
	844-546-3832			Phone Number	
	Michael.Guido@kinetechcloud.com			huhnt@michigan.gov	
	VS0191522				

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
03/18/2021	03/17/2022	4 1-Year	3/17/2026	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$4,806,677.41		\$00	\$4,806,677.41	
DESCRIPTION: Effective at execution, this cost table for year 5 of MIHAF is being added to the Contract. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Financial Services.				

FOR THE CONTRACTOR:

Kinotech Cloud LLC

Company Name

E-SIGNED by Michael Guido
on 2025-04-07 16:50:44 EDT

Authorized Agent Signature

Michael Guido

Authorized Agent (Print or Type)

2025-04-07 16:50:44

Date

FOR THE STATE:

E-SIGNED by Jordan Sherlock
on 2025-04-08 07:44:28 EDT

Signature

Jordan Sherlock

Procurement Manager, Office of Financial Services

Name & Title

State of Michigan, DTMB

Agency

2025-04-08 07:44:28

Date

Kinotech Cost Tables

MIHAF:

<u>Description:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total:</u>
Kinotech SaaS - Annual invoice, License - Yr 5 <ul style="list-style-type: none">• App Platform License: Standard - (1)• Users: 50• 1 TB Included Storage	\$79,500.00	1	3/18/2025	3/17/2026	\$ 79,500.00
Kinotech SaaS - XXL App container (Prod)	\$20,575.00	1	3/18/2025	3/17/2026	\$ 20,575.00
* Pro SLA: Kinotech SLA - Effective-2025-03-18	\$37,990.00	1	3/18/2025	3/17/2026	\$ 37,990.00
Total					\$138,065.00

Deliverables: Mendix Platform License	
Kinotech - SaaS: 2024 to 2025 License and SLA	\$138,065.00



STATE OF MICHIGAN PROCUREMENT

Department of Technology, Management and Budget
320 S. Walnut, Lansing, MI 48913
P.O. Box 30023, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number 11
to
Contract Number 210000000899

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Todd Huhn	DTMB
		Phone Number	
		huhnt@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
03/18/2021	03/17/2022	4 1-Year	3/17/2025	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 Year	<input type="checkbox"/>		3/17/2026
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$4,298,782.41		\$507,895.00	\$4,806,677.41	
DESCRIPTION: Effective at execution, this Contract is exercising the fourth option year and is increased by \$507,895. The revised contract expiration date is 03/17/2026. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Central Procurement Services approval.				

Kinotech Cost Tables

CERA:

<u>Description:</u>	<u>Unit Price:</u>	<u>Qty</u> _ :	<u>Start:</u>	<u>End:</u>	<u>Total:</u>
Kinotech SaaS - Annual invoice, License - Yr 5 • App Platform License: Standard - (1) • Internal Users: 300 • External Users: 0 • 1 TB Included Storage	\$105,125.00	1	3/18/2025	3/17/2026	\$ 105,125.00
Kinotech SaaS - XXL App container (Prod)	\$20,575.00	1	3/18/2025	3/17/2026	\$ 20,575.00
* Pro SLA: Kinotech SLA - Effective-2025-03-18	\$37,990.00	1	3/18/2025	3/17/2026	\$ 37,990.00
Total					\$163,690.00

Deliverables: Mendix Platform License	
Kinotech - SaaS: 2025 to 2026 License and SLA	\$163,690.00

MIARP:

<u>Description:</u>	<u>Unit Price:</u>	<u>Qty</u> _ :	<u>Start:</u>	<u>End:</u>	<u>Total:</u>
Kinotech SaaS: MSHDA - MI-ARP - Renewal 2025 • Kinotech GovCloud License: Standard - (1) • Workflow Automation Digitization for MI-ARP	\$124,500.00	1	3/18/2025	3/17/2026	\$ 124,500.00
2 (M) Environments - Test	\$2,250.00	2	3/18/2025	3/17/2026	\$ 4,500.00
1 (XL) Environment	\$9,000.00	1	3/18/2025	3/17/2026	\$ 9,000.00
* Pro SLA: Kinotech SLA - Effective-2025-03-18	\$37,990.00	1	3/18/2025	3/17/2026	\$ 37,990.00
Total					\$175,990.00

Deliverables: Kinotech GovCloud License	
Kinotech - SaaS: 2025 to 2026 License and SLA	\$175,990.00

MI Direct Lending:

<u>Description:</u>	<u>Unit Price:</u>	<u>Qty: _</u>	<u>Start:</u>	<u>End:</u>	<u>Total:</u>
Kinetech SaaS: MSHDA - MI-Direct Lending <ul style="list-style-type: none"> • Kinetech GovCloud License: Standard - (1) • Workflow Automation Digitization for Direct Lending 	\$124,500.00	1	3/18/2025	3/17/2026	\$ 124,500.00
2 (M) Environments (Prod + ACCP)	\$2,250.00	2	3/18/2025	3/17/2026	\$ 4,500.00
1 (S) Environment (Test)	\$1,225.00	1	3/18/2025	3/17/2026	\$ 1,225.00
* Pro SLA: Kinetech SLA - Effective-2025-03-18	\$37,990.00	1	3/18/2025	3/17/2026	\$ 37,990.00
Total					\$168,215.00

Year 2 License and SLA:	\$168,215.00



STATE OF MICHIGAN PROCUREMENT

Department of Technology, Management and Budget
320 S. Walnut, Lansing, MI 48913
P.O. Box 30023, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number 10
to
Contract Number 210000000899

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Todd Huhn	DTMB
		Phone Number	
		huhnt@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
03/18/2021	03/17/2022	4 1-Year	3/17/2025	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$3,658,135.06	\$640,647.35		\$4,298,782.41	
DESCRIPTION: Effective at execution, Statement of Work and pricing sections updated as noted for the MI-HOPE project for Michigan State Housing Development Authority (MSHDA). All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Central Procurement Services approval.				



**MICHIGAN DEPARTMENT OF TECHNOLOGY,
MANAGEMENT AND BUDGET
IT SERVICES
STATEMENT OF WORK FOR IT CHANGE NOTICES**

Project Title: MI-HOPE project for Michigan State Housing Development Authority (MSHDA)	Period of Coverage:
Requesting Department: Michigan State Housing Development Authority (MSHDA)	Date: 12/1/2025
Agency Project Manager: Mark Whitaker (MSHDA)	Phone: 517-335-9812
DTMB Project Manager: Michael J. Weiszbrod (DTMB)	Phone: 517-242-1272

Brief Description of Services to be provided:

BACKGROUND:

With the MSHDA needing additional portals to accept applications for the Rental Development Program, additional systems are necessary to fully run these Direct Lending programs. Specifically, the Authority will need the ability to accept applications and/or have an online dashboarding tool to run the various funding for rental development similar to the functionality we had for CERA and MIHAF.

PROJECT OBJECTIVE:

Add funds to the existing contract (21000000089) to cover the cost of licenses, subscription, testing, and final go live of the Rental Development Project in the Kinetech platform.

SCOPE OF WORK:

The attached document contains project scope assumptions that apply to the MSHDA implementation of the Rental Development Project. This document is intended to serve as the framework for the configuration of the Kinetech platform for the MSHDA..

DELIVERABLES:

- Kinetech certified developers
- Mihope branded UX
- Workflow based on Rental Development Requirements

ACCEPTANCE CRITERIA:

As agreed upon in Master Contract 21000000089.

PROJECT CONTROL AND REPORTS:

As agreed upon in Master Contract 21000000089.

SPECIFIC DEPARTMENT STANDARDS:

As agreed upon in Master Contract 21000000089.

PAYMENT SCHEDULE:

<u>Description:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total:</u>
Kinetech SaaS: MSHDA - MI-Direct Lending • Kinetech GovCloud License: Standard - (1) • Workflow Automation Digitization for Direct Lending	\$36,105.00	1	12/1/2024	3/17/2025	\$ 36,105.00
2 (M) Environments (Prod + ACCP)	\$652.50	2	12/1/2024	3/17/2025	\$ 1,305.00
1 (S) Environment (Test)	\$355.25	1	12/1/2024	3/17/2025	\$ 355.25
* Pro SLA: Kinetech SLA - Effective-2025-03-18	\$11,017.10	1	12/1/2024	3/17/2025	\$ 11,017.10
Kinetech Development Resources (Not to exceed) - UI/UX, Sponsor, Technical Lead - Project Lead & 1 Dev	\$185.00 /hr	1690	ASAP	ASAP	\$ 312,650.00
Kinetech Development Resources Recommended Hypercare (Not to exceed)	\$185.00 /hr	240	ASAP	ASAP	\$ 44,400.00
Kinetech Development Resources (Optional Hypercare)	\$185.00 /hr	360	ASAP	ASAP	\$ 66,600.00
Total					\$472,432.35

Year 1 License and SLA:	\$48,782.35
Development and Hypercare	\$357,050.00
Optional Hypercare	\$66,600.00
Year 2 License and SLA	\$168,215.00

EXPENSES:

The State will NOT pay for any travel expenses, including hotel, mileage, meals, parking, etc.

PROJECT CONTACTS:

The designated Agency (LEO) Project Manager is:

Mark Whitaker

whitakerm@michigan.gov

517-335-9812

The designated DTMB (LEO) Project Manager is:

Michael Weiszbrod

weiszbrod@michigan.gov

517-242-1272

EXPECTED CONTRACTOR WORK HOURS AND CONDITIONS:

Work hours are not to exceed eight (8) hours a day, forty (40) hours a week. Normal working hours of 8:00 am to 5:00 pm are to be observed unless otherwise agreed to in writing.

No overtime will be permitted.



STATE OF MICHIGAN PROCUREMENT

Department of Technology, Management and Budget
320 S. Walnut, Lansing, MI 48913
P.O. Box 30023, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number 9
to
Contract Number 210000000899

CONTRACTOR	Kinetech Cloud, LLC	STATE	Program Manager	Michael Weiszbrod	DTMB
	110 East Houston St. 7th Floor			517-242-1272	
	San Antonio, TX 78205		Contract Administrator	WeiszbrodM@michigan.gov	
	Michael Guido			Todd Huhn	DTMB
	844-546-3832			Phone Number	
	Michael.Guido@kinetechcloud.com			huhnt@michigan.gov	
	VS0191522				

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
03/18/2021	03/17/2022	4 1-Year	3/17/2024	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 Year	<input type="checkbox"/>		03/17/2025
CURRENT VALUE	VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$3,131,652.06	\$526,483.00		\$3,658,135.06	
DESCRIPTION: Effective at execution, this Contract is exercising the third option year and is increased by \$526,483. The revised contract expiration date is 03/17/2025. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Central Procurement Services approval.				

Kinetech Cost Tables

CERA:

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
Kinetech SaaS - Annual invoice, License - Yr 4 • App Platform License: Standard - (1) • Internal Users: 300 • External Users: 0 • 1 TB Included Storage	\$105,125.00	1	3/18/2024	3/17/2025	\$ 105,125.00
Kinetech SaaS - XXL App container (Prod)	\$20,575.00	1	3/18/2024	3/17/2025	\$ 20,575.00
* Pro SLA: Kinetech SLA - Effective-2024-03-18	\$36,180.00	1	3/18/2024	3/17/2025	\$ 36,180.00

Deliverables: Mendix Platform License					
Kinetech - SaaS: 2024 to 2025				\$161,880.00	

MIHAF:

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
Kinetech SaaS: MSHDA - MIHAF - Renewal License: \$998 Internal#: \$2600 Med Env: \$316 XXL Env: \$1890	\$102,600.00	1	3/18/2024	3/17/2025	\$ 102,600.00
Kinetech - SaaS: XXL Container - Production	\$20,575.00	1	3/18/2024	3/17/2025	\$ 20,575.00
* Pro SLA: Kinetech SLA - Effective-2024-03-18	\$36,180.00	1	3/18/2024	3/17/2025	\$ 36,180.00
Kinetech SaaS: MSHDA - MIHAF - 500 Additional Users	\$50.00	500	3/18/2024	3/17/2025	\$ 25,000.00

Deliverables: Mendix Platform License					
Kinetech - SaaS: 2024 to 2025				\$184,355.00	

MIARP:

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
Kinetech SaaS: MSHDA - MI-ARP - Renewal <ul style="list-style-type: none"> • App Platform License: Standard - (1) • Internal Users: 20 • External Users: 500 • Workflow Automation Digitization for MI-ARP 	\$132,516.88	1	3/18/2024	3/17/2025	\$ 132,516.88
2 (M) Environments - Test	\$1,925.19	2	3/18/2024	3/17/2025	\$ 3,850.38
1 (XL) Environment	\$7,700.74	1	3/18/2024	3/17/2025	\$ 7,700.74
* Pro SLA: Kinetech SLA - Effective-2024-03-18	\$36,180.00	1	3/18/2024	3/17/2025	\$ 36,180.00

Deliverables: Mendix Platform License					
Kinetech - SaaS: 2024 to 2025				\$180,248.00	



STATE OF MICHIGAN PROCUREMENT

Department of Technology, Management and Budget
320 S. Walnut, Lansing, MI 48913
P.O. Box 30023, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number 8
to
Contract Number 210000000899

CONTRACTOR	Kinetech Cloud, LLC	STATE	Program Manager	Michael Weiszbrod	DTMB
	110 East Houston St. 7th Floor			517-242-1272	
	San Antonio, TX 78205		Contract Administrator	WeiszbrodM@michigan.gov	
	Michael Guido			Todd Huhn	DTMB
	844-546-3832			Phone Number	
	Michael.Guido@kinetechcloud.com			huhnt@michigan.gov	
	VS0191522				

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
03/18/2021	03/17/2022	4 1-Year	3/17/2024	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$2,618,993.06		\$512,659.00	\$3,131,652.06	
DESCRIPTION: Increasing the value of the contract to cover the annual cost of the year ending 03/17/2024 per the attached cost table. Additionally, the State of Michigan Contract Administrator has been updated to Todd Huhn.				

FOR THE CONTRACTOR:

Kinetech Cloud LLC

Company Name

E-SIGNED by Michael Guido
on 2023-07-20 12:16:48 EDT

Authorized Agent Signature

Michael Guido

Authorized Agent (Print or Type)

2023-07-20 12:16:48 UTC

Date

FOR THE STATE:

E-SIGNED by Jordan Sherlock
on 2023-07-25 10:34:19 EDT

Signature

Jordan Sherlock

Procurement Manager, Office of Financial Services

Name & Title

State of Michigan, DTMB

Agency

2023-07-25 10:34:19 UTC

Date

Kinetech Cost Tables

CERA:

2023-2024	SaaS	\$105,125.00
2023-2024	Platinum SLA	\$33,500.00
2023-2024	XXL Container	\$20,575.00
	Total	\$159,200.00

MIHAF:

2023-2024	SaaS	\$95,000.00
2023-2024	SLA	\$33,500.00
2023-2024	500 Additional Users	\$25,000.00
2023-2024	XXL Container	\$20,575.00
2023-2024	Med Container	\$3,000.00
	Total	\$177,075.00

MIHOPE:

2023-2024	SaaS	\$129,928.52
2023-2024	SLA	\$35,129.99
2023-2024	Medium Container	\$1,887.58
2023-2024	Medium Container	\$1,887.58
2023-2024	XL Container	\$7,550.33
	Total	\$176,384.00



STATE OF MICHIGAN PROCUREMENT

DTMB – Financial Services

320 S. Walnut St. Lansing, MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 7
to
Contract Number 210000000899

Kinetech Cloud, LLC
110 East Houston St. 7th Floor
San Antonio, TX 78205
Michael Guido
844-546-3832
Michael.Guido@kinetechcloud.com
VS0191522

Program Manager	Michael Weiszbrod	DTMB
	517-242-1272	
	WeiszbrodM@michigan.gov	
Contract Administrator	Ken Prudden	DTMB
	PruddenK@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
03/18/2021	03/17/2022	4 1-Year	03/17/2023	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
x	1 year	<input type="checkbox"/>	1 year	3/17/2024
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$2,618,993.06			\$2,618,993.06	
DESCRIPTION: Extending the contract 1 year to 3/17/2024 using an option year.				



STATE OF MICHIGAN PROCUREMENT

DTMB – Financial Services

320 S. Walnut St. Lansing, MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 6
to
Contract Number 210000000899

Kinotech Cloud, LLC
110 East Houston St. 7th Floor
San Antonio, TX 78205
Michael Guido
844-546-3832
Michael.Guido@kinotechcloud.com
VS0191522

Program Manager	Michael Weiszbrod	DTMB
	517-242-1272	
	WeiszbrodM@michigan.gov	
Contract Administrator	Ken Prudden	DTMB
	PruddenK@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
03/18/2021	03/17/2022	4 1-Year	03/17/2023	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,996,101.06		\$622,892.00	\$2,618,993.06	
DESCRIPTION: Implementation, hosting, and support of the MIHOPE Project application for MSHDA. The total implementation cost is \$518,000.00, hosting is \$5,829 and licensing is \$66,872.				



**MICHIGAN DEPARTMENT OF TECHNOLOGY,
MANAGEMENT AND BUDGET
IT SERVICES
STATEMENT OF WORK FOR IT CHANGE NOTICES**

Project Title: MI-HOPE project for Michigan State Housing Development Authority (MSHDA)	Period of Coverage:
Requesting Department: Michigan State Housing Development Authority (MSHDA)	Date: 08/26/2022
Agency Project Manager: Mark Whitaker (MSHDA)	Phone: 517-335-9812
DTMB Project Manager: Michael J. Weiszbrod (DTMB)	Phone: 517-242-1272

Brief Description of Services to be provided:

BACKGROUND:

With the MSHDA receiving additional funding and creating programs utilizing United States Department of the Treasury American Rescue Plan (ARP) Coronavirus State and Local Fiscal Recovery Funds (SLFRF), additional systems are necessary to fully run these new programs. Specifically, the Authority will need the ability to accept applications and/or have an online dashboarding tool to run the various grants which includes MI-HOPE, Missing Middle, and Housing Community Development.

PROJECT OBJECTIVE:

Add funds to the existing contract (21000000089) to cover the cost of licenses, subscription, testing, and final go live of the MIHOPE Project in the Kinetech platform.

SCOPE OF WORK:

The attached document contains project scope assumptions that apply to the MSHDA implementation of the MI-HOPE Project. This document is intended to serve as the framework for the configuration of the Kinetech platform for the MSHDA..

This request also will add licenses for users for the MIHAF project that is also on the Kinetech platform.

DELIVERABLES:

- Kinetech certified developers
- Mihope branded UX
- Workflow based on MiHope Requirements

ACCEPTANCE CRITERIA:

As agreed upon in Master Contract 21000000089.

PROJECT CONTROL AND REPORTS:

As agreed upon in Master Contract 21000000089.

SPECIFIC DEPARTMENT STANDARDS:

As agreed upon in Master Contract 21000000089.

PAYMENT SCHEDULE:

Service:		Unit Price:	Qty:	Start:	End:	Total Price
Kinotech - SaaS: MiHope Project	<ul style="list-style-type: none"> • App Platform License: Standard - (1) • Internal Users: 20 • External Users: 500 • Workflow Automation Digitization for MiHope 	\$123,900 / Yr	1	9/1/2022	3/17/2023	\$66,872
2 (M) Environments - Test	<ul style="list-style-type: none"> • Mx Memory (GB): 4 • Mx vCPU: 1 • DB Memory (GB): 4 • DB Storage (GB): 20 • DB vCPU: 2 • File Storage (GB): 40 	\$1,800 / Yr	2	9/1/2022	3/17/2023	\$1,943
1 (XL) Environment	<ul style="list-style-type: none"> • Mx Memory (GB): 16 • Mx vCPU: 4 • DB Memory (GB): 16 • DB Storage (GB): 80 • DB vCPU: 4 • File Storage (GB): 160 	\$7,200 / Yr	1	9/1/2022	3/17/2023	\$3,886
Professional Services - Customization & Configuration						
We estimate it will take 2.5 full time developers working for \$185 / Hr 2,800 ASAP TBD \$518,000 approximately 40 hours a week for 28 weeks to meet the requirements provided by the client.		\$185 / Yr	2,800	ASAP	TBD	\$518,000
* Pro SLA: Kinotech SLA - Effective-2019-01-01						
• 99.5% uptime		\$33,500 / Yr	1	9/1/2022	3/17/2023	\$18,081

Invoice Date:	Service:	Amount:	Payment Terms:
9/1/2022	Kinotech Gov Tech Solution (License & Infrastructure)	\$ 72,701	Net 30 Days
9/1/2022	Kinotech - Pro SLA	\$ 18,081	Net 30 Days
Last Day of the Month	Enterprise Services billable hours for Dev and Configuration	As incurred	Net 30 Days
9/1/2023	Year 2, Renewal 1 (Including SLA)	\$ 176,384	Net 30 Days
9/1/2024	Year 3, Renewal 2 (Including SLA)	\$ 180,248	Net 30 Days
9/1/2025	Year 4, Renewal 3 (Including SLA)	\$ 185,673	Net 30 Days

Service:		Unit Price:	Qty:	Start:	End:	Total Price
Kinotech	MSHDA - MIHAF - 500 Additional Users					
	500 Additional Users (Prorated for partial year)	\$25,000 / Yr	1	8/23/2022	3/17/2023	\$14,110

EXPENSES:

The State will NOT pay for any travel expenses, including hotel, mileage, meals, parking, etc.

PROJECT CONTACTS:

The designated Agency (LEO) Project Manager is:

Mark Whitaker

whitakerm@michigan.gov

517-335-9812

The designated DTMB (LEO) Project Manager is:

Michael Weiszbrod

weiszbrodm@michigan.gov

517-242-1272

EXPECTED CONTRACTOR WORK HOURS AND CONDITIONS:

Work hours are not to exceed eight (8) hours a day, forty (40) hours a week. Normal working hours of 8:00 am to 5:00 pm are to be observed unless otherwise agreed to in writing.

No overtime will be permitted.



STATE OF MICHIGAN IT PROCUREMENT

DTMB-Financial Services

320 S Walnut St Lansing MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 5
to
Contract Number 210000000899

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7 th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Lisa Feury	DTMB
		517-241-1640	
		FeuryL@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
3/18/2021	3/17/2022	4 1-year	3/17/2023	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,401,451.06		\$594,650.00	\$1,996,101.06	
DESCRIPTION: Effective April 5, 2022, adding \$594,650 for maintenance and support costs for both CERA and HAF solutions for coverage period 3/18/2022-3/17/2023. All other terms, conditions, specifications and pricing remain the same. Per agency and contractor agreement, and DTMB Central Procurement Services approval. Funds approved by the Michigan State Housing Development Authority Board.				



Order Form

Kinetech Rep:	Michael Guido
Kinetech Entity:	Kinetech Cloud, LLC
Project Name:	MSHDA - CERA - Renewal
Date:	March 24th, 2022

Bill To:

Customer:	Michigan
Contact:	Mark Whitaker
Title:	Senior Application Developer
Telephone:	1 (248) 808-8520
Email:	WhitakerM@michigan.gov
Address:	735 E. Michigan Ave. P.O. Box 30044
Zip / City:	Lansing, MI 48909

Technical Contact:

Entity:	Kinetech Cloud, LLC
Contact:	Michael Guido
Title:	CEO
Telephone:	844-546-3832 ext 1

Ordered Services:

Customer is herewith purchasing the services listed below per the Order Form Conditions below.

Service:	Unit Price:	Qty:	Start:	End:	Total Price
Kinetech - SaaS: MSHDA - CERA - Renewal <ul style="list-style-type: none"> App Platform License: Standard - (1) Internal Users: 1,000 External Users: 0 1 TB Included Storage 	\$122,000 / Yr	1	3/18/2022	3/17/2023	\$122,000
Kinetech - SaaS: 500 Additional Users	\$25,000 / Yr	1	3/18/2022	3/17/2023	\$25,000
Kinetech - SaaS: XXL Container - Production	\$20,575 / Yr	1	3/18/2022	3/17/2023	\$20,575
Professional Services - Customization & Configuration.	\$185 / Hr	800	3/14/2022	TBD	\$148,000
* Pro SLA: Kinetech SLA - Effective-2022-03-18	\$33,500 / Yr	1	3/18/2022	3/17/2023	\$33,500



Deliverables: Mendix Platform License	
Year 1 Amount	\$349,075

Invoice Schedule:

Kinotech shall invoice Customer in accordance with the following invoice schedule.

Invoice Date:	Service:	Amount:	Payment Terms:
3/18/2022	Kinotech - SaaS: MSHDA - CERA - Renewal	\$122,000	Net 30 Days
3/18/2022	Kinotech - SaaS: 500 Additional Users	\$25,000	Net 30 Days
3/18/2022	Kinotech - SaaS: XXL Container - Production	\$20,575	Net 30 Days
As incurred	Professional Services - Customization & Configuration.	As incurred	Net 30 Days
3/18/2022	* Pro SLA: Kinotech SLA - Effective-2022-03-18	\$33,500	Net 30 Days

Order Form Conditions

- This Order Form is governed, in the following order of precedence, by:
 - This Order Form ("Order Form");
 - The Kinotech Master Agreement ("Master Service Agreement (MSA)");
 - Siemens Universal Customer Agreement ("SUCA"), License Software Designation Agreement ("LSDA") and Supplemental Terms ("ST")
 - Sequential statements of work (SOW) / Amendments
- License term is 1 year (i.e. 12 months)
- Fees and Invoicing:
 - Fees due Net 30 Days of receiving invoice.
 - Customer will pay Kinotech the amounts specified in this Order Form.
 - Customer shall pay any valid invoice within 30 days of its receipt.
 - Any adjustment of fees must be approved in writing by both Parties.
 - Kinotech reserves the right to assess a late payment penalty of 2% of the total overdue amount which remains unpaid for 60 days or more after the date which is due.
 - Kinotech reserves the right to deactivate the Customer's user accounts to all Customer applications and/or stop all hosting services provided to the Customer's applications should the Customer carry an overdue balance for greater than 90 days (unless agreed to in writing by Kinotech).
 - All amounts stated on this Order Form are in USD.
- License automatically renews (for another 1 year) unless at least 60 days written notice is provided to the Kinotech technical contact listed above.
- All amounts to be paid to Kinotech **are exclusive of any** taxes and any other charges. Customer agrees to pay or reimburse Kinotech for the payment of any applicable taxes or duties including, but not limited to, sales taxes, value added taxes, goods and services taxes, consumption taxes, or any other charge that is imposed by any government authority on Client's use or receipt of, or license to, any application(s) developed by the Parties.
- This Order Form becomes a binding agreement when Customer returns a signed copy of this Order Form to Kinotech. The person signing below herewith



For Acceptance:

Represented by:

Title:

Place, date:

Signature



Order Form

Kinetech Rep:	Michael Guido
Kinetech Entity:	Kinetech Cloud, LLC
Project Name:	MSHDA - MIHAF - Renewal
Date:	March 22, 2022

Bill To:

Customer:	Michigan
Contact:	Mark Whitaker
Title:	Senior Application Developer
Telephone:	1 (248) 808-8520
Email:	WhitakerM@michigan.gov
Address:	735 E. Michigan Ave. P.O. Box 30044
Zip / City:	Lansing, MI 48909

Technical Contact:

Entity:	Kinetech Cloud, LLC
Contact:	Michael Guido
Title:	CEO
Telephone:	844-546-3832 ext 1

Ordered Services:

Customer is herewith purchasing the services listed below per the Order Form Conditions below.

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price</u>
Kinetech - SaaS: MSHDA - MIHAF - Renewal <ul style="list-style-type: none"> App Platform License: Standard - (1) Internal Users: 200 External Users: 0 1 TB Included Storage 	\$95,000 / Yr	1	3/18/2022	3/17/2023	\$95,000
Kinetech - SaaS: Medium Container - Training	\$3,000 / Yr	1	3/18/2022	3/17/2023	\$3,000
Kinetech - SaaS: XXL Container - Production	\$20,575 / Yr	1	3/18/2022	3/17/2023	\$20,575
Professional Services - Maintenance and Configuration	\$185 / Hr	1,200	3/1/2022	TBD	\$222,000
* Pro SLA: Kinetech SLA - Effective-2022-03-18	\$33,500 / Yr	1	3/18/2022	3/17/2023	\$33,500



Deliverables: Mendix Platform License	
Year 1 Amount	\$374,075

Invoice Schedule:

Kinotech shall invoice Customer in accordance with the following invoice schedule.

<u>Invoice Date:</u>	<u>Service:</u>	<u>Amount:</u>	<u>Payment Terms:</u>
3/18/2022	Kinotech - SaaS: Up to 200 Users	\$95,000	Net 30 Days
3/18/2022	Kinotech - SaaS: Medium Container - Training	\$3,000	Net 30 Days
3/18/2022	Kinotech - SaaS: XXL Container - Production	\$20,575	Net 30 Days
3/18/2022	Professional Services - Maintenance and Configuration	As incurred	Net 30 Days
3/18/2022	* Pro SLA: Kinotech SLA - Effective-2022-03-18	\$33,500	Net 30 Days

Order Form Conditions

1. This Order Form is governed, in the following order of precedence, by:
 - a. This Order Form ("Order Form");
 - b. The Kinotech Master Agreement ("Master Service Agreement (MSA)").
 - c. Siemens Universal Customer Agreement ("SUCA"), License Software Designation Agreement ("LSDA") and Supplemental Terms ("ST")
 - d. Sequential statements of work (SOW) / Amendments
2. License term is 1 year (i.e. 12 months)
3. Fees and Invoicing:
 - a. Fees due Net 30 Days of receiving invoice.
 - b. Customer will pay Kinotech the amounts specified in this Order Form.
 - c. Customer shall pay any valid invoice within 30 days of its receipt.
 - d. Any adjustment of fees must be approved in writing by both Parties.
 - e. Kinotech reserves the right to assess a late payment penalty of 2% of the total overdue amount which remains unpaid for 60 days or more after the date which is due.
 - f. Kinotech reserves the right to deactivate the Customer's user accounts to all Customer applications and/or stop all hosting services provided to the Customer's applications should the Customer carry an overdue balance for greater than 90 days (unless agreed to in writing by Kinotech).
 - g. All amounts stated on this Order Form are in USD.
4. License automatically renews (for another 1 year) unless at least 60 days written notice is provided to the Kinotech technical contact listed above.
5. All amounts to be paid to Kinotech **are exclusive of any** taxes and any other charges. Customer agrees to pay or reimburse Kinotech for the payment of any applicable taxes or duties including, but not limited to, sales taxes, value added taxes, goods and services taxes, consumption taxes, or any other charge that is imposed by any government authority on Client's use or receipt of, or license to, any application(s) developed by the Parties.
6. This Order Form becomes a binding agreement when Customer returns a signed copy of this Order Form to Kinotech. The person signing below



For Acceptance:

Represented by: _____

Title: _____

Place, date: _____

Signature _____



STATE OF MICHIGAN IT PROCUREMENT
DTMB-Financial Services
 320 S Walnut St Lansing MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number **4**
 to
 Contract Number **210000000899**

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7 th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Lisa Feury	DTMB
		517-241-1640	
		FeuryL@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
3/18/2021	3/17/2022	4 1-year	3/17/2023	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,400,620.92	\$830.14		\$1,401,451.06	
DESCRIPTION: Effective December 15, 2021, adding \$830.14 to purchase training environment for the HAF-Mortgage Processes solution per attached Order Form. All other terms, conditions, specifications and pricing remain the same. Per agency and contractor agreement, and DTMB Central Procurement Services approval. Funds approved by the Michigan State Housing Development Authority Board.				



**MICHIGAN DEPARTMENT OF TECHNOLOGY,
MANAGEMENT AND BUDGET
IT SERVICES
STATEMENT OF WORK FOR IT CHANGE NOTICES**

Project Title: MSHDA - MiHAF	Period of Coverage: 12/7/2021 – 3/17/2022
Requesting Department: LEO - MSHDA	Date: 12/14/2021
Agency Project Manager: Mark Whitaker	Phone: 517-335-9812
DTMB Project Manager: Michael Weiszbrod	Phone: 517-242-1272

Brief Description of Services to be provided:

BACKGROUND:

PROJECT OBJECTIVE:

The object is to add and additional environment to the existing services provided for training purposes. This environment will be where personel is trained to use the system and eventually move to production work.

SCOPE OF WORK:

Kinetech will provide an Training environment for the MSHDA MiHAF project.

DELIVERABLES:

Ordered Services:

Customer is herewith purchasing the services listed below per the Order Form Conditions below.

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
GovTech - Cloud Resources: Training Environment 2021 - Mx Cloud - Medium	\$3,000/ Yr	4 Mnth	12/7/2021	3/17/2022	\$830.14
TOTAL (4 months prorated):					\$830.14

PROJECT CONTROL AND REPORTS:

A bi-weekly progress report must be submitted to the Agency and DTMB Project Managers throughout the life of this project. This report may be submitted with the billing invoice. Each bi-weekly progress report must contain the following:

1. **Hours:** Indicate the number of hours expended during the past two weeks, and the cumulative total to date for the project. Also state whether the remaining hours are sufficient to complete the project.
2. **Accomplishments:** Indicate what was worked on and what was completed during the current reporting period.
3. **Funds:** Indicate the amount of funds expended during the current reporting period, and the cumulative total to date for the project.

SPECIFIC DEPARTMENT STANDARDS:

Agency standards, if any, in addition to DTMB standards.

PAYMENT SCHEDULE:

Payment will be made on a Satisfactory acceptance of each deliverable basis. DTMB will pay CONTRACTOR upon receipt of properly completed invoice(s) which shall be submitted to the billing address on the State issued purchase order not more often than monthly. DTMB Accounts Payable area will coordinate obtaining Agency and DTMB Project Manager approvals. All invoices should reflect actual work completed by payment date, and must be approved by the Agency and DTMB Project Manager prior to payment. The invoices shall describe and document to the State's satisfaction a description of the work performed, the progress of the project, and fees. When expenses are invoiced, receipts will need to be provided along with a detailed breakdown of each type of expense.

Payment shall be considered timely if made by DTMB within forty-five (45) days after receipt of properly completed invoices.

EXPENSES:

The State will NOT pay for any travel expenses, including hotel, mileage, meals, parking, etc.

PROJECT CONTACTS:

The designated Agency Project Manager is:

Name Mark Whitaker
Department LEO - MSHDA
Building/Floor MSHDA Building
Address 735 E. Michigan Ave
City/State/Zip Lansing, Michigan 48933
Phone Number 517-335-9812
Email Address whitakerm@michigan.gov

The designated DTMB Project Manager is:

Name Michael Weiszbrod
Department DTMB
Phone Number 517-242-1272
Email Address weiszbrodm@michigan.gov

EXPECTED CONTRACTOR WORK HOURS AND CONDITIONS:

Work hours are not to exceed eight (8) hours a day, forty (40) hours a week. Normal working hours of 8:00 am to 5:00 pm are to be observed unless otherwise agreed to in writing.

No overtime will be permitted.

Order Form

Bill To:

Customer:	Michigan - MSHDA
Contact:	Mark Whitaker
Title:	
Telephone:	
Email:	

Technical Contact:

Entity:	Kinotech Cloud, LLC
Contact:	Michael Guido
Title:	CEO
Telephone:	844-546-3832

Ordered Services:

Customer is herewith purchasing the services listed below per the Order Form Conditions below.

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
GovTech - Cloud Resources: Training Environment 2021 - Mx Cloud - Medium	\$3,000/ Yr	4 Mnth	12/7/2021	3/17/2022	\$830.14
TOTAL (4 months prorated):					\$830.14

Invoice Schedule

Kinotech shall invoice Customer in accordance with the following invoice schedule.

<u>Invoice Date:</u>	<u>Service:</u>	<u>Amount:</u>	<u>Payment Terms:</u>
12/7/2021	2021 Training Environment - Medium Environment	\$830.14	Net 30 Days
3/18/2022	Optional - Medium Environment Renewal	\$3,000.00	Net 30 Days

Order Form Conditions

- This Order Form is governed, in the following order of precedence, by:
 - This Order Form ("Order Form");
 - The Master Agreement ("Master Service Agreement (MSA)").
 - End User License Agreement / Siemens Universal Customer Agreement (UCA)
 - Sequential statements of work (SOW) / Amendments
- Fee of \$830.14 USD Due Net 30 Days of receiving invoice.
- All amounts stated on this Order Form are in USD and exclude any taxes such as sales, use, value added or similar taxes. Kinotech shall invoice Customer for the amounts listed above plus any taxes due over such fees (excluding corporate income taxes or similar taxes).
- This Order Form becomes a binding agreement when Customer returns a signed copy of this Order Form to Kinotech. The person signing below herewith confirms that it is authorized to represent Customer for this matter and is authorized to enter into this Order Form on behalf of Customer.

For Acceptance:

Represented by: _____

Title: _____

Place, date: _____

Signature: _____



STATE OF MICHIGAN IT PROCUREMENT
DTMB-Financial Services
 320 S Walnut St Lansing MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number **3**
 to
 Contract Number **210000000899**

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7 th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Lisa Feury	DTMB
		517-241-1640	
		FeuryL@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
3/18/2021	3/17/2022	4 1-year	3/17/2022	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 Year	<input type="checkbox"/>		3/17/2023
CURRENT VALUE	VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,170,045.92	\$230,575		\$1,400,620.92	
DESCRIPTION: Effective October 7, 2021, adding \$230,575 to purchase enhancements to the CERA-Housing Assistance solution per attached Order Form and exercising the first option year. All other terms, conditions, specifications and pricing remain the same. Per agency and contractor agreement, and DTMB Central Procurement Services approval. Funds approved by the Michigan State Housing Development Authority Board.				

Order Form

Bill To:

Customer:	Michigan - MSHDA
Contact:	
Title:	
Telephone:	
Email:	
Address:	
Zip / City:	

Technical Contact:

Entity:	Kinotech Cloud, LLC
Contact:	Michael Guido
Title:	CEO
Telephone:	844-546-3832

Ordered Services:

Customer is herewith purchasing the services listed below per the Order Form Conditions below.

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
XXL App Container - Additional Resources <ul style="list-style-type: none"> 32 GB RAM 8 vCPU 160 GB Storage 	\$20,575/ Yr	1	3/1/2021	2/28/2022	\$20,575/ 12 Months
Professional Services - Development & Configuration <ul style="list-style-type: none"> Recertification Process Dashboard Updates / Enhancements Federal Reporting Detroit Metro Requirements Miscellaneous New Functional Enhancements 	\$175/ Hr	1200	On Signing	ASAP	\$210,00.00
Deliverables: <ul style="list-style-type: none"> Kinotech certified expert(s) developers Client branded UX GIS Integration Standard rental assistance workflow based on application process Change management and communication plan Video tutorials of how to work the system once completed <p>* SLA Term is set to align w/ SaaS Agreement</p>					
Development & Configuration:					\$210,000.00
Annual Infrastructure Cost:					\$20,575.00

TOTAL:	\$230,575.00
---------------	--------------

Invoice Schedule

Kinotech shall invoice Customer in accordance with the following invoice schedule.

<u>Invoice Date:</u>	<u>Service:</u>	<u>Amount:</u>	<u>Payment Terms:</u>
Upon Signing	XXL App Container Infrastructure	\$20,575.00	Net 30 Days
	Professional Service billable hours for Configuration	Billed as Incurred	Net 30 Days

Order Form Conditions

1. This Order Form is governed, in the following order of precedence, by:
 - a. This Order Form ("Order Form");
 - b. The Kinotech Master Agreement ("Master Service Agreement (MSA)").
 - c. End User License Agreement
 - d. Sequential statements of work (SOW) / Amendments
2. Fee of \$20,575.00 USD Due Net 30 Days of receiving invoice.
3. All amounts stated on this Order Form are in USD and exclude any taxes such as sales, use, value added or similar taxes. Kinotech shall invoice Customer for the amounts listed above plus any taxes due over such fees (excluding corporate income taxes or similar taxes).
4. This Order Form becomes a binding agreement when Customer returns a signed copy of this Order Form to Kinotech. The person signing below herewith confirms that it is authorized to represent Customer for this matter and is authorized to enter into this Order Form on behalf of Customer.

For Acceptance:

Represented by: _____

Title: _____

Place, date: _____

Signature: _____



STATE OF MICHIGAN IT PROCUREMENT
DTMB-Financial Services
 320 S Walnut St Lansing MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 2
 to
 Contract Number 210000000899

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7 th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Lisa Feury	DTMB
		517-241-1640	
		FeuryL@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
3/18/2021	3/17/2022	4 1-year	3/17/2022	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$387,166.67	\$782,879.25		\$1,170,045.92	
DESCRIPTION: Effective July 23, 2021, adding \$782,879.25 to purchase an additional GovTech – SaaS solution for Mortgage processes per the attached SOW and quote.				
All other terms, conditions, specifications and pricing remain the same. Per agency and contractor agreement, and DTMB Central Procurement Services approval. Funds approved by the Michigan State Housing Development Authority Board.				

Order Form

Bill To:

Customer:	Michigan - MSHDA
Contact:	Mark Whitaker
Title:	
Telephone:	
Email:	
Address:	
Zip / City:	

Technical Contact:

Entity:	Kinotech Cloud, LLC
Contact:	Michael Guido
Title:	CEO
Telephone:	844-546-3832

Ordered Services:

Customer is herewith purchasing the services listed below per the Order Form Conditions below.

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
GovTech - SaaS: Digital Housing Assistance HAF <ul style="list-style-type: none"> Digitize Mortgage processes Up to 200 Users Unlimited Applicants 10 TB File Storage Up to 100,000 applications / Year 	\$95,000/ Yr	1	8/1/2021	3/17/2022	\$59,342.47 (7.5 Months Prorated)
Professional Services - Development & Configuration To digitize a paper process and assist the State with the influx of Mortgage applicants impacted by the COVID19 Pandemic while enabling future digital initiatives.	\$175/ Hr	800	On Signing	ASAP	\$140,000.00
Professional Services - Training & Change Mgmt (Minimum) Train the trainer, minimum onboarding. Work with a select subset of super users from key partner organizations. Include early in the process. Onboard organizations & accounts. Coordinate training and refresher courses. Track performance	\$150/ Hr	150	During UAT	ASAP	\$22,500.00
* Platinum SLA Kinotech SLA - Effective-2019-01-01 <ul style="list-style-type: none"> Phone Support Email Support Feedback monitoring 	\$33,500/ Yr	1	8/1/2021	3/17/2022	\$20,925.78 7.5 Months Prorated

<ul style="list-style-type: none"> Maintain version within two (2) major releases 					
GovTech - SaaS: Digital Housing Assistance HAF <ul style="list-style-type: none"> Digitize Mortgage processes Up to 200 Users Unlimited Applicants 10 TB File Storage Up to 100,000 applications / Year 	\$95,000/ Yr	2	3/18/2022	3/17/2024	\$190,000.00
* Platinum SLA Kinotech SLA - Effective-2019-01-01 <ul style="list-style-type: none"> Phone Support Email Support Feedback monitoring Maintain version within two (2) major releases 	\$33,500/ Yr	2	3/18/2022	3/17/2024	\$67,000.00
Deliverables: <ul style="list-style-type: none"> Kinotech certified expert(s) developers Client branded UX GIS Integration Standard Mortgage assistance workflow based on application process Change management and communication plan Video tutorials of how to work the system once completed <p>* SLA Term is set to align w/ SaaS Agreement</p>					
License & SLA Investment / 7.5 Months Amount - (8-1-2021 - 3-17-2022):					\$80,268.25
Development & Configuration:					\$162,500.00
Minimum Seven (7) Month Investment:					\$242,768.25
Three (2 yr and 7.5 month) Investment, Configuration, License, & SLA (To 2024)					\$499,768.25
w/ Optional License - 200 Users Renewal 1 (Yr 4: 2024-2025)					\$102,600.00
w/ Optional SLA Renewal 1 (Yr 4: 2024-2025)					\$36,180.00
w/ Optional License - 200 Users Renewal 2 (Yr 5: 2025 - 2026)					\$106,704.00
w/ Optional SLA Renewal 2 (Yr 5: 2025 - 2026)					\$37,627.00
TOTAL (7.5 months prorated + 2 Year License + Two, one (1) year renewals):					\$782,879.25

Invoice Schedule

Kinotech shall invoice Customer in accordance with the following invoice schedule.

<u>Invoice Date:</u>	<u>Service:</u>	<u>Amount:</u>	<u>Payment Terms:</u>
8/1/2021	GovTech - SaaS, Up to 200 Users	\$59,342.47	Net 30 Days
8/1/2021	Platinum SLA	\$20,925.78	Net 30 Days
1st of Month - as incurred	Professional Service billable hours for Configuration	TBD	Net 30 Days
3/18/2022	GovTech - SaaS, Up to 200 Users. SLA. 100k Apps / Yr	\$128,500.00	Net 30 Days
3/18/2023	GovTech - SaaS, Up to 200 Users. SLA. 100k Apps / Yr	\$128,500.00	Net 30 Days
3/18/2024	GovTech - SaaS, Up to 200 Users. SLA. 100k Apps / Yr	\$138,780.00	Net 30 Days
3/18/2025	GovTech - SaaS, Up to 200 Users. SLA. 100k Apps / Yr	\$144,331.00	Net 30 Days

Order Form Conditions

1. This Order Form is governed, in the following order of precedence, by:
 - a. This Order Form ("Order Form");
 - b. The Master Agreement ("Master Service Agreement (MSA)").
 - c. End User License Agreement / Siemens Platform Agreement
 - d. Sequential statements of work (SOW) / Amendments
2. Fee of \$80,268.25 USD Due Net 30 Days of receiving invoice.
3. All amounts stated on this Order Form are in USD and exclude any taxes such as sales, use, value added or similar taxes. Kinotech shall invoice Customer for the amounts listed above plus any taxes due over such fees (excluding corporate income taxes or similar taxes).
4. This Order Form becomes a binding agreement when Customer returns a signed copy of this Order Form to Kinotech. The person signing below herewith confirms that it is authorized to represent Customer for this matter and is authorized to enter into this Order Form on behalf of Customer.

For Acceptance:

Represented by: _____

Title: _____

Place, date: _____

Signature: _____



STATE OF MICHIGAN IT PROCUREMENT
DTMB-Financial Services
 320 S Walnut St Lansing MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number **1**
 to
 Contract Number **210000000899**

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7 th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
	Contract Administrator	WeiszbrodM@michigan.gov	
		Lisa Feury	DTMB
		517-241-1640	
		FeuryL@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
3/18/2021	3/17/2022	4 1-year	3/17/2022	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$364,250.00	\$22,916.67		\$387,166.67	
DESCRIPTION: Effective April 23, 2021, adding \$22,916.67 to purchase an additional 500 portal user licenses. All other terms, conditions, specifications and pricing remain the same. Per agency and contractor agreement, and DTMB Central Procurement Services approval.				

Order Form

Bill To:

Customer:	Michigan - MSHDA
Contact:	Mark Whitaker
Title:	
Telephone:	
Email:	
Address:	
Zip / City:	

Technical Contact:

Entity:	Kinetech Cloud, LLC
Contact:	Michael Guido
Title:	CEO
Telephone:	844-546-3832

Ordered Services:

Customer is herewith purchasing the services listed below per the Order Form Conditions below.

<u>Service:</u>	<u>Unit Price:</u>	<u>Qty:</u>	<u>Start:</u>	<u>End:</u>	<u>Total Price:</u>
GovTech - SaaS: Digital Housing Assistance <ul style="list-style-type: none"> Up to 500 Additional Portal Users Unlimited Applicants 	\$25,000/ Yr	1	3/1/2021	2/28/2022	\$25,000/ 11 Months
Investment:					\$22,916.67
TOTAL:					\$22,916.6

Invoice Schedule

Kinetech shall invoice Customer in accordance with the following invoice schedule.

<u>Invoice Date:</u>	<u>Service:</u>	<u>Amount:</u>	<u>Payment Terms:</u>
5/1/2021	GovTech - SaaS, Up to 500 Additional Users	\$22,916.6	Net 30 Days

Order Form Conditions

1. This Order Form is governed, in the following order of precedence, by:
 - a. This Order Form ("Order Form");
 - b. The Kinetech Master Agreement ("Master Service Agreement (MSA)").
 - c. End User License Agreement
 - d. Sequential statements of work (SOW) / Amendments
2. Fee of \$22,916.6 USD Due Net 30 Days of receiving invoice.
3. All amounts stated on this Order Form are in USD and exclude any taxes such as sales, use, value added or similar taxes. Kinetech shall invoice Customer for the amounts listed above plus any taxes due over such fees (excluding corporate income taxes or similar taxes).
4. This Order Form becomes a binding agreement when Customer returns a signed copy of this Order Form to Kinetech. The person signing below herewith confirms that it is authorized to represent Customer for this matter and is authorized to enter into this Order Form on behalf of Customer.



STATE OF MICHIGAN IT PROCUREMENT
DTMB-Financial Services
320 S Walnut St Lansing MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **210000000899**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Kinetech Cloud, LLC
	110 East Houston St. 7 th Floor
	San Antonio, TX 78205
	Michael Guido
	844-546-3832
	Michael.Guido@kinetechcloud.com
	VS0191522

STATE	Program Manager	Michael Weiszbrod	DTMB
		517-242-1272	
		WeiszbrodM@michigan.gov	
	Contract Administrator	Lisa Feury	DTMB
		517-241-1640	
		FeuryL@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: GovTech – SaaS: Digital Housing Assistance - Hosting			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
3/18/2021	3/17/2022	4 1-year	3/17/2022
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
MISCELLANEOUS INFORMATION			
Approved by the Michigan State Housing Development Authority Board.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$ 364,250.00

STATE OF MICHIGAN

SOFTWARE TERMS AND CONDITIONS

These Terms and Conditions, together with all Schedules (including the Statement(s) of Work), Exhibits and any other applicable attachments or addenda (Collectively this "Contract") are agreed to between the State of Michigan (the "**State**") and KINETECH CLOUD, LLC doing business as "KINETECH" ("**Contractor**"), A Texas Limited Liability Company. This Contract is effective on March 18, 2021 ("**Effective Date**"), and unless terminated, will expire on March 17, 2022 (the "**Term**").

This Contract may be renewed for up to four (4) additional one (1) year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

1. Definitions. For the purposes of this Contract, the following terms have the following meanings:

"**Acceptance**" has the meaning set forth in **Section** [Error! Reference source not found.](#).

"**Acceptance Tests**" means such tests as may be conducted in accordance with **Section** [Error! Reference source not found.](#) and a Statement of Work to determine whether the Software meets the requirements of this Contract and the Documentation.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of a Person.

"**Allegedly Infringing Materials**" has the meaning set forth in **Section** [Error! Reference source not found.](#).

"**Approved Third Party Components**" means all third party components, including Open-Source Components, that are included in or used in connection with the Software and are specifically identified by Contractor in the Contractor's Bid Response or as part of the State's Security Accreditation Process defined in Schedule E – Data Security Schedule.

"**Authorized Users**" means all Persons authorized by the State to access and use the Software under this Contract, subject to the maximum number of users specified in the applicable Statement of Work.

"**Business Day**" means a day other than a Saturday, Sunday or other day on which the State is authorized or required by law to be closed for business.

"**Business Requirements Specification**" means the initial specification setting forth the State's business requirements regarding the features and functionality of the Software, as set forth in a Statement of Work.

"**Change**" has the meaning set forth in **Section** [Error! Reference source not found.](#).

"**Change Notice**" has the meaning set forth in **Section** [Error! Reference source not found.](#).

"**Change Proposal**" has the meaning set forth in **Section** [Error! Reference source not found.](#).

"**Change Request**" has the meaning set forth in **Section** [Error! Reference source not found.](#).

"**Confidential Information**" has the meaning set forth in **Section 22.1**.

"**Configuration**" means State-specific changes made to the Software without Source Code or structural data model changes occurring.

“Contract” has the meaning set forth in the preamble.

“Contract Administrator” is the individual appointed by each party to (a) administer the terms of this Contract, and (b) approve any Change Notices under this Contract. Each party’s Contract Administrator will be identified in a Statement of Work.

“Contractor” has the meaning set forth in the preamble.

“Contractor’s Bid Response” means the Contractor’s proposal submitted in response to the [Direct Solicitation](#).

“Contractor Hosted” means the Hosted Services are provided by Contractor or one or more of its Permitted Subcontractors.

“Contractor Personnel” means all employees of Contractor or any subcontractors or Permitted Subcontractors involved in the performance of Services hereunder.

“Contractor Project Manager” means the individual appointed by Contractor and identified in a Statement of Work to serve as the primary contact with regard to services, to monitor and coordinate the day-to-day activities of this Contract, and to perform other duties as may be further defined in this Contract, including an applicable Statement of Work.

“Customization” means State-specific changes to the Software's underlying Source Code or structural data model changes.

“Deliverables” means the Software, and all other documents and other materials that Contractor is required to or otherwise does provide to the State under this Contract and otherwise in connection with any Services, including all items specifically identified as Deliverables in a Statement of Work and all Work Product.

“Deposit Material” refers to material required to be deposited pursuant to [Section Error! Reference source not found.](#)

“Documentation” means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Software.

“DTMB” means the Michigan Department of Technology, Management and Budget.

“Effective Date” has the meaning set forth in the preamble.

“Fees” means the fees set forth in the Pricing Schedule attached as **Schedule B**.

“Financial Audit Period” has the meaning set forth in **Section 23.1**.

“Harmful Code” means any software, hardware or other technologies, devices or means, the purpose or effect of which is to: (a) permit unauthorized access to, or to destroy, disrupt, disable, encrypt, modify, copy, or otherwise harm or impede in any manner, any (i) computer, software, firmware, data, hardware, system or network, or (ii) any application or function of any of the foregoing or the integrity, use or operation of any data Processed thereby; or (b) prevent the State or any Authorized User from accessing or using the Services as intended by this Contract, and includes any virus, bug, trojan horse, worm, backdoor or other malicious computer code and any time bomb or drop dead device.

“HIPAA” has the meaning set forth in **Section 21.1**.

“Hosted Services” means the hosting, management and operation of the Operating Environment, Software, other services (including support and subcontracted services), and related resources for remote electronic access and use by the State and its Authorized Users, including any services and facilities related to disaster recovery obligations.

“Implementation Plan” means the schedule included in a Statement of Work setting forth the sequence of events for the performance of Services under a Statement of Work, including the Milestones and Milestone Dates.

“Integration Testing” has the meaning set forth in **Section Error! Reference source not found.**

“Intellectual Property Rights” means all or any of the following: (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all of the associated goodwill; (c) copyrights and copyrightable works (including computer programs), mask works and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable law in any jurisdiction throughout the world.

“Key Personnel” means any Contractor Personnel identified as key personnel in the Contract.

“Loss or Losses” means all losses, including but not limited to, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“Maintenance Release” means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Contractor may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software.

“Milestone” means an event or task described in the Implementation Plan under a Statement of Work that must be completed by the corresponding Milestone Date.

“Milestone Date” means the date by which a particular Milestone must be completed as set forth in the Implementation Plan under a Statement of Work.

“New Version” means any new version of the Software, including any updated Documentation, that the Contractor may from time to time introduce and market generally as a distinct licensed product, as may be indicated by Contractor's designation of a new version number.

“Nonconformity” or **“Nonconformities”** means any failure or failures of the Software to conform to the requirements of this Contract, including any applicable Documentation.

“Open-Source Components” means any software component that is subject to any open-source copyright license agreement, including any GNU General Public License or GNU Library or Lesser Public License, or other obligation, restriction or license agreement that substantially conforms to the Open Source Definition as prescribed by the Open Source Initiative or otherwise may require disclosure or licensing to any third party of any source code with which such software component is used or compiled.

“Operating Environment” means, collectively, the platform, environment and conditions on, in or under which the Software is intended to be installed and operate, as set forth in a Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software, system architecture, configuration, computing hardware, ancillary equipment, networking, software, firmware, databases, data, and electronic systems (including database management systems).

“PAT” means a document or product accessibility template, including any Information Technology Industry Council Voluntary Product Accessibility Template or VPAT®, that specifies how information and software products, such as websites, applications, software and associated content, conform to WCAG 2.0 Level AA.

“Permitted Subcontractor” means any third party hired by Contractor to perform Services for the State under this Contract or have access to State Data.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

“Pricing Schedule” means the schedule attached as **Schedule B**.

“Process” means to perform any operation or set of operations on any data, information, material, work, expression or other content, including to (a) collect, receive, input, upload, download, record, reproduce, store, organize, combine, log, catalog, cross-reference, manage, maintain, copy, adapt, alter, translate or make other improvements or derivative works, (b) process, retrieve, output, consult, use, disseminate, transmit, submit, post, transfer, disclose or otherwise provide or make available, or (c) block, erase or destroy. **“Processing”** and **“Processed”** have correlative meanings.

“Representatives” means a party's employees, officers, directors, partners, shareholders, agents, attorneys, successors and permitted assigns.

“RFP” means the State's request for proposal designed to solicit responses for Services under this Contract.

“Services” means any of the services, including but not limited to, Hosted Services, Contractor is required to or otherwise does provide under this Contract.

“Service Level Agreement” means the schedule attached as **Schedule D**, setting forth the Support Services Contractor will provide to the State, and the parties' additional rights and obligations with respect thereto.

“Site” means the physical location designated by the State in, or in accordance with, this Contract or a Statement of Work for delivery and installation of the Software.

“Software” means Contractor's software as set forth in a Statement of Work, and any Maintenance Releases or New Versions provided to the State and any Customizations or Configurations made by or for the State pursuant to this Contract, and all copies of the foregoing permitted under this Contract.

“Source Code” means the human readable source code of the Software to which it relates, in the programming language in which the Software was written, together with all related flow charts and technical documentation, including a description of the procedure for generating object code, all of a level sufficient to enable a programmer reasonably fluent in such programming language to understand, build, operate, support, maintain and develop modifications, upgrades, updates, adaptations, enhancements, new versions and other derivative works and improvements of, and to develop computer programs compatible with, the Software.

“Specifications” means, for the Software, the specifications collectively set forth in the Business Requirements Specification, Technical Specification, Documentation, Direct Solicitation or Contractor's Bid Response, if any, for such Software, or elsewhere in a Statement of Work.

“State” means the State of Michigan.

“State Data” has the meaning set forth in **Section 21.1**.

“State Hosted” means the Hosted Services are not provided by Contractor or one or more of its Permitted Subcontractors.

“State Materials” means all materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.

“State Program Managers” are the individuals appointed by the State, or their designees, to (a) monitor and coordinate the day-to-day activities of this Contract; (b) co-sign off on Acceptance of the Software and other Deliverables; and (c) perform other duties as may be specified in a Statement of Work. Program Managers will be identified in a Statement of Work.

“State Systems” means the information technology infrastructure, including the computers, software, databases, electronic systems (including database management systems) and networks, of the State or any of its designees.

“Statement of Work” means any statement of work entered into by the parties and incorporated into this Contract. The initial Statement of Work is attached as **Schedule A**.

“Stop Work Order” has the meaning set forth in **Section 15**.

“Support Services” means the software maintenance and support services Contractor is required to or otherwise does provide to the State under the Service Level Agreement.

“Support Services Commencement Date” means, with respect to the Software, the date on which the Warranty Period for the Software expires, and fees for support become applicable, or such other date as may be set forth in a Statement of Work.

“Technical Specification” means, with respect to any Software, the document setting forth the technical specifications for such Software and included in a Statement of Work.

“Term” has the meaning set forth in the preamble.

“Testing Period” has the meaning set forth in **Section [Error! Reference source not found.](#)**

“Transition Period” has the meaning set forth in **Section 16.3**.

“Transition Responsibilities” has the meaning set forth in **Section 16.3**.

“Unauthorized Removal” has the meaning set forth in **Section [Error! Reference source not found.](#)**

“Unauthorized Removal Credit” has the meaning set forth in **Section [Error! Reference source not found.](#)**

“User Data” means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, Processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input without the inclusion of user derived Information or additional user input.

“Warranty Period” means the ninety (90) calendar-day period commencing on the date of the State's Acceptance of the Software and for which Support Services are provided free of charge.

“WCAG 2.0 Level AA” means level AA of the World Wide Web Consortium Web Content Accessibility Guidelines version 2.0.

“Work Product” means all State-specific deliverables that Contractor is required to, or otherwise does, provide to the State under this Contract including but not limited to Customizations, application programming interfaces, computer scripts, macros, user interfaces, reports, project management documents, forms, templates, and other State-specific documents and related materials together with all ideas, concepts, processes, and methodologies developed in connection with this Contract whether or not embodied in this Contract.

2. Duties of Contractor. Contractor will provide Services and Deliverables pursuant to Statement(s) of Work entered into under this Contract. Contractor will provide all Services and Deliverables in a timely, professional manner and in accordance with the terms, conditions, and Specifications set forth in this Contract and the Statement(s) of Work.

2.1 Statement of Work Requirements. No Statement of Work will be effective unless signed by each party's Contract Administrator. The term of each Statement of Work will commence on the parties' full execution of a Statement of Work and terminate when the parties have fully performed their obligations. The terms and conditions of this Contract will apply at all times to any Statements of Work entered into by the parties and incorporated into this Contract. The State will have the right to terminate such Statement of Work as set forth in **Section 16**. Contractor acknowledges that time is of the essence with respect to Contractor's obligations under each Statement of Work and agrees that prompt and timely performance of all such obligations in accordance with this Contract and the Statements of Work (including the Implementation Plan and all Milestone Dates) is strictly required.

2.2 Change Control Process. The State may at any time request in writing (each, a "**Change Request**") changes to a Statement of Work, including changes to the Services and Implementation Plan (each, a "**Change**"). Upon the State's submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this **Section Error! Reference source not found.**

(a) As soon as reasonably practicable, and in any case within twenty (20) Business Days following receipt of a Change Request, Contractor will provide the State with a written proposal for implementing the requested Change ("**Change Proposal**"), setting forth:

- (i) a written description of the proposed Changes to any Services or Deliverables;
- (ii) an amended Implementation Plan reflecting: (A) the schedule for commencing and completing any additional or modified Services or Deliverables; and (B) the effect of such Changes, if any, on completing any other Services under a Statement of Work;
- (iii) any additional State Resources Contractor deems necessary to carry out such Changes; and
- (iv) any increase or decrease in Fees resulting from the proposed Changes, which increase, or decrease will reflect only the increase or decrease in time and expenses Contractor requires to carry out the Change.

(b) Within thirty (30) Business Days following the State's receipt of a Change Proposal, the State will by written notice to Contractor, approve, reject, or propose modifications to such Change Proposal. If the State proposes modifications, Contractor must modify and re-deliver the Change Proposal reflecting such modifications, or notify the State of any disagreement, in which event the parties will negotiate in good faith to resolve their disagreement. Upon the State's approval of the Change Proposal or the parties' agreement on all proposed modifications, as the case may be, the parties will execute a written agreement to the Change Proposal ("**Change Notice**"), which Change Notice will be signed by the State's Contract Administrator and will constitute an amendment to a Statement of Work to which it relates; and

(c) If the parties fail to enter into a Change Notice within fifteen (15) Business Days following the State's response to a Change Proposal, the State may, in its discretion:

- (i) require Contractor to perform the Services under a Statement of Work without the Change;
- (ii) require Contractor to continue to negotiate a Change Notice;
- (iii) initiate a Dispute Resolution Procedure; or
- (iv) notwithstanding any provision to the contrary in a Statement of Work, terminate this Contract under **Section 16.1**.

(d) No Change will be effective until the parties have executed a Change Notice. Except as the State may request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance

with a Statement of Work pending negotiation and execution of a Change Notice. Contractor will use its best efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Each party is responsible for its own costs and expenses of preparing, evaluating, negotiating, and otherwise processing any Change Request, Change Proposal, and Change Notice.

(e) The performance of any functions, activities, tasks, obligations, roles and responsibilities comprising the Services as described in this Contract are considered part of the Services and, thus, will not be considered a Change. This includes the delivery of all Deliverables in accordance with their respective Specifications, and the diagnosis and correction of Non-Conformities discovered in Deliverables prior to their Acceptance by the State or, subsequent to their Acceptance by the State, as necessary for Contractor to fulfill its associated warranty requirements and its Support Services under this Contract.

(f) Contractor may, on its own initiative and at its own expense, prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.

2.3 Contractor Personnel.

(a) Contractor is solely responsible for all Contractor Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

(b) Prior to any Contractor Personnel performing any Services, Contractor will:

- (i) ensure that such Contractor Personnel have the legal right to work in the United States;
- (ii) upon request, require such Contractor Personnel to execute written agreements, in form and substance acceptable to the State, that bind such Contractor Personnel to confidentiality provisions that are at least as protective of the State's information (including all Confidential Information) as those contained in this Contract; and
- (iii) upon request, or as otherwise specified in a Statement of Work, perform background checks on all Contractor Personnel prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks on Contractor Personnel. Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018.

(c) Contractor and all Contractor Personnel will comply with all rules, regulations, and policies of the State that are communicated to Contractor in writing, including security procedures concerning systems and data and remote access, building security procedures, including the restriction of access by the State to certain areas of its premises or systems, and general health and safety practices and procedures.

(d) The State reserves the right to require the removal of any Contractor Personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and Contractor cannot immediately replace the removed personnel, the State agrees to negotiate an equitable adjustment in schedule or other terms that may be affected by the State's required removal.

2.4 Contractor Project Manager. Throughout the Term of this Contract, Contractor must maintain a Contractor employee acceptable to the State to serve as Contractor Project Manager, who will be considered Key Personnel of Contractor. Contractor Project Manager will be identified in a Statement of Work.

- (a) Contractor Project Manager must:
 - (i) have the requisite authority, and necessary skill, experience, and qualifications, to perform in such capacity;
 - (ii) be responsible for overall management and supervision of Contractor's performance under this Contract; and
 - (iii) be the State's primary point of contact for communications with respect to this Contract, including with respect to giving and receiving all day-to-day approvals and consents.
- (b) Contractor Project Manager must attend all regularly scheduled meetings as set forth in the Implementation Plan and will otherwise be available as set forth in a Statement of Work.
- (c) Contractor will maintain the same Contractor Project Manager throughout the Term of this Contract, unless:
 - (i) the State requests in writing the removal of Contractor Project Manager;
 - (ii) the State consents in writing to any removal requested by Contractor in writing;
 - (iii) Contractor Project Manager ceases to be employed by Contractor, whether by resignation, involuntary termination or otherwise.
- (d) Contractor will promptly replace its Contractor Project Manager on the occurrence of any event set forth in **Section Error! Reference source not found.** Such replacement will be subject to the State's prior written approval.

2.5 Contractor's Key Personnel.

- (a) The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State Program Managers or their designees, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.
- (b) Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("**Unauthorized Removal**"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under **Section 16.1**.
- (c) It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to determine and remedy the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 16**, Contractor will issue to the State an amount equal to \$25,000 per individual (each, an "**Unauthorized Removal Credit**").

(d) Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed under **Subsection Error! Reference source not found.** above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any Fees or other charges payable to Contractor under this Contract.

2.6 **Subcontractors.** Contractor must obtain prior written approval of the State, which consent may be given or withheld in the State's sole discretion, before engaging any Permitted Subcontractor to provide Services to the State under this Contract. Third parties otherwise retained by Contractor to provide Contractor or other clients of contractor with services are not Permitted Subcontractors, and therefore do not require prior approval by the State. Engagement of any subcontractor or Permitted Subcontractor by Contractor does not relieve Contractor of its representations, warranties or obligations under this Contract. Without limiting the foregoing, Contractor will:

(a) be responsible and liable for the acts and omissions of each such subcontractor (including such Permitted Subcontractor and Permitted Subcontractor's employees who, to the extent providing Services or Deliverables, will be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees;

(b) name the State a third-party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services;

(c) be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits; and

(d) notify the State of the location of the Permitted Subcontractor and indicate if it is located within the continental United States.

3. Notices. All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Mark Whitaker 735 E. Michigan Ave. Lansing, MI 48909 WhitakerM@michigan.gov 517-335-9812	Michael Guido 8526 Vidor Avenue San Antonio, TX 78216 Michael.guido@kinetechcloud.com (844) 546 - 3832

4. Insurance. Contractor must maintain the minimum insurances identified in the Insurance Schedule attached as **Schedule C.**

5. Software License.

5.1 **Perpetual License.** If Contractor is providing the State with a license to use its Software indefinitely, then Contractor hereby grants to the State and its Authorized Users a non-exclusive, royalty-free, perpetual, irrevocable right and license to use the Software and Documentation in accordance with the terms and conditions of this Contract, provided that:

(a) The State is prohibited from reverse engineering or decompiling the Software, making derivative works, modifying, adapting or copying the Software except as is expressly permitted by this Contract or required to be permitted by law;

(b) The State is authorized to make copies of the Software for backup, disaster recovery, and archival purposes;

(c) The State is authorized to make copies of the Software to establish a test environment to conduct Acceptance Testing;

(d) Title to and ownership of the Software shall at all times remain with Contractor and/or its licensors, as applicable; and

(e) Except as expressly agreed in writing, the State is not permitted to sub-license the use of the Software or any accompanying Documentation.

5.2 Subscription License. If the Software is Contractor Hosted and Contractor is providing the State access to use its Software during the Term of the Contract only, then:

(a) Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, irrevocable right and license during the Term and such additional periods, if any, as Contractor is required to perform Services under this Contract or any Statement of Work, to:

- (i) access and use the Software, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for Processing State Data;
- (ii) generate, print, copy, upload, download, store and otherwise Process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Software;
- (iii) prepare, reproduce, print, download and use a reasonable number of copies of the Specifications and Documentation for any use of the Software under this Contract; and
- (iv) access and use the Software for all such non-production uses and applications as may be necessary or useful for the effective use of the Software hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without charge and not included for any purpose in any calculation of the State's or its Authorized Users' use of the Software, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Software as described in **Section 5.2(c)** below.

(b) License Restrictions. The State will not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Software available to any third party, except as expressly permitted by this Contract or in any Statement of Work; or (b) use or authorize the use of the Software or Documentation in any manner or for any purpose that is unlawful under applicable Law.

(c) Use. The State will pay Contractor the corresponding Fees set forth in a Statement of Work or Pricing Schedule for all Authorized Users access and use of the Software. Such Fees will be Contractor's sole and exclusive remedy for use of the Software, including any excess use.

5.3 Certification. To the extent that a License granted to the State is not unlimited, Contractor may request written certification from the State regarding use of the Software for the sole purpose of verifying compliance with this **Section Error! Reference source not found.** Such written certification may occur no more than once in any twenty four (24) month period during the Term of the Contract. The State will to respond to any such request within 45 calendar days of receipt. If the State's use is greater than contracted, Contractor may invoice the State for any unlicensed use (and related support) pursuant to the terms of this Contract at the rates set forth in **Schedule B**, and the unpaid license and support fees shall be payable in accordance with the terms of the Contract. Payment under this provision shall be Contractor's sole and exclusive remedy to cure these issues.

5.4 State License Grant to Contractor. The State hereby grants to Contractor a limited, non-exclusive, non-transferable license (i) to use the State's (or individual agency's, department's or division's) name, trademarks, service marks or logos, solely in accordance with the State's specifications, and (ii) to display, reproduce, distribute and transmit

in digital form the State's (or individual agency's, department's or division's) name, trademarks, service marks or logos in connection with promotion of the Services as communicated to Contractor by the State. Use of the State's (or individual agency's, department's or division's) name, trademarks, service marks or logos will be specified in the applicable Statement of Work. Contractor is provided a limited license to State Materials for the sole and exclusive purpose of providing the Services.

6. Third Party Components. At least 30 days prior to adding new Third Party Components, Contractor will provide the State with notification information identifying and describing the addition. Throughout the Term, on an annual basis, Contractor will provide updated information identifying and describing any Approved Third Party Components included in the Software.

7. Intellectual Property Rights

7.1 Ownership Rights in Software

(a) For purposes of this **Section Error! Reference source not found.** only, the term "Software" does not include Customizations.

(b) Subject to the rights and licenses granted by Contractor in this Contract and the provisions of **Section Error! Reference source not found.(c)**:

- (i) Contractor reserves and retains its entire right, title and interest in and to all Intellectual Property Rights arising out of or relating to the Software; and
- (ii) none of the State or Authorized Users acquire any ownership of Intellectual Property Rights in or to the Software or Documentation as a result of this Contract.

(c) As between the State, on the one hand, and Contractor, on the other hand, the State has, reserves and retains, sole and exclusive ownership of all right, title and interest in and to State Materials, User Data, including all Intellectual Property Rights arising therefrom or relating thereto.

7.2 The State is and will be the sole and exclusive owner of all right, title, and interest in and to all Work Product developed exclusively for the State under this Contract, including all Intellectual Property Rights. In furtherance of the foregoing:

(a) Contractor will create all Work Product as work made for hire as defined in Section 101 of the Copyright Act of 1976; and

(b) to the extent any Work Product, or Intellectual Property Rights do not qualify as, or otherwise fails to be, work made for hire, Contractor hereby:

- (i) assigns, transfers, and otherwise conveys to the State, irrevocably and in perpetuity, throughout the universe, all right, title, and interest in and to such Work Product, including all Intellectual Property Rights; and
- (ii) irrevocably waives any and all claims Contractor may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of *droit moral* with respect to the Work Product.

8. Software Implementation.

8.1 Implementation. Contractor will as applicable; deliver, install, configure, integrate, and otherwise provide and make fully operational the Software on or prior to the applicable Milestone Date in accordance with the criteria set forth in a Statement of Work and the Implementation Plan.

8.2 Site Preparation. Unless otherwise set forth in a Statement of Work, Contractor is responsible for ensuring the relevant Operating Environment is set up and in working order to allow Contractor to deliver and install the Software on or prior to the applicable Milestone Date. Contractor will provide the State with such notice as is specified in a

Statement of Work, prior to delivery of the Software to give the State sufficient time to prepare for Contractor's delivery and installation of the Software. If the State is responsible for Site preparation, Contractor will provide such assistance as the State requests to complete such preparation on a timely basis.

9. Software Acceptance Testing.

9.1 Acceptance Testing.

(a) Unless otherwise specified in a Statement of Work, upon installation of the Software, or in the case of Contractor Hosted Software, when Contractor notifies the State in writing that the Hosted Services are ready for use in a production environment, Acceptance Tests will be conducted as set forth in this **Section Error! Reference source not found.** to ensure the Software conforms to the requirements of this Contract, including the applicable Specifications and Documentation.

(b) All Acceptance Tests will take place at the designated Site(s) in the Operating Environment described in a Statement of Work, commence on the Business Day following installation of the Software, or the receipt by the State of the notification in **Section Error! Reference source not found.**, and be conducted diligently for up to thirty (30) Business Days, or such other period as may be set forth in a Statement of Work (the "**Testing Period**"). Acceptance Tests will be conducted by the party responsible as set forth in a Statement of Work or, if a Statement of Work does not specify, the State, provided that:

- (i) for Acceptance Tests conducted by the State, if requested by the State, Contractor will make suitable Contractor Personnel available to observe or participate in such Acceptance Tests; and
- (ii) for Acceptance Tests conducted by Contractor, the State has the right to observe or participate in all or any part of such Acceptance Tests.

9.2 Contractor is solely responsible for all costs and expenses related to Contractor's performance of, participation in, and observation of Acceptance Testing.

(a) Upon delivery and installation of any application programming interfaces, Configuration or Customizations, or any other applicable Work Product, to the Software under a Statement of Work, additional Acceptance Tests will be performed on the modified Software as a whole to ensure full operability, integration, and compatibility among all elements of the Software ("**Integration Testing**"). Integration Testing is subject to all procedural and other terms and conditions set forth in **Section Error! Reference source not found.**, **Section Error! Reference source not found.**, and **Section Error! Reference source not found.**.

(b) The State may suspend Acceptance Tests and the corresponding Testing Period by written notice to Contractor if the State discovers a material Non-Conformity in the tested Software or part or feature of the Software. In such event, Contractor will immediately, and in any case within ten (10) Business Days, correct such Non-Conformity, whereupon the Acceptance Tests and Testing Period will resume for the balance of the Testing Period.

9.3 **Notices of Completion, Non-Conformities, and Acceptance.** Within fifteen (15) Business Days following the completion of any Acceptance Tests, including any Integration Testing, the party responsible for conducting the tests will prepare and provide to the other party written notice of the completion of the tests. Such notice must include a report describing in reasonable detail the tests conducted and the results of such tests, including any uncorrected Non-Conformity in the tested Software.

(a) If such notice is provided by either party and identifies any Non-Conformities, the parties' rights, remedies, and obligations will be as set forth in **Section Error! Reference source not found.** and **Section Error! Reference source not found.**.

(b) If such notice is provided by the State, is signed by the State Program Managers or their designees, and identifies no Non-Conformities, such notice constitutes the State's Acceptance of such Software.

(c) If such notice is provided by Contractor and identifies no Non-Conformities, the State will have thirty (30) Business Days to use the Software in the Operating Environment and determine, in the exercise of its sole

discretion, whether it is satisfied that the Software contains no Non-Conformities, on the completion of which the State will, as appropriate:

- (i) notify Contractor in writing of Non-Conformities the State has observed in the Software and of the State's non-acceptance thereof, whereupon the parties' rights, remedies and obligations will be as set forth in **Section Error! Reference source not found.** and **Section Error! Reference source not found.**; or
- (ii) provide Contractor with a written notice of its Acceptance of such Software, which must be signed by the State Program Managers or their designees.

9.4 **Failure of Acceptance Tests.** If Acceptance Tests identify any Non-Conformities, Contractor, at Contractor's sole cost and expense, will remedy all such Non-Conformities and re-deliver the Software, in accordance with the requirements set forth in a Statement of Work. Redelivery will occur as promptly as commercially possible and, in any case, within thirty (30) Business Days following, as applicable, Contractor's:

- (a) completion of such Acceptance Tests, in the case of Acceptance Tests conducted by Contractor; or
- (b) receipt of the State's notice under **Section Error! Reference source not found.** or **Section Error! Reference source not found.**, identifying any Non-Conformities.

9.5 **Repeated Failure of Acceptance Tests.** If Acceptance Tests identify any Non-Conformity in the Software after a second or subsequent delivery of the Software, or Contractor fails to re-deliver the Software on a timely basis, the State may, in its sole discretion, by written notice to Contractor:

- (a) continue the process set forth in this **Section Error! Reference source not found.**;
- (b) accept the Software as a nonconforming deliverable, in which case the Fees for such Software will be reduced equitably to reflect the value of the Software as received relative to the value of the Software had it conformed; or
- (c) deem the failure to be a non-curable material breach of this Contract and a Statement of Work and terminate this Contract for cause in accordance with **Section 16.1.**

9.6 **Acceptance.** Acceptance ("**Acceptance**") of the Software (subject, where applicable, to the State's right to Integration Testing) and any Deliverables will occur on the date that is the earliest of the State's delivery of a notice accepting the Software or Deliverables under **Section Error! Reference source not found.**, or **Section Error! Reference source not found.**

10. Non-Software Acceptance.

10.1 All other non-Software Services and Deliverables are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("State Review Period"), unless otherwise provided in the Statement of Work. If the non-Software Services and Deliverables are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the non-Software Services and Deliverables are accepted but noted deficiencies must be corrected; or (b) the non-Software Services and Deliverables are rejected. If the State finds material deficiencies, it may: (i) reject the non-Software Services and Deliverables without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with **Section 16.1**, Termination for Cause.

10.2 Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any non-Software Services and Deliverables, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable non-Software Services and Deliverables to the State. If acceptance with deficiencies or rejection of the non-Software Services and Deliverables impacts the content or delivery of other non-completed non-Software Services and Deliverables, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or

relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

10.3 If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may provide the non-Software Services and Deliverables and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

11. Assignment. Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

12. Change of Control. Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following:

- (a) a sale of more than 50% of Contractor's stock;
- (b) a sale of substantially all of Contractor's assets;
- (c) a change in a majority of Contractor's board members;
- (d) consummation of a merger or consolidation of Contractor with any other entity;
- (e) a change in ownership through a transaction or series of transactions;
- (f) or the board (or the stockholders) approves a plan of complete liquidation.

A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes. In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

13. Invoices and Payment.

13.1 Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Services and Deliverables provided as specified in Statement(s) of Work. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Contract are for the State's exclusive use. Notwithstanding the foregoing, all prices are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

13.2 The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Services and Deliverables. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

13.3 The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

13.4 Right of Setoff. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

13.5 Taxes. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services or Deliverables purchased under this Contract are for the State's exclusive use. Notwithstanding the foregoing, all Fees are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

13.6 Pricing/Fee Changes. All Pricing set forth in this Contract will not be increased, except as otherwise expressly provided in this Section.

(a) The Fees will not be increased at any time except for the addition of additional licenses, additional infrastructure, or additional services as requested by Michigan. The fees for which licenses will also remain firm in accordance with the Pricing set forth in the Pricing Schedule.

(b) Excluding federal government charges and terms. Contractor warrants and agrees that each of the Fees, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent fees, economic or product term or warranty being offered to any commercial or government customer of Contractor. If Contractor enters into any arrangements with another customer of Contractor to provide the products or services, available under this Contract, under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract will be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor will immediately notify the State of such Fee and formally memorialize the new pricing in a Change Notice.

14. Liquidated Damages.

14.1 The parties agree that any delay or failure by Contractor to timely perform its obligations in accordance with the Implementation Plan and Milestone Dates agreed to by the parties will interfere with the proper and timely implementation of the Software, to the loss and damage of the State. Further, the State will incur major costs to perform the obligations that would have otherwise been performed by Contractor. The parties understand and agree that any liquidated damages Contractor must pay to the State as a result of such nonperformance are described in a Statement of Work, and that these amounts are reasonable estimates of the State's damages in accordance with applicable law.

14.2 The parties acknowledge and agree that Contractor could incur liquidated damages for more than one event if Contractor fails to timely perform its obligations by each Milestone Date.

14.3 The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under **Section 16.1** and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages.

14.4 Amounts due the State as liquidated damages may be set off against any Fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.

15. Stop Work Order. The State may, at any time, order the Services of Contractor fully or partially stopped for up to ninety (90) calendar days at no additional cost to the State. The State will provide Contractor a written notice detailing such suspension (a "**Stop Work Order**"). Contractor must comply with the Stop Work Order upon receipt. Within 90 days, or any longer period agreed to by Contractor, the State will either:

(a) issue a notice authorizing Contractor to resume work, or

(b) terminate this Contract. The State will not pay for any Services, Contractor's lost profits, or any additional compensation during a stop work period.

16. Termination, Expiration, Transition. The State may terminate this Contract, the Support Services, or any Statement of Work, in accordance with the following:

16.1 Termination for Cause. In addition to any right of termination set forth elsewhere in this Contract:

(a) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State:

- (i) endangers the value, integrity, or security of State Systems, State Data, or the State's facilities or personnel;
- (ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; or
- (iii) breaches any of its material duties or obligations under this Contract. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

(b) If the State terminates this Contract under this **Section 16.1**, the State will issue a termination notice specifying whether Contractor must:

- (i) cease performance immediately. Contractor must submit all invoices for Services accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Services accepted by the State under this Contract, or
- (ii) continue to perform for a specified period. If it is later determined that Contractor was not in breach of this Contract, the termination will be deemed to have been a termination for public interest, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 16.2**.

(c) The State will only pay for amounts due to Contractor for Services accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination, including any prepaid Fees. Further, Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Services from other sources.

16.2 Termination for Public Interest. The State may immediately terminate this Contract in whole or in part, without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must:

(a) cease performance immediately. Contractor must submit all invoices for Services accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Services accepted by the State under this Contract, or

(b) continue to perform in accordance with **Section 16.3**. If the State terminates this Contract for public interest, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

16.3 Transition Responsibilities.

(a) Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days; the "**Transition Period**"), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract to continue without interruption or adverse effect, and to facilitate the orderly transfer of the Services to the State or its designees. Such transition assistance may include but is not limited to:

- (i) continuing to perform the Services at the established Contract rates;
- (ii) taking all reasonable and necessary measures to transition performance of the work, including all applicable Services to the State or the State's designee;
- (iii) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, and comply with **Section 22.5** regarding the return or destruction of State Data at the conclusion of the Transition Period; and
- (iv) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, the "**Transition Responsibilities**"). The Term of this Contract is automatically extended through the end of the Transition Period.

(b) Contractor will follow the transition plan attached as **Schedule G** as it pertains to both transition in and transition out activities.

17. Indemnification

17.1 General Indemnification. Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to:

(a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract;

(b) any infringement, misappropriation, or other violation of any Intellectual Property Right or other right of any third party;

(c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and

(d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

17.2 Indemnification Procedure. The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations. The State is entitled to:

(a) regular updates on proceeding status;

(b) participate in the defense of the proceeding;

(c) employ its own counsel; and to

(d) retain control of the defense, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. Any litigation activity on behalf of the State or any of its subdivisions, under this **Section 17**[Error! Reference source not found.](#), must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

17.3 The State is constitutionally prohibited from indemnifying Contractor or any third parties.

18. Infringement Remedies.

18.1 The remedies set forth in this Section are in addition to, and not in lieu of, all other remedies that may be available to the State under this Contract or otherwise, including the State's right to be indemnified for such actions.

18.2 If any Software or any component thereof, other than State Materials, is found to be infringing or if any use of any Software or any component thereof is enjoined, threatened to be enjoined or otherwise the subject of an infringement claim, Contractor must, at Contractor's sole cost and expense:

- (a) procure for the State the right to continue to use such Software or component thereof to the full extent contemplated by this Contract; or

- (b) modify or replace the materials that infringe or are alleged to infringe ("**Allegedly Infringing Materials**") to make the Software and all of its components non-infringing while providing fully equivalent features and functionality.

18.3 If neither of the foregoing is possible notwithstanding Contractor's best efforts, then Contractor may direct the State to cease any use of any materials that have been enjoined or finally adjudicated as infringing, provided that Contractor will:

- (a) refund to the State all amounts paid by the State in respect of such Allegedly Infringing Materials and any other aspects of the Software provided under a Statement of Work for the Allegedly Infringing Materials that the State cannot reasonably use as intended under this Contract; and

- (b) in any case, at its sole cost and expense, secure the right for the State to continue using the Allegedly Infringing Materials for a transition period of up to six (6) months to allow the State to replace the affected features of the Software without disruption.

18.4 If Contractor directs the State to cease using any Software under **Section 18.3**, the State may terminate this Contract for cause under **Section 16.1**. Unless the claim arose against the Software independently of any of the actions specified below, Contractor will have no liability for any claim of infringement arising solely from:

- (a) Contractor's compliance with any designs, specifications, or instructions of the State; or

- (b) modification of the Software by the State without the prior knowledge and approval of Contractor.

19. Disclaimer of Damages and Limitation of Liability.

19.1 The State's Disclaimer of Damages. THE STATE WILL NOT BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES.

19.2 The State's Limitation of Liability. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.

20. Disclosure of Litigation, or Other Proceeding. Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a Permitted Subcontractor, or an officer or director of Contractor or Permitted Subcontractor, that arises during the term of the Contract, including:

- (a) a criminal Proceeding;

- (b) a parole or probation Proceeding;

- (c) a Proceeding under the Sarbanes-Oxley Act;

- (d) a civil Proceeding involving:
 - (i) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or
 - (ii) a governmental or public entity's claim or written allegation of fraud; or
- (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

21. State Data.

21.1 Ownership. The State's data ("**State Data**"), which will be treated by Contractor as Confidential Information, includes:

- (a) User Data; and
- (b) any other data collected, used, Processed, stored, or generated in connection with the Services, including but not limited to:
 - (i) personally identifiable information ("**PII**") collected, used, Processed, stored, or generated as the result of the Services, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and
 - (ii) protected health information ("**PHI**") collected, used, Processed, stored, or generated as the result of the Services, which is defined under the Health Insurance Portability and Accountability Act ("**HIPAA**") and its related rules and regulations.

21.2 State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State.

21.3 Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must:

- (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss;
- (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law;
- (c) keep and maintain State Data in the continental United States and
- (d) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent.

21.4 Discovery. Contractor will immediately notify the State upon receipt of any requests which in any way might reasonably require access to State Data or the State's use of the Software and Hosted Services, if applicable. Contractor will notify the State Program Managers or their designees by the fastest means available and also in writing. In no event will Contract provide such notification more than twenty-four (24) hours after Contractor receives the request. Contractor will not respond to subpoenas, service of process, FOIA requests, and other legal requests related to the State without first notifying the State and obtaining the State's prior approval of Contractor's proposed responses.

Contractor agrees to provide its completed responses to the State with adequate time for State review, revision and approval.

21.5 Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, integrity, or availability of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable:

- (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence;
- (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State;
- (c) in the case of PII or PHI, at the State's sole election:
 - (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or
 - (ii) reimburse the State for any costs in notifying the affected individuals;
- (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals;
- (e) perform or take any other actions required to comply with applicable law as a result of the occurrence;
- (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution;
- (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence;
- (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and
- (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination.

21.6 The parties agree that any damages relating to a breach of **Section 21.5** are to be considered direct damages and not consequential damages. **Section 21** survives termination or expiration of this Contract.

22. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. This **Section 22** survives termination or expiration of this Contract.

22.1 Meaning of Confidential Information. The term "**Confidential Information**" means all information and documentation of a party that:

- (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party;
- (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; or,
- (c) should reasonably be recognized as confidential information of the disclosing party.

The term "Confidential Information" does not include any information or documentation that was or is:

- (d) in the possession of the State and subject to disclosure under the Michigan Freedom of Information Act (FOIA);
- (e) already in the possession of the receiving party without an obligation of confidentiality;
- (f) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights;
- (g) obtained from a source other than the disclosing party without an obligation of confidentiality; or,
- (h) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party).

For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

22.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to the Contractor's subcontractor is permissible where:

- (a) the subcontractor is a Permitted Subcontractor;
- (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Permitted Subcontractor's responsibilities; and
- (c) Contractor obligates the Permitted Subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any of the Contractor's and Permitted Subcontractor's Representatives may be required to execute a separate agreement to be bound by the provisions of this **Section 22.2**.

22.3 Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract. Each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

22.4 Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

22.5 Surrender of Confidential Information upon Termination. Upon termination or expiration of this Contract or a Statement of Work, in whole or in part, each party must, within five (5) Business Days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control. Upon confirmation from the State, of receipt of all data, Contractor must permanently sanitize or destroy the State's Confidential Information, including State Data, from all media including backups using National Security Agency ("NSA") and/or National Institute of Standards and Technology ("NIST") (NIST Guide for Media Sanitization 800-88) data sanitation methods or as otherwise instructed by the State. If the State determines that the return of any Confidential Information is not feasible or necessary, Contractor must destroy the Confidential Information as specified above. The Contractor must certify the destruction of Confidential Information (including State Data) in writing within five (5) Business Days from the date of confirmation from the State.

23. Records Maintenance, Inspection, Examination, and Audit.

23.1 Right of Audit. Pursuant to MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to this Contract through the Term of this Contract and for four (4) years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Financial Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Financial Audit Period, Contractor must retain the records until all issues are resolved.

23.2 Right of Inspection. Within ten (10) calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Services are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of this Contract must be paid or refunded within forty-five (45) calendar days.

23.3 Application. This **Section 23** applies to Contractor, any Affiliate, and any Permitted Subcontractor that performs Services in connection with this Contract.

24. Support Services. Contractor will provide the State with the Support Services described in the Service Level Agreement attached as **Schedule D** to this Contract. Such Support Services will be provided:

- (a) Free of charge during the Warranty Period.
- (b) Thereafter, for so long as the State elects to receive Support Services for the Software, in consideration of the State's payment of Fees for such services in accordance with the rates set forth in the Pricing Schedule.

25. Data Security Requirements. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State's Confidential Information that comply with the requirements of the State's data security policies as set forth in **Schedule E** to this Contract.

26. Training. Contractor will provide, at no additional charge, training on all uses of the Software permitted hereunder in accordance with the times, locations and other terms set forth in a Statement of Work. Upon the State's request, Contractor will timely provide training for additional Authorized Users or other additional training on all uses of the Software for which the State requests such training, at such reasonable times and locations and pursuant to such rates and other terms as are set forth in the Pricing Schedule.

27. Maintenance Releases; New Versions

27.1 Maintenance Releases. Provided that the State is current on its Fees, during the Term, Contractor will provide the State, at no additional charge, with all Maintenance Releases, each of which will constitute Software and be subject to the terms and conditions of this Contract.

27.2 New Versions. Provided that the State is current on its Fees, during the Term, Contractor will provide the State, at no additional charge, with all New Versions, each of which will constitute Software and be subject to the terms and conditions of this Contract.

27.3 Installation. The State has no obligation to install or use any Maintenance Release or New Versions. If the State wishes to install any Maintenance Release or New Version, the State will have the right to have such Maintenance Release or New Version installed, in the State's discretion, by Contractor or other authorized party as set forth in a Statement of Work. Contractor will provide the State, at no additional charge, adequate Documentation for installation of the Maintenance Release or New Version, which has been developed and tested by Contractor and Accepted by the State. The State's decision not to install or implement a Maintenance Release or New Version of the Software will not affect its right to receive Support Services throughout the Term of this Contract.

28. Source Code Escrow

28.1 Escrow Contract. The parties may enter into a separate intellectual property escrow agreement. Such escrow agreement will govern all aspects of Source Code escrow and release. The cost of the escrow will be the sole responsibility of Contractor.

28.2 Deposit. Within thirty (30) business days of the Effective Date, Contractor will deposit with the escrow agent, pursuant to the procedures of the escrow agreement, the Source Code for the Software, as well as the Documentation and names and contact information for each author or other creator of the Software. Promptly after release of any update, upgrade, patch, bug fix, enhancement, new version, or other revision to the Software, Contractor will deposit updated Source Code, documentation, names, and contact information with the escrow agent.

28.3 Verification. At State's request and expense, the escrow agent may at any time verify the Deposit Material, including without limitation by compiling Source Code, comparing it to the Software, and reviewing the completeness and accuracy of any and all material. In the event that the Deposit Material does not conform to the requirements of **Section 28.2** above:

- (a) Contractor will promptly deposit conforming Deposit Material; and
- (b) Contractor will pay the escrow agent for subsequent verification of the new Deposit Material. Any breach of the provisions of this **Section 28.3** will constitute material breach of this Contract, and no further payments will be due from the State until such breach is cured, in addition to other remedies the State may have.

28.4 Deposit Material License. Contractor hereby grants the State a license to use, reproduce, and create derivative works from the Deposit Material, provided the State may not distribute or sublicense the Deposit Material or make any use of it whatsoever except for such internal use as is necessary to maintain and support the Software. Copies of the Deposit Material created or transferred pursuant to this Contract are licensed, not sold, and the State receives no title to or ownership of any copy or of the Deposit Material itself. The Deposit Material constitutes Confidential Information of Contractor pursuant to **Section 22** (Non-disclosure of Confidential Information) of this Contract (provided no provision of **Section 22.4** calling for return of Confidential Information before termination of this Contract will apply to the Deposit Material).

29. Contractor Representations and Warranties.

29.1 Authority. Contractor represents and warrants to the State that:

- (a) It is duly organized, validly existing, and in good standing as a corporation or other entity as represented under this Contract under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;

(b) It has the full right, power, and authority to enter into this Contract, to grant the rights and licenses granted under this Contract, and to perform its contractual obligations;

(c) The execution of this Contract by its Representative has been duly authorized by all necessary organizational action; and

(d) When executed and delivered by Contractor, this Contract will constitute the legal, valid, and binding obligation of Contractor, enforceable against Contractor in accordance with its terms.

(e) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606.

29.2 Bid Response. Contractor represents and warrants to the State that:

(a) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other Bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Bidder to the Direct Solicitation; and no attempt was made by Contractor to induce any other Person to submit or not submit a proposal for the purpose of restricting competition;

(b) All written information furnished to the State by or for Contractor in connection with this Contract, including Contractor's Bid Response, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the information not misleading;

(c) Contractor is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of the contract; and

(d) If any of the certifications, representations, or disclosures made in Contractor's Bid Response change after contract award, the Contractor is required to report those changes immediately to the Contract Administrator.

29.3 Software Representations and Warranties. Contractor further represents and warrants to the State that:

(a) it is the legal and beneficial owner of the entire right, title and interest in and to the Software, including all Intellectual Property Rights relating thereto;

(b) it has, and throughout the license term, will retain the unconditional and irrevocable right, power and authority to grant and perform the license hereunder;

(c) it has, and throughout the Term and any additional periods during which Contractor does or is required to perform the Services will have, the unconditional and irrevocable right, power and authority, including all permits and licenses required, to provide the Services and grant and perform all rights and licenses granted or required to be granted by it under this Contract;

(d) the Software, and the State's use thereof, is and throughout the license term will be free and clear of all encumbrances, liens and security interests of any kind;

(e) neither its grant of the license, nor its performance under this Contract does or to its knowledge will at any time:

(i) conflict with or violate any applicable law;

(ii) require the consent, approval or authorization of any governmental or regulatory authority or other third party; or

(iii) require the provision of any payment or other consideration to any third party;

(f) when used by the State or any Authorized User in accordance with this Contract and the Documentation, the Software, the Hosted Services, if applicable, or Documentation as delivered or installed by Contractor does not or will not:

- (i) infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third party; or
- (ii) fail to comply with any applicable law;

(g) as provided by Contractor, the Software and Services do not and will not at any time during the Term contain any:

- (i) Harmful Code; or
- (ii) Third party or Open-Source Components that operate in such a way that it is developed or compiled with or linked to any third party or Open-Source Components, other than Approved Third Party Components specifically described in a Statement of Work.

(h) all Documentation is and will be complete and accurate in all material respects when provided to the State such that at no time during the license term will the Software have any material undocumented feature; and

(i) it will perform all Services in a timely, skillful, professional and workmanlike manner in accordance with commercially reasonable industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet its obligations under this Contract and will devote adequate resources to meet Contractor's obligations under this Contract;

(j) when used in the Operating Environment (or any successor thereto) in accordance with the Documentation, all Software as provided by Contractor, will be fully operable, meet all applicable specifications, and function in all respects, in conformity with this Contract and the Documentation;

(k) Contractor acknowledges that the State cannot indemnify any third parties, including but not limited to any third-party software providers that provide software that will be incorporated in or otherwise used in conjunction with the Services, and that notwithstanding anything to the contrary contained in any third-party software license agreement or end user license agreement, the State will not indemnify any third party software provider for any reason whatsoever;

(l) no Maintenance Release or New Version, when properly installed in accordance with this Contract, will have a material adverse effect on the functionality or operability of the Software.

(m) all Configurations or Customizations made during the Term will be forward-compatible with future Maintenance Releases or New Versions and be fully supported without additional costs.

(n) If Contractor Hosted:

- (i) Contractor will not advertise through the Hosted Services (whether with adware, banners, buttons or other forms of online advertising) or link to external web sites that are not approved in writing by the State;
- (ii) the Software and Services will in all material respects conform to and perform in accordance with the Specifications and all requirements of this Contract, including the Availability and Availability Requirement provisions set forth in the Service Level Agreement;
- (iii) all Specifications are, and will be continually updated and maintained so that they continue to be, current, complete and accurate and so that they do and will continue to fully describe the Hosted Services in all material respects such that at no time during the Term or any additional periods during which Contractor does or is required to perform the Services will the Hosted Services have any material undocumented feature;

(o) During the Term of this Contract, any audit rights contained in any third-party software license agreement or end user license agreement for third-party software incorporated in or otherwise used in conjunction with the Software or with the Hosted Services, if applicable, will apply solely to Contractor or its Permitted Subcontractors.

Regardless of anything to the contrary contained in any third-party software license agreement or end user license agreement, third-party software providers will have no audit rights whatsoever against State Systems or networks.

29.4 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THIS CONTRACT.

30. Offers of Employment. During the first twelve (12) months of the Contract, should Contractor hire an employee of the State who has substantially worked on any project covered by this Contract without prior written consent of the State, the Contractor will be billed for fifty percent (50%) of the employee's annual salary in effect at the time of separation.

31. Conflicts and Ethics. Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any Permitted Subcontractor that provides Services and Deliverables in connection with this Contract.

32. Compliance with Laws. Contractor, its subcontractors, including Permitted Subcontractors, and their respective Representatives must comply with all laws in connection with this Contract.

33. Nondiscrimination. Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and Executive Directive [2019-09](#), Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive [2019-09](#)), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of the Contract.

34. Unfair Labor Practice. Under MCL 423.324, the State may void any Contract with a Contractor or Permitted Subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

35. Governing Law. This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.

36. Non-Exclusivity. Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Services from other sources.

37. Force Majeure

37.1 Force Majeure Events. Neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a "**Force Majeure Event**"), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

37.2 State Performance; Termination. In the event of a Force Majeure Event affecting Contractor's performance under the Contract, the State may suspend its performance hereunder until such time as Contractor resumes performance. The State may terminate the Contract by written notice to Contractor if a Force Majeure Event affecting Contractor's performance hereunder continues substantially uninterrupted for a period of five (5) Business Days or more. Unless the State terminates the Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under the Contract will automatically be extended for a period up to the duration of the Force Majeure Event.

37.3 Exclusions; Non-suspended Obligations. Notwithstanding the foregoing or any other provisions of the Contract or this Schedule:

- (a) in no event will any of the following be considered a Force Majeure Event:
 - (i) shutdowns, disruptions or malfunctions of Hosted Services or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to the Hosted Services; or
 - (ii) the delay or failure of any Contractor Personnel to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a Force Majeure Event.

(b) no Force Majeure Event modifies or excuses Contractor's obligations under **Sections Error! Reference source not found.** (State Data), **Error! Reference source not found.** (Non-Disclosure of Confidential Information), or **Error! Reference source not found.** (Indemnification) of the Contract, Disaster Recovery and Backup requirements set forth in the Service Level Agreement, Availability Requirement (if Contractor Hosted) defined in the Service Level Agreement, or any data retention or security requirements under the Contract.

38. Dispute Resolution. The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance. Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within fifteen (15) business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

39. Media Releases. News releases (including promotional literature and commercial advertisements) pertaining to this Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.

40. Severability. If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.

41. Waiver. Failure to enforce any provision of this Contract will not constitute a waiver.

42. Survival. The rights, obligations and conditions set forth in this **Section 41** and **Section Error! Reference source not found.** (Definitions), **Section Error! Reference source not found.** (Transition Responsibilities), **Section Error! Reference source not found.** (Indemnification), **Section Error! Reference source not found.** (Disclaimer of Damages and Limitations of Liability), **Section Error! Reference source not found.** (State Data), **Section Error! Reference source not found.** (Non-Disclosure of Confidential information), **Section Error! Reference source not found.** (Contractor Representations and Warranties), **Section Error! Reference source not found.** (Effect of Contractor Bankruptcy) and **Schedule C** Insurance, and any right, obligation or condition that, by its express terms or

nature and context is intended to survive the termination or expiration of this Contract, survives any such termination or expiration.

43. Extended Purchasing Program. This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal.

43.1 Upon written agreement between the State and Contractor, this contract may also be extended to:

- (a) other states (including governmental subdivisions and authorized entities); and
- (b) State of Michigan employees.

43.2 If extended, Contractor must supply all Services and Deliverables at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

43.3 Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

44. Contract Modification. This Contract may not be amended except by signed agreement between the parties (a “**Contract Change Notice**”). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

45. Accessibility Requirements.

45.1 All Software provided by Contractor under this Contract, including associated content and documentation, must conform to WCAG 2.0 Level AA. Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed PAT for each product provided under the Contract. At a minimum, Contractor must comply with the WCAG 2.0 Level AA conformance claims it made to the State, including the level of conformance provided in any PAT. Throughout the Term of the Contract, Contractor must:

- (a) maintain compliance with WCAG 2.0 Level AA and meet or exceed the level of conformance provided in its written materials, including the level of conformance provided in each PAT;
- (b) comply with plans and timelines approved by the State to achieve conformance in the event of any deficiencies;
- (c) ensure that no Maintenance Release, New Version, update or patch, when properly installed in accordance with this Contract, will have any adverse effect on the conformance of Contractor’s Software to WCAG 2.0 Level AA;
- (d) promptly respond to and resolve any complaint the State receives regarding accessibility of Contractor’s Software;
- (e) upon the State’s written request, provide evidence of compliance with this Section by delivering to the State Contractor’s most current PAT for each product provided under the Contract; and
- (f) participate in the State of Michigan Digital Standards Review described below.

45.2 State of Michigan Digital Standards Review. Contractor must assist the State, at no additional cost, with development, completion, and on-going maintenance of an accessibility plan, which requires Contractor, upon request from the State, to submit evidence to the State to validate Contractor’s accessibility and compliance with WCAG 2.0 Level AA. Prior to the solution going-live and thereafter on an annual basis, or as otherwise required by the State, re-assessment of accessibility may be required. At no additional cost, Contractor must remediate all issues identified from any assessment of accessibility pursuant to plans and timelines that are approved in writing by the State.

45.3 **Warranty.** Contractor warrants that all WCAG 2.0 Level AA conformance claims made by Contractor pursuant to this Contract, including all information provided in any PAT Contractor provides to the State, are true and correct. If the State determines such conformance claims provided by the Contractor represent a higher level of conformance than what is actually provided to the State, Contractor will, at its sole cost and expense, promptly remediate its Software to align with Contractor's stated WCAG 2.0 Level AA conformance claims in accordance with plans and timelines that are approved in writing by the State. If Contractor is unable to resolve such issues in a manner acceptable to the State, in addition to all other remedies available to the State, the State may terminate this Contract for cause under **Section 16.1**.

45.4 Contractor must, without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State arising out of its failure to comply with the foregoing accessibility standards

45.5 Failure to comply with the requirements in this **Section 45** shall constitute a material breach of this Contract.

46. Further Assurances. Each party will, upon the reasonable request of the other party, execute such documents and perform such acts as may be necessary to give full effect to the terms of this Contract.

47. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Contract is to be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party has authority to contract for nor bind the other party in any manner whatsoever.

48. Headings. The headings in this Contract are for reference only and do not affect the interpretation of this Contract.

49. No Third-party Beneficiaries. This Contract is for the sole benefit of the parties and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to or will confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Contract.

50. Equitable Relief. Each party to this Contract acknowledges and agrees that (a) a breach or threatened breach by such party of any of its obligations under this Contract may give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto is, in addition to any and all other rights and remedies that may be available to such party at law, at equity or otherwise in respect of such breach, entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each party to this Contract agrees that such party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Section.

51. Effect of Contractor Bankruptcy. All rights and licenses granted by Contractor under this Contract are and will be deemed to be rights and licenses to "intellectual property," and all Software and Deliverables are and will be deemed to be "embodiments" of "intellectual property," for purposes of, and as such terms are used in and interpreted under, Section 365(n) of the United States Bankruptcy Code (the "**Code**"). If Contractor or its estate becomes subject to any bankruptcy or similar proceeding, the State retains and has the right to fully exercise all rights, licenses, elections, and protections under this Contract, the Code and all other applicable bankruptcy, insolvency, and similar laws with respect to all Software and other Deliverables. Without limiting the generality of the foregoing, Contractor acknowledges and agrees that, if Contractor or its estate will become subject to any bankruptcy or similar proceeding:

(a) all rights and licenses granted to the State under this Contract will continue subject to the terms and conditions of this Contract, and will not be affected, even by Contractor's rejection of this Contract; and

(b) the State will be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property comprising or relating to any Software or other Deliverables, and the same, if not already in the State's possession, will be promptly delivered to the State, unless Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

52. Schedules. All Schedules that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Schedule A	Statement of Work
Schedule B	Pricing Schedule
Schedule C	Insurance Schedule
Schedule D	Service Level Agreement
Schedule E	Data Security Requirements
Schedule F	Disaster Recovery Plan (if Contractor Hosted)
Schedule G	Transition Plan

53. Counterparts. This Contract may be executed in counterparts, each of which will be deemed an original, but all of which together are deemed to be one and the same agreement and will become effective and binding upon the parties as of the Effective Date at such time as all the signatories hereto have signed a counterpart of this Contract. A signed copy of this Contract delivered by facsimile, e-mail or other means of electronic transmission (to which a signed copy is attached) is deemed to have the same legal effect as delivery of an original signed copy of this Contract.

54. Entire Agreement. These Terms and Conditions, including all Statements of Work and other Schedules and Exhibits (again collectively the "Contract") constitutes the sole and entire agreement of the parties to this Contract with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the Terms and Conditions, the Schedules, Exhibits, and a Statement of Work, the following order of precedence governs: (a) first, these Terms and Conditions and (b) second, Schedule E – Data Security Requirements and (c) third, each Statement of Work; and (d) fourth, the remaining Exhibits and Schedules to this Contract. NO TERMS ON CONTRACTOR'S INVOICES, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE SERVICES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF SUCH SERVICE OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

SCHEDULE A – Statement of Work

2021 Statement of Work

Prepared for: Michigan - GovTech SaaS Configuration

Presented by:

Kinetech Professional Services

This Statement of Work # ("SOW") is attached to the Master Services Agreement ("Agreement") dated ____, between the State of Michigan ("**Client**") and Kinetech Cloud LLC, a Texas limited liability company ("**Kinetech**"). This SOW shall be effective upon signing. All capitalized terms not otherwise defined in this SOW have the meanings ascribed to the Agreement.

1 Background

With the passing of the Consolidated Appropriations Act of 2021, The state of Michigan has been awarded 622 million dollars as part of the Federal Emergency Rental Assistance Program to be overseen by the U.S. Treasury. Because of this anticipated funding coming into the Authority, The Michigan State Housing Development Authority (MSHDA) needs a software system that provides an online application process to quickly serve renters and landlords.

2 Project Objectives

Kinetech will work with the MSHDA to implement our GovTech solution for housing assistance / COVID Response as MSHDA is looking to set up a system that accepts electronic applications for the Rental Assistance Program that are reviewable by processors from various areas in Michigan based off geographic location and incorporates the business requirements (Exhibit 1) agreed on by or near the end of March 2021. Additionally, this project is to provide maintenance and hosting services for the provided system. The project period will be from effective date for 365 days.

3 Description of Services

Kinetech agrees to provide software development services in accordance with Client's defined requirements ("Services"). The Services are governed by the terms and conditions set forth in this SOW. All Services performed by Kinetech under this SOW shall be performed by certified developers. Kinetech shall provide the Services detailed in this SOW at times mutually agreed to by Client and Kinetech. Kinetech acknowledges that it may perform similar Services for any other person or company at the same time Kinetech is rendering services to Client, provided Kinetech complies with all of its obligations under this SOW.

4 Scope of Work

The scope of work for this includes all software and services necessary to provide the GovTech SaaS: Digital Housing Assistance solution based on the listed agreed business requirements this includes:

System Development, Configuration, and Maintenance:

GovTech - SaaS: Digital Housing Assistance

- Includes a maximum of 850 hours for system development and configuration.
- Includes a maximum of 400 hours for training and Change Management.
- 1 Year of system hosting
- Includes up to 1000 users
- Unlimited number of applicants
- 10 TB File Storage
- Up to 100,000 applications per year
- Kinetech will integrate the GovTech Cloud to an address / GIS service provided by Client via REST or SOAP web service.

System Support Platinum Kinetech SLA

- Phone Support
- Email Support
- Feedback monitoring
- Maintain version within two (2) major releases.

5 Term

Kinetech agrees to provide services in accordance with **State of Michigan Software Terms & Conditions**.

6 Deliverables

Deliverables will not be considered complete until the Agency Project Manager has formally accepted them. Deliverables for this project include:

- GovTech SaaS Solution
- Kinetech certified expert(s) developers
- Client branded UX
- Standard Rental Assistance workflow based on agreed application process
- Change Management
- Communication strategy, content, and distribution
- Train the trainer.
 - The Contractor project manager will work with the CERA System users to develop a Training Plan (SEM-0703) that:
 - spells out the scope and objectives of training;
 - identifies roles and responsibilities;
 - clarifies evaluation practices for determining if learning outcomes are achieved;
 - addresses training strategy;

- identifies required training resources, locations, and environments;
- identifies training dates and times; and
- specifies who will attend each section of training.
-
- Contractor will:
 - make the user's and administrator's guides available from within the solution;
 - provide a mechanism for CERA system users to upload additional documents that can be helpful to users; and
 - at the State's request, create training videos that demonstrate using the system to complete specific business tasks.
-
- Training on System Functionality and Modifications
- The Contractor shall provide training for all new system enhancements and/or modifications for quality assurance testers and MSHDA staff as defined in the project plan. Training shall occur before deployment unless otherwise specified by MSHDA. Training and tutorials will be provided to end users in a variety of formats as approved by MSHDA. The Contractor shall maintain training documents including user manuals, help guides, and job aids, as well as presentations and/or demonstrations of system functionality. In addition to training documentation, on screen help icons and/or hover overs shall be utilized as identified by MSHDA. All training locations and techniques will be approved by the State. All training documents must be updated and approved by MSHDA prior to each system release, and as needed according to MSHDA.
- Video tutorial of how to work the system once completed.

7 Acceptance Criteria

Acceptance criteria for the deliverables include:

- The system has been updated and passed testing in the UAT Environment.
- The system has been validated as working in production.

8 Fees and Payment

1. The pricing consists of Professional Services & Business Engineering development services.
2. Client agrees to make payment to Kinetech for performing the Services under this SOW and for reimbursement of reasonable expenditures in accordance with this SOW, provided that Kinetech received prior written consent from Client for all such

expenditures. Unless otherwise agreed to in writing, Services will be billed at a max rate of 175 USD / hour for Development and Configuration hours and a max rate of 150 USD

/ hour for Training and Change Management hours.

Kinotech may invoice Client in increments up to but not in excess of ___n/a_. Kinotech must seek written approval from Client for approval to invoice greater than 850 Development & Configuration hours or greater than 400 Training and Change Management hours.

3. Billing of Services will occur monthly for the hours incurred during said month. Client shall have 15 days after receipt of any invoice hereunder to contest the invoice and may, without engaging in an act of default, withhold payment of fees that Client disputes in good faith. The parties agree to work in good faith to promptly resolve all disputed amounts within 30 days after notice of dispute. Client will pay the disputed amounts, if owed, immediately upon dispute resolution.
4. Kinotech reserves the right to assess a late payment penalty of 2% of the total overdue amount which remains unpaid for 60 days or more after the date which it is due under Section 8.3 above.
5. Kinotech will submit receipts, expense details, timesheets and invoices to Client for review and to receive reimbursement within 30 days of submission.

9 Amendments

Changes to the terms and conditions or scope of work included in this SOW shall be implemented only upon written authorization from both Kinotech and Client.

10 Termination

Kinotech agrees to Termination in accordance with the **State of Michigan Software Terms & Conditions**.

11 Project control and Reports

The project will have a dedicated Project Manager through the Department of Technology, Management, and Budget (DTMB) and will follow the state's SUITE Methodology as agreed upon with Kinotech, MSHDA, and DTMB.

12 Expenses

The State will NOT pay for any travel expenses, including hotel, mileage, meals, parking, etc.

13 Project Contacts

Kinetech Cloud, LLC Program Manager
is: Michael Guido
8526 Vidor Avenue
San Antonio, TX 78216
844-546-3832
michael.guido@kinetechcloud.com

The designated Agency (MSHDA) Program Manager
is: Mark Whitaker
735 E. Michigan Ave.
Lansing, Michigan 48909
517-335-9812
whitakerm@michigan.gov

The designated DTMB Program Manager is:
Michael Weiszbrod c/o
Vickie Smith 425 W.
Ottawa St. 3rd floor-
DTMB Lansing, MI 48933
517-242-1272
weiszbrod@michigan.gov

14 Agreed Contractor Work Hours and Conditions:

8:00 am – 5:00pm EST

Exhibit 1: Business requirements

<https://drive.google.com/file/d/1Uvhh-IEBCK991SP-p14ER99UoFMFy6cm/view?usp=sharing>

SCHEDULE B – Pricing Schedule

Item	Term	Start Date	End Date	Cost
GovTech - SaaS: Digital Housing Assistance - Hosting <ul style="list-style-type: none"> · Digitize up to three similar processes. · Up to 1000 Users · Unlimited Applicants · 10 TB File Storage · Up to 100,000 applications / Year 	1 year	3/8/2021	3/7/2022	\$122,000
Professional Services – Development & Configuration of Digital Housing Assistance SaaS (Maximum of \$148,750)	Up to 850 hours	On signing	3/7/2022	\$175 / Hour
Professional Services – Training & Change Management of Digital Housing Assistance SaaS (Maximum of \$60,000)	Up to 400 hours	On signing	3/7/2022	\$150 / Hour
Platinum SLA Kinetech	1 Year	90 Days Post Signing	On Renewal	\$33,500
Total				\$364,500

SCHEDULE C - INSURANCE SCHEDULE

Required Coverage.

1.1 Insurance Requirements. Contractor, at its sole expense, must maintain the insurance coverage identified below. All required insurance must: (i) protect the State from claims that arise out of, are alleged to arise out of, or otherwise result from Contractor's or subcontractor's performance; (ii) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (iii) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate Limit <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
Umbrella or Excess Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	Contractor must have their policy follow form.
Automobile Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Accident	Policy must: (1) be endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	

Privacy and Security Liability (Cyber Liability) Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	Policy must: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) be endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as Loss Payees.

1.2 If any required policies provide claims-made coverage, the Contractor must: (i) provide coverage with a retroactive date before the Effective Date of the Contract or the beginning of Services; (ii) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Services; and (iii) if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

1.3 Contractor must: (i) provide insurance certificates to the Contract Administrator, containing the agreement or delivery order number, at Contract formation and within twenty (20) calendar days of the expiration date of the applicable policies; (ii) require that subcontractors maintain the required insurances contained in this Section; (iii) notify the Contract Administrator within five (5) business days if any policy is cancelled; and (iv) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

1.4 This Section is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

SCHEDULE D - SERVICE LEVEL AGREEMENT

IF THE SOFTWARE IS CONTRACTOR HOSTED, then the following applies:

1. **Definitions.** For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Schedule** shall have the respective meanings given to them in the Contract Terms and Conditions.

“**Actual Uptime**” means the total minutes in the Service Period that the Hosted Services are Available.

“**Availability**” has the meaning set forth in **Section Error! Reference source not found.**

“**Availability Requirement**” has the meaning set forth in **Section Error! Reference source not found.**

“**Available**” has the meaning set forth in **Section Error! Reference source not found.**

“**Contact List**” means a current list of Contractor contacts and telephone numbers set forth in the attached **Schedule D – Attachment 1** to this Schedule to enable the State to escalate its Support Requests, including: (a) the first person to contact; and (b) the persons in successively more qualified or experienced positions to provide the support sought.

“**Corrective Action Plan**” has the meaning set forth in **Section Error! Reference source not found.**

“**Critical Service Error**” has the meaning set forth in **Section Error! Reference source not found.**

“**Exceptions**” has the meaning set forth in **Section Error! Reference source not found.**

“**High Service Error**” has the meaning set forth in **Section Error! Reference source not found.**

“**Low Service Error**” has the meaning set forth in **Section Error! Reference source not found.**

“**Medium Service Error**” has the meaning set forth in **Section Error! Reference source not found.**

“**Resolve**” has the meaning set forth in **Section Error! Reference source not found.**

“**RPO**” or “**Recovery Point Objective**” means the maximum amount of potential data loss in the event of a disaster.

“**RTO**” or “**Recovery Time Objective**” means the maximum period of time to fully restore the Hosted Services in the case of a disaster.

“**Scheduled Downtime**” has the meaning set forth in **Section Error! Reference source not found.**

“**Scheduled Uptime**” means the total minutes in the Service Period.

“**Service Availability Credits**” has the meaning set forth in **Section Error! Reference source not found.**

“**Service Error**” means any failure of any Hosted Service to be Available or otherwise perform in accordance with this Schedule.

“**Service Level Credits**” has the meaning set forth in **Section Error! Reference source not found.**

“**Service Level Failure**” means a failure to perform the Software Support Services fully in compliance with the Support Service Level Requirements.

“**Service Period**” has the meaning set forth in **Section Error! Reference source not found.**

“**Software Support Services**” has the meaning set forth in **Section Error! Reference source not found.**

“**State Systems**” means the information technology infrastructure, including the computers, software, databases, electronic systems (including database management systems) and networks, of the State or any of its designees.

“**Support Hours**” means 7 a.m. to 6 p.m. Monday through Friday at a minimum.

“**Support Request**” has the meaning set forth in **Section Error! Reference source not found.**

“**Support Service Level Requirements**” has the meaning set forth in **Section Error! Reference source not found.**

The Application Model and Cloud Services (the “Application(s)”) refers to the application model created by Contractor using the Mendix App Platform, and includes the domain model, pages, microflows, select widgets and Cloud Services utilized to host the Application(s). For avoidance of doubt, the Application(s) definition is to be considered exclusive from any State Data.

The Mendix App Platform (the “App Platform”) refers to all software provided by Mendix, including but not limited to: Mendix website(s), Business Modeler, Team Server, Cloud Portal, App Store, Support Portal, Partner Portal, Cloud Services, Platform-as-a-Service, and Documentation. For the avoidance of doubt, the App Platform definition is to be considered exclusive from any State Data and the Application Model.

2. Service Availability and Service Availability Credits.

2.1 Availability Requirement. Contractor will make the Hosted Services and Software Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a “**Service Period**”), at least 99.95% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the “**Availability Requirement**”). “**Available**” means the Hosted Services and Software are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. “**Availability**” has a correlative meaning. The Hosted Services and Software are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services and Software, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows: $(\text{Actual Uptime} - \text{Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception}) \div (\text{Scheduled Uptime} - \text{Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception}) \times 100 = \text{Availability}$.

2.2 Exceptions. No period of Hosted Services degradation or inoperability will be included in calculating Availability to the extent that such downtime or degradation is due to any of the following (“**Exceptions**”):

- (a) Failures of the State’s or its Authorized Users’ internet connectivity;
- (b) Scheduled Downtime as set forth in **Section Error! Reference source not found.**

2.3 Scheduled Downtime. Contractor must notify the State at least twenty-four (24) hours in advance of all scheduled outages of the Hosted Services or Software in whole or in part (“**Scheduled Downtime**”). All such scheduled outages will: (a) last no longer than five (5) hours; (b) be scheduled between the hours of 12:00 a.m. and 5:00 a.m., Eastern Time; and (c) occur no more frequently than once per week; provided that Contractor may request the State to approve extensions of Scheduled Downtime above five (5) hours, and such approval by the State may not be unreasonably withheld or delayed.

2.4 Software Response Time. Software response time, defined as the interval from the time the end user sends a transaction to the time a visual confirmation of transaction completion is received, must be less than two (2) seconds for 98% of all transactions. Unacceptable response times shall be considered to make the Software unavailable and will count against the Availability Requirement.

2.5 Service Availability Reports. Upon the state’s request, after the end of each Service Period, Contractor will provide to the State a report describing the Availability and other performance of the Hosted Services and Software during that calendar month as compared to the Availability Requirement. The report must be in electronic or such other form as the State may approve in writing and shall include, at a minimum: (a) the actual performance of the Hosted Services and

Software relative to the Availability Requirement; and (b) if Hosted Service performance has failed in any respect to meet or exceed the Availability Requirement during the reporting period, a description in sufficient detail to inform the State of the cause of such failure and the corrective actions the Contractor has taken and will take to ensure that the Availability Requirement are fully met.

2.6 Remedies for Service Availability Failures.

(a) If the actual Availability of the Hosted Services and Software is less than the Availability Requirement for any Service Period, such failure will constitute a Service Error for which Contractor will issue to the State the following credits on the fees payable for Hosted Services and Software provided during the Service Period (“**Service Availability Credits**”):

Service level credits apply where Contractor exceeds the Resolution Time of Critical Incidents twice or more. In this case, Contractor refunds a portion of the subscription fee paid for the Application(s) affected in accordance with the below table. Service level credits do not apply if Kinetech cannot meet the Resolution Time due to a situation of force majeure (e.g. natural disasters, terrorism and war) and circumstances that are reasonably beyond Contractor’s control. Cumulative service level credits payable in any one month will be limited to 1/12th of the subscription fee payable to Contractor per year.

# Times the Resolution Time is exceeded	Service Level Credit awarded
More than twice the Resolution Time but less than 4 times	1/52 nd of the annual subscription fee
More than 4 times the Resolution Time but less than 8 times	2/52 nd of the annual subscription fee
More than 8 times the Resolution Time	1/12 th of the annual subscription fee

(b) Any Service Availability Credits due under this **Section Error! Reference source not found.** will be applied in accordance with payment terms of the Contract.

(c) If the actual Availability of the Hosted Services and Software is less than the Availability Requirement in any two (2) of four (4) consecutive Service Periods, then, in addition to all other remedies available to the State, the State may terminate the Contract on written notice to Contractor with no liability, obligation or penalty to the State by reason of such termination.

3. Support and Maintenance Services. Contractor will provide IT Environment Service and Software maintenance and support services (collectively, “**Software Support Services**”) in accordance with the provisions of this **Section Error! Reference source not found.** The Software Support Services are included in the Services, and Contractor may not assess any additional fees, costs or charges for such Software Support Services.

3.1 Support Service Responsibilities.

Contractor provides for the following support options provided:

- Phone Numbers: +1 844-546-3832
- Email Support: support@kinetechcloud.com

Contractor will:

(a) correct all Service Errors in accordance with the Support Service Level Requirements, including by providing defect repair, programming corrections and remedial programming;

(b) provide unlimited telephone support 7 a.m. to 6 p.m. Monday through Friday at a minimum,

(c) provide unlimited online support 24 hours a day, seven days a week;

(d) provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and

(e) respond to and Resolve Support Requests as specified in this **Section Error! Reference source not found.**

3.2 Service Monitoring and Management. Contractor will continuously monitor and manage the Hosted Services and Software to optimize Availability that meets or exceeds the Availability Requirement. Such monitoring and management includes:

- (a) proactively monitoring on a twenty-four (24) hour by seven (7) day basis all Hosted Service functions, servers, firewall and other components of Hosted Service security;
- (b) if such monitoring identifies, or Contractor otherwise becomes aware of, any circumstance that is reasonably likely to threaten the Availability of the Hosted Service, taking all necessary and reasonable remedial measures to promptly eliminate such threat and ensure full Availability; and
- (c) if Contractor receives knowledge that the Hosted Service or any Hosted Service function or component is not Available (including by written notice from the State pursuant to the procedures set forth herein):
 - (i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;
 - (ii) If Contractor's facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section Error! Reference source not found.**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and
 - (iii) Notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

3.3 Service Maintenance. Contractor will continuously maintain the Hosted Services and Software to optimize Availability that meets or exceeds the Availability Requirement. Such maintenance services include providing to the State and its Authorized Users:

- (a) all updates, bug fixes, enhancements, Maintenance Releases, New Versions and other improvements to the Hosted Services and Software, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; provided that Contractor shall consult with the State and is required to receive State approval prior to modifying or upgrading Hosted Services and Software, including Maintenance Releases and New Versions of Software; and
- (b) all such services and repairs as are required to maintain the Hosted Services and Software or are ancillary, necessary or otherwise related to the State's or its Authorized Users' access to or use of the Hosted Services and Software, so that the Hosted Services and Software operate properly in accordance with the Contract and this Schedule.

3.4 Support Service Level Requirements. Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section Error! Reference source not found.** ("Support Service Level Requirements"), and the Contract.

3.5 Support Requests. The State will classify its requests for Service Error corrections in accordance with the descriptions set forth in the chart below (each a "**Support Request**"). The State will notify Contractor of Support Requests by email, telephone or such other means as the parties may hereafter agree to in writing.

Submitting Support Requests

All support requests (incidents and questions) need to be reported by submitting a ticket to support@kinetechcloud.com (the "Support Portal") This enables for all required information to be properly logged and tickets addressed in the fastest and most efficient manner. The Support Portal provides all information about the progress and status of raised tickets. Submissions to the Support Portal should include the following:

- Name of your organization
- Name of the Application
- Description of impact of issue(s) on business (based on priority levels defined in Priority Levels.)
- Description of the issue(s)

- Steps to recreate the issue(s)
- Expected behavior based on the user's action
- Browser type and version used
- Where applicable, any error messages encountered by the user
- Best means of contacting the submitter (e.g. mobile phone #)

Support Request Classification	Description: Any Service Error Comprising or Causing any of the Following Events or Effects
Critical Service Error	<ul style="list-style-type: none"> • Issue affecting entire system or single critical production function; • System down or operating in materially degraded state; • Data integrity at risk; • Declared a Critical Support Request by the State; or • Widespread access interruptions.
High Service Error	<ul style="list-style-type: none"> • Primary component failure that materially impairs its performance; or • Data entry or access is materially impaired on a limited basis.
Medium Service Error	<ul style="list-style-type: none"> • IT Environment Services and Software is operating with minor issues that can be addressed with an acceptable (as determined by the State) temporary work around.
Low Service Error	<ul style="list-style-type: none"> • Request for assistance, information, or services that are routine in nature.

Priority levels are determined based on impact and urgency, as set forth below.

Impact:

- High: a high priority production incident with a high impact on State's business (with no known workaround), that impacts (almost) all users

- Medium: a production incident with intermediate impact on State's business that impacts a select group of users
- Low: a trivial (production incident with no impact on the State's business

Urgency:

- High: operational functionality is severely disrupted
- Medium: operational functionality is limited disrupted
- Low: operational functionality is not/hardly disrupted

Urgency	Impact		
	High	Medium	Low
High	Critical	High	Medium
Medium	High	Medium	Low
Low	Medium	Low	Low

3.6 Response and Resolution Time Service Levels. Response and Resolution times will be measured from the time Contractor receives a Support Request until the respective times Contractor has (i) responded to, in the case of response time and (ii) Resolved such Support Request, in the case of Resolution time. “**Resolve**” (including “**Resolved**”, “**Resolution**” and correlative capitalized terms) means that, as to any Service Error, Contractor has provided the State the corresponding Service Error correction and the State has confirmed such correction and its acceptance thereof. Contractor will respond to and Resolve all Service Errors within the following times based on the severity of the Service Error:

	Response Times*			Resolution Times*		
	Pro	Gold	Platinum	Pro	Gold	Platinum
Critical	< 8 Hours	< 4 Hours	< 2 Hours	Next Business Day	< 8 Hours	< 3 Hours
High	< 12 Hours	< 8 Hours	< 4 Hours	Next Business Day	Next Day	< 8 Hours
Medium	Next Business Day	Next Business Day	Next Business Day	Reasonable Effort	Reasonable Effort	Reasonable Effort
Low	Reasonable Effort	Next Business Day	Next Business Day	At Kinetech Discretion	At Kinetech Discretion	At Kinetech Discretion

3.7 Escalation. With respect to any Critical Service Error Support Request, until such Support Request is Resolved, Contractor will escalate that Support Request within sixty (60) minutes of the receipt of such Support Request by the appropriate Contractor support personnel, including, as applicable, the Contractor Project Manager and Contractor's management or engineering personnel, as appropriate.

3.8 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Section 2.6 (“Service Level Credits”)** in accordance with payment terms set forth in the Contract.

3.9 Corrective Action Plan. If two or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Contractor does or is required to perform any Hosted Services, Contractor will promptly investigate the root causes of these Service Errors and provide to the State within five (5) Business Days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for the State's review, comment and approval, which, subject to and upon the State's written approval,

shall be a part of, and by this reference is incorporated in, the Contract as the parties' corrective action plan (the "**Corrective Action Plan**"). The Corrective Action Plan must include, at a minimum: (a) Contractor's commitment to the State to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to Resolve and prevent any further occurrences of the Service Errors giving rise to such Support Requests; (b) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (c) time frames for implementing the Corrective Action Plan. There will be no additional charge for Contractor's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

4. Data Storage, Backup, Restoration and Disaster Recovery. Contractor must maintain or cause to be maintained backup redundancy and disaster avoidance and recovery procedures designed to safeguard State Data and the State's other Confidential Information, Contractor's Processing capability and the availability of the IT Environment Services and Software, in each case throughout the Term and at all times in connection with its actual or required performance of the Services hereunder. All backed up State Data shall be located in the continental United States. The force majeure provisions of this Contract do not limit Contractor's obligations under this section. A back-up of all State Data and Application Models is made on a daily basis for test, acceptance and production environments ("Standard Backups") and are stored at a secondary datacenter. Standard Backups are available as follows:

- Nightly Back-ups: maximum two (2) weeks history (counting from yesterday)
- Sunday Back-ups: maximum three (3) months history (counting from yesterday)
- Monthly Back-ups (1st Sunday of each month): maximum one (1) year history (counting from yesterday)

4.1 Data Storage. Contractor will provide sufficient storage capacity to meet the needs of the State at no additional cost.

4.2 Data Backup. Contractor will conduct, or cause to be conducted, daily back-ups of State Data and perform, or cause to be performed, other periodic offline back-ups of State Data on at least a weekly basis and store and retain such back-ups as specified in **Schedule A**. Contractor must, within five (5) Business Days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of State Data in the format mutually agreed by the State and Contractor.

4.3 Data Restoration. If the data restoration is required due to the actions or inactions of the Contractor or its subcontractors, Contractor will promptly notify the State and complete actions required to restore service to normal production operation. If requested, Contractor will restore data from a backup upon written notice from the State. Contractor will restore the data within one (1) Business Day of the State's request. Contractor will provide data restorations at its sole cost and expense.

4.4 Disaster Recovery. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 4 hours, and a Recovery Time Objective (RTO) of 4 hours (the "**DR Plan**"), and implement such DR Plan in the event of any unplanned interruption of the Hosted Services. Contractor's current DR Plan, revision history, and any reports or summaries relating to past testing of or pursuant to the DR Plan are attached as **Schedule F**. Contractor will actively test, review and update the DR Plan on at least an annual basis using industry best practices as guidance. Contractor will provide the State with copies of all such updates to the Plan within fifteen (15) days of its adoption by Contractor. All updates to the DR Plan are subject to the requirements of this **Section Error! Reference source not found.**; and provide the State with copies of all reports resulting from any testing of or pursuant to the DR Plan promptly after Contractor's receipt or preparation. If Contractor fails to reinstate all material Hosted Services and Software within the periods of time set forth in the DR Plan, the State may, in addition to any other remedies available under this Contract, in its sole discretion, immediately terminate this Contract as a non-curable default.

SCHEDULE D - Attachment 1 – Contact List

Aja Emmanuel – Account Executive, (615) 582-7954

Aja.emmanuel@kinetechcloud.com

Support@kinetechcloud.com

(844) 546-3832 ext. 2

Michael Guido – CEO, 844-546-3832

Michael.guido@kinetechcloud.com

SCHEDULE E – DATA SECURITY REQUIREMENTS

1. Definitions. For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Schedule** shall have the respective meanings given to them in the Contract.

“**Contractor Security Officer**” has the meaning set forth in **Section 2** of this Schedule.

“**FedRAMP**” means the Federal Risk and Authorization Management Program, which is a federally approved risk management program that provides a standardized approach for assessing and monitoring the security of cloud products and services.

“**FISMA**” means The Federal Information Security Modernization Act of 2014 (Pub.L. No. 113-283 (Dec. 18, 2014)).

“**Hosting Provider**” means any Permitted Subcontractor that is providing any or all of the Hosted Services under this Contract.

“**NIST**” means the National Institute of Standards and Technology.

“**PCI**” means the Payment Card Industry.

“**PSP**” or “**PSPs**” means the State’s IT Policies, Standards and Procedures.

“**SSAE**” means Statement on Standards for Attestation Engagements.

“**Security Accreditation Process**” has the meaning set forth in **Section 6** of this Schedule

2. Security Officer. Contractor will appoint a Contractor employee to respond to the State’s inquiries regarding the security of the Hosted Services who has sufficient knowledge of the security of the Hosted Services and the authority to act on behalf of Contractor in matters pertaining thereto (“**Contractor Security Officer**”).

3. Contractor Responsibilities. Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to:

- (a) ensure the security and confidentiality of the State Data;
- (b) protect against any anticipated threats or hazards to the security or integrity of the State Data;
- (c) protect against unauthorized disclosure, access to, or use of the State Data;
- (d) ensure the proper disposal of any State Data in Contractor’s or its subcontractor’s possession; and
- (e) ensure that all Contractor Representatives comply with the foregoing.

The State has established Information Technology (IT) PSPs to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy. In no case will the safeguards of Contractor’s data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable public and non-public State IT policies and standards, of which the publicly available ones are at https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html.

This responsibility also extends to all service providers and subcontractors with access to State Data or an ability to impact the contracted solution. Contractor responsibilities are determined from the PSPs based on the services being provided to the State, the type of IT solution, and the applicable laws and regulations.

4. Acceptable Use Policy. To the extent that Contractor has access to the State’s IT environment, Contractor must comply with the State’s Acceptable Use Policy, see https://www.michigan.gov/documents/dtmb/1340.00.01_Acceptable_Use_of_Information_Technology_Standard_458958_7.pdf. All Contractor Personnel will be required, in writing, to agree to the State’s Acceptable Use Policy before accessing State systems. The State reserves the right to terminate Contractor’s and/or subcontractor(s) or any Contractor Personnel’s access to State systems if the State determines a violation has occurred.

5. Protection of State's Information. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will:

5.1 If Hosted Services are provided by a Hosting Provider, ensure each Hosting Provider maintains FedRAMP authorization for all Hosted Services environments throughout the Term, and in the event a Hosting Provider is unable to maintain FedRAMP authorization, the State, at its sole discretion, may either a) require the Contractor to move the Software and State Data to an alternative Hosting Provider selected and approved by the State at Contractor's sole cost and expense without any increase in Fees, or b) immediately terminate this Contract for cause pursuant to **Section 15.1** of the Contract;

5.2 for Hosted Services provided by the Contractor, maintain either a FedRAMP authorization or an annual SSAE 18 SOC 2 Type II audit based on State required NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs.

5.3 ensure that the Software and State Data is securely hosted, supported, administered, accessed, and backed up in a data center(s) that resides in the continental United States, and minimally meets Uptime Institute Tier 3 standards (www.uptimeinstitute.com), or its equivalent;

5.4 maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State Data that complies with the requirements of the State's data security policies as set forth in this Contract, and must, at a minimum, remain compliant with FISMA and NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs;

5.5 provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, encryption, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of State Data and the nature of such State Data, consistent with best industry practice and applicable standards (including, but not limited to, compliance with FISMA, NIST, CMS, IRS, FBI, SSA, HIPAA, FERPA and PCI requirements as applicable);

5.6 take all reasonable measures to:

(a) secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Services against "malicious actors" and others who may seek, without authorization, to destroy, disrupt, damage, encrypt, modify, copy, access or otherwise use Hosted Services or the information found therein; and

(b) prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Services; (ii) State Data from being commingled with or contaminated by the data of other customers or their users of the Services; and (iii) unauthorized access to any of the State Data;

5.7 ensure that State Data is encrypted in transit and at rest using FIPS validated AES encryption modules and a key size of 128 bits or higher;

5.8 ensure the Hosted Services support Identity Federation/Single Sign-on (SSO) capabilities using Security Assertion Markup Language (SAML), Open Authentication (OAuth) or comparable State approved mechanisms;

5.9 ensure the Hosted Services implements NIST compliant multi-factor authentication for privileged/administrative and other identified access.

6. Security Accreditation Process. Throughout the Term, Contractor will assist the State, at no additional cost, with its **Security Accreditation Process**, which includes the development, completion and on-going maintenance of a system security plan (SSP) using the State's automated governance, risk and compliance (GRC) platform, which requires Contractor to submit evidence, upon request from the State, in order to validate Contractor's security controls within two weeks of the State's request. On an annual basis, or as otherwise required by the State such as for significant changes, re-assessment of the system's controls will be required to receive and maintain authority to operate (ATO). All identified risks from the SSP will be remediated through a Plan of Action and Milestones (POAM) process with remediation time frames based on the risk level of the identified risk. For

all findings associated with the Contractor's solution, at no additional cost, Contractor will be required to create or assist with the creation of State approved POAMs and perform related remediation activities. The State will make any decisions on acceptable risk, Contractor may request risk acceptance, supported by compensating controls, however only the State may formally accept risk. Failure to comply with this section will be deemed a material breach of the Contract.

7. Unauthorized Access. Contractor may not access, and shall not permit any access to, State systems, in whole or in part, whether through the Hosted Services or otherwise, without the State's express prior written authorization. Such authorization may be revoked by the State in writing at any time in its sole discretion. Any access to State systems must be solely in accordance with the Contract and this Schedule, and in no case exceed the scope of the State's authorization pursuant to this Section. All State-authorized connectivity or attempted connectivity to State systems shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.

8. Security Audits.

8.1 During the Term, Contractor will maintain complete and accurate records of its data protection practices, IT security controls, and the security logs relating to State Data, including but not limited to any backup, disaster recovery or other policies, practices or procedures relating to the State Data and any other information relevant to its compliance with this Contract.

8.2 Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Services and from time to time during the term of this Contract. The State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. If the State chooses to perform an on-site audit, Contractor will, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Hosted Services and their housing facilities and operating environments.

8.3 During the Term, Contractor will, when requested by the State, provide a copy of Contractor's or Hosting Provider's FedRAMP System Security Plan(s) or SOC 2 Type 2 report(s) to the State within two weeks of the State's request. The System Security Plan and SSAE audit reports will be recognized as Contractor's Confidential Information.

8.4 With respect to State Data, Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.

8.5 The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this **Section 8**.

9. Application Scanning. During the Term, Contractor must, at its sole cost and expense, scan all Contractor provided applications, and must analyze, remediate and validate all vulnerabilities identified by the scans as required by the State Secure Web Application and other applicable PSPs.

Contractor's application scanning and remediation must include each of the following types of scans and activities:

9.1 Dynamic Application Security Testing (DAST) – Scanning interactive application for vulnerabilities, analysis, remediation, and validation (may include Interactive Application Security Testing (IAST)).

(a) Contractor must either a) grant the State the right to dynamically scan a deployed version of the Software; or b) in lieu of the State performing the scan, Contractor must dynamically scan a deployed version of the

Software using a State approved application scanning tool, and provide the State a vulnerabilities assessment after Contractor has completed such scan. These scans and assessments i) must be completed and provided to the State quarterly (dates to be provided by the State) and for each major release; and ii) scans must be completed in a non-production environment with verifiable matching source code and supporting infrastructure configurations or the actual production environment.

9.2 Static Application Security Testing (SAST) - Scanning Source Code for vulnerabilities, analysis, remediation, and validation.

(a) For Contractor provided applications, Contractor, at its sole expense, must provide resources to complete static application source code scanning, including the analysis, remediation and validation of vulnerabilities identified by application Source Code scans. These scans must be completed for all Source Code initially, for all updated Source Code, and for all Source Code for each major release and Contractor must provide the State a vulnerability assessment after Contractor has completed the required scans.

9.3 Software Composition Analysis (SCA) – Third Party and/or Open Source Scanning for vulnerabilities, analysis, remediation, and validation.

(a) For Software that includes third party and open source software, all included third party and open source software must be documented and the source supplier must be monitored by the Contractor for notification of identified vulnerabilities and remediation. SCA scans may be included as part of SAST and DAST scanning or employ the use of an SCA tool to meet the scanning requirements. These scans must be completed for all third party and open source software initially, for all updated third party and open source software, and for all third party and open source software in each major release and Contractor must provide the State a vulnerability assessment after Contractor has completed the required scans if not provided as part of SAST and/or DAST reporting.

9.4 In addition, application scanning and remediation may include the following types of scans and activities if required by regulatory or industry requirements, data classification or otherwise identified by the State.

(a) If provided as part of the solution, all native mobile application software must meet these scanning requirements including any interaction with an application programming interface (API).

(b) Penetration Testing – Simulated attack on the application and infrastructure to identify security weaknesses.

10. Infrastructure Scanning.

10.1 For Hosted Services, Contractor must ensure the infrastructure and applications are scanned using an approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least monthly and provide the scan's assessments to the State in a format that is specified by the State and used to track the remediation. Contractor will ensure the remediation of issues identified in the scan according to the remediation time requirements documented in the State's PSPs.

11. Nonexclusive Remedy for Security Breach.

11.1 Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.

SCHEDULE F - DISASTER RECOVERY PLAN

https://docs.google.com/presentation/d/1ip1z6a0rVIFRHuIsSJPSf_fnlXR6zf4YnsUNE1HXSss/edit?usp=sharing

SCHEDULE G – Transition Out

The Contractor will develop a Transition-Out Plan for the end-of contract no later than 90 days before the end of the contract. The Transition-Out Plan must identify the Contractor's responsibilities for the transition of the maintenance, operations, and enhancements to the new Contractor. At a minimum, the Contractor's responsibilities during the Transition-Out must include:

- a. Meeting with the State on a regular basis for the purposes of planning and coordinating an orderly transition.
- b. Developing an agreement with the State laying out timeframes, work products, mutual expectations during transition.
- c. Maintaining staffing levels consistent with levels during the operational phase of the contract through the end of the contract.
- d. Providing test data for conversion testing as necessary
- e. Providing up-to-date agreements, design documents, data dictionary and procedural manuals. Provide a strategy for ensuring that all records and documents resulting from the services provided under the contract have been updated to reflect all changes, enhancements, and modifications. All documentation and records, provided in hardcopy, and at least one (1) electronic copy in both PDF format Microsoft Word at time of turnover.
- f. Participate in all DBA activities including:
 - i. Database backup
 - ii. Database tuning
 - iii. Database logs review
- g. Technical Knowledge Transfer
 - i. Identification of critical knowledge transfer items
 - ii. Identification of known issues and bugs
- h. Providing all test plans and automated testing scripts, necessary access credentials including but not limited to database and FTP/SFTP credentials.
- i. Purging of Michigan data from Contractor's externally hosted environments as requested by MSHDA.
- j. Ensuring data privacy and confidentiality of all sensitive data.

At the end of the contract, the State will hold back the final payment until the Contractor successfully completes all the transition requirements under its control as set forth in the Transition Plan. Acceptable performance is one hundred percent (100%) compliance with the performance indicator.