



STATE OF MICHIGAN PROCUREMENT

Department Technology, Management and Budget Central Procurement Services

320 S Walnut Street Lansing, MI 48933
P.O. Box 30026, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number 4

to

Contract Number MA210000001535

CONTRACTOR	SICPA Product Security, LLC
	8000 Research Way
	Springfield VA 22153
	Tammy Norris
	703-469-7151
	Tammy.Norris@sicpa.com
	VS0199160

STATE	Program Manager	Angela Littlejohn	TREA
		(517) 636-4893	
		littlejohna@michigan.gov	
	Contract Administrator	Jordana Sager	
		517-896-1903	
		SagerJ2@michigan.gov	

CONTRACT SUMMARY

Digital Cigarette Stamps and Related Services

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 12, 2021	April 30, 2027	5 - 1 Year	April 30, 2027
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (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"/>		<input type="checkbox"/>	0 Years	
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$8,368,500.00	\$0.00	\$8,368,500.00		

DESCRIPTION

Effective September 12, 2025, pricing on this contract hereby updated, per revised Schedule B - Pricing.

All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Central Procurement approval.

Schedule B – Pricing

Contract No. 210000001535
 Digital Cigarette Stamps and Related Services

1. Pricing must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
2. The Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.
3. Should the State require a design change to a stamp, State will provide Contractor with a minimum of 90-day notice that it is planning a design change to allow Contractor to properly manage stamp inventories.
4. The Contractor must notify the State of any potential increases to TaxRight per license costs at least 90 days prior to increase taking effect.

Item	Unit	Description	Annual Quantity (1)	Unit Price (2)	Annual Price
1	TH	New Tax Stamps	450,000,000	\$ 0.00361	\$1,624,500
2	MO	Related Support Services/Systems	12	\$0	\$0
3	A	MSA Compliance Software (TaxRight) per license	38	\$ 1,550	\$58,000
4	1x	HD Sense Taggant Reader (for covert feature verification)	40 (one time) *	\$450**	\$18,000

* The HD Sense Taggant Reader is a one-time purchase. Additional readers can be acquired over the life of the contract at the discretion of the Treasury.

**The HD Sense price is per detector for the lease of each detector for the contract term. There is no additional monthly or annual charge.

- (1) The State reserves the right to CHANGE the quantities estimated above.
- (2) Pricing is inclusive of all costs.

PRICING TABLE 2 – Optional Resources

Additional Resources and Costs Available from Bidder (e.g. hourly rates for system modifications)	
1.	<p>Michigan Digital Stamping Program TaxRight Equipment Refresh Recommendation</p> <p>The Michigan Digital Stamping program was first implemented in 2013. While the vast majority of the equipment that was installed at the program's implementation is still running, ProCat and SICPA are recommending that Michigan consider replacing many of the electronic components for each high-volume stamping machine (HVSM) deployed by authorized wholesaler for use with Michigan Digital Stamps at the start of the next contract.</p> <p>Recommended replacement parts include:</p> <ol style="list-style-type: none">1. PC – Replaced with an upgraded Windows 10 unit with 16 GB of RAM.2. Cognex cameras – two per machine3. TaxRight PLC units4. Touch screen monitors5. Honeywell hand scanners6. Edgeport units7. UPS <p>Refresh to be done by a trained service tech from the respective company.</p> <p>Price to do the equipment refresh: \$14,500 per HVSM, inclusive of the above replacement parts and implementation services.</p> <p>Note: Price includes equipment, configuration, labor, and travel expenses.</p> <p>Note: Prices are subject to manufacturer price increases</p> <p>Note: This does not include any Lake equipment</p>
2.	<p>SICPA will charge an hourly rate of \$150 for any requested system modifications</p>

Date



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

DTMB

320 S Walnut Street Lansing, MI 48933
P.O. Box 30026, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number 3

to

Contract Number MA210000001535

CONTRACTOR	SICPA Product Security, LLC
	8000 Research Way
	Springfield VA 22153
	Tammy Norris
	703-469-7151
	Tammy.Norris@sicpa.com
	VS0199160

STATE	Program Manager	Angela Littlejohn	TREA
		(517) 636-4893	
		littlejohna@michigan.gov	
	Contract Administrator	Jordana Sager	DTMB
		(517) 896-1903	
		sagerj2@michigan.gov	

CONTRACT SUMMARY

Digital Cigarette Stamps and Related Services

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
October 12, 2021	April 30, 2027	5 - 1 Year	April 30, 2027
PAYMENT TERMS		DELIVERY TIMEFRAME	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (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"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$8,368,500.00	\$0.00	\$8,368,500.00		

DESCRIPTION

Effective August 1, 2025, the Contract Administrator has been changed to Tammy Norris.

Tammy Norris - Tammy.Norris@sicpa.com - Mobile 703-469 7151

All other terms, conditions, specifications and pricing remain the same. Per (DTMB) contractor (request/proposal) and agency (request) agreement, and DTMB Central Procurement approval.



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
Department of Technology, Management, and Budget
320 S. WALNUT ST., LANSING, MICHIGAN 48933
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **2**
to
Contract Number **210000001535**

CONTRACTOR	SICPA Product Security, LLC	STATE	Program Manager	Angela Littlejohn	TREA
	8000 Research Way			(517) 636-4893	
	Springfield, VA 22153			littlejohna@michigan.gov	
	Alex Finkel		Contract Administrator	Jordana Sager	DTMB
	703-455-8050			(517) 896-1903	
	alex.finkel@sicpa.com			sagerj2@michigan.gov	
	VS0199160				

CONTRACT SUMMARY				
DIGITAL CIGARETTE STAMPS AND RELATED SERVICES				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
October 12, 2021	April 30, 2027	5 - 1 Year	April 30, 2027	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> 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"/>		N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$8,368,500.00	\$0.00		\$8,368,500.00	

DESCRIPTION
Effective February 26, 2024, the following amendment is hereby incorporated into the contract:
1. Section 4.5 Disclosure of Subcontractors is deleted and replaced with Redstamp, Inc.
Redstamp, Inc, 3800 Patterson Ave SE, Grand Rapids MI 49512 616-878 -7771
The Contractor Program Manager has been changed to Alex Finkel. Alex.Finkel@sicpa.com 703-455-8050
Please note: the Contract Administrator has been changed to Jordana Sager.

SagerJ2@michigan.gov
517-896-1903

All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Central Procurement approval.



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
Department of Technology, Management, and Budget
320 S. WALNUT ST., LANSING, MICHIGAN 48933
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **1**
to
Contract Number **210000001535**

CONTRACTOR	SICPA Product Security, LLC
	8000 Research Way
	Springfield, VA 22153
	Alex Finkel
	(703) 440-7755
	alex.finkel@sicpa.com
	VS0199160

STATE	Program Manager	Angela Littlejohn	TREA
		(517) 636-4893	
		littlejohna@michigan.gov	
	Contract Administrator	Yvon Dufour	DTMB
		(517) 249-0455	
		dufoury@michigan.gov	

CONTRACT SUMMARY							
DIGITAL CIGARETTE STAMPS AND RELATED SERVICES							
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE				
October 12, 2021	April 30, 2027	5 - 1 Year	April 30, 2027				
PAYMENT TERMS		DELIVERY TIMEFRAME					
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING				
<input type="checkbox"/> P-Card	<input type="checkbox"/> 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"/>		April 30, 2027			
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE					
\$8,368,500.00	\$0.00	\$8,368,500.00					
DESCRIPTION							
Effective 12/12/2022, the following amendment is hereby incorporated into the contract. The current language in the following sections of Schedule A - Statement of Work shall be deleted and replaced with updated language per attached Schedule A: section 1.1.1, item f., section 1.5.2, items b. & e., and section 2.1, item j. All other terms, conditions, specifications and pricing remain the same. Per agency request, and DTMB Procurement approval.							



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget

525 W. Allegan, Lansing MI 48913
P.O. Box 30026, Lansing, MI 48909

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **210000001535**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	SICPA Product Security, LLC
	8000 Research Way
	Springfield, VA 22153
	Alex Spelman
	(571) 492-1307
	Alex.spelman@sicpa.com
	VS0199160

STATE	Program Manager	Angela Littlejohn	Treasury
		(517) 636-4893	
		littlejohna@michigan.gov	
	Contract Administrator	Yvon Dufour	DTMB
		(517) 249-0455	
		dufoury@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Digital Cigarette Stamps and Related Services			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
10/12/2021	4/30/2027	Five – one year	4/30/2027
PAYMENT TERMS			
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			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$8,368,500.00

FOR THE CONTRACTOR:

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Name & Title

Agency

Date

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and SICPA Product Security (“**Contractor**”), a Delaware limited liability company. This Contract is effective on October 12, 2021 (“**Effective Date**”), and unless terminated, expires on April 30, 2027.

This Contract may be renewed for up to five (5) 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.

The parties agree as follows:

1. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Schedule A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

2. **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:
Yvon Dufour Constitution Hall 525 W. Allegan St, 1st Floor, NE P.O. Box 30026 Lansing, MI 48909 dufoury@michigan.gov (517) 249-0455	Alexandre Finkel SICPA Product Security, LLC 8000 Research Way Springfield, VA 22153 alex.finkel@sicpa.com 1 (703) 440-7755

3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State:	Contractor:
Yvon Dufour Constitution Hall 525 W. Allegan St, 1st Floor, NE P.O. Box 30026 Lansing, MI 48909 dufoury@michigan.gov (517) 249-0455	Demetrius Ellison SICPA Product Security, LLC 8000 Research Way Springfield, VA 22153 Demetrius.Ellison@sicpa.com 1 (703) 440-7795

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
Angela Littlejohn P.O. Box 30791, Lansing, MI 48909-7974 littlejohna@michigan.gov (517) 636-4893	Julie Sharps SICPA Product Security, LLC 8000 Research Way Springfield, VA 22153 Julie.Sharps@sicpa.com 1 (703) 440-7744

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A – Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.
6. **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
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Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate	Policy must be 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 20 10 12 19 and CG 20 37 12 19.
Automobile Liability Insurance	
<u>Minimum 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>Minimum Limits:</u> Coverage according to applicable laws governing work activities	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	
Privacy and Security Liability (Cyber Liability) Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	Policy must cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.

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 Contract Activities; (ii) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; 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.

STANDARD CONTRACT TERMS

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.

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).

- 7. Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made online by check or credit card at: <https://www.thepayplace.com/mi/dtmb/adminfee>

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to MiDeal@michigan.gov.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

8. RESERVED

- 9. Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.

Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

STANDARD CONTRACT TERMS

- 10. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
- 11. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
- 12. Background Checks.** 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. Upon request, or as may be specified in Schedule A, Contractor must perform background checks on all employees and subcontractors and its employees 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.
- 13. 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.
- 14. Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the State 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.

- 15. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
- 16. Acceptance.** Contract Activities 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 Schedule A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, 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.

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 perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

- 17. Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Schedule A. All containers and packaging become the State's exclusive property upon acceptance.
- 18. Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

STANDARD CONTRACT TERMS

- 19. Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Schedule A. If the Contract Activities do not function as warranted during the warranty period, the State may return such non-conforming Contract Activities to the Contractor for a full refund.
- 20. Terms of Payment.** 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 Contract Activities performed as specified in Schedule A. 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 Agreement are for the State's exclusive use. 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.
- 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 Contract Activities. 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.
- 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.
- 21. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
- 22. Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar 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 the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
- 23. Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a

breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities 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. The 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 Contract Activities from other sources.

24. Termination for Convenience. 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 of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.

25. Transition Responsibilities. Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed **180** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

- 26. 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).

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: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the State deems necessary. Contractor will not, without the State's 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. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, 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.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability and Disclaimer of Damages. 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. The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

29. 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 subcontractor, or an officer or director of Contractor or 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: (1) a claim that might reasonably be expected to adversely affect Contractor’s viability or financial stability; or (2) 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.

30. RESERVED

31. State Data.

a. Ownership. The State’s data (“**State Data**,” which will be treated by Contractor as Confidential Information) includes: (a) the State’s data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information (“**PII**”) collected, used, processed, stored, or generated as the result of the Contract Activities, 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, (c) personal health information (“**PHI**”) collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. 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. This Section survives the termination of this Contract.

b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. 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 Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) 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

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the State without the State's prior written consent. This Section survives the termination of this Contract.

- c. **Extraction of State Data.** 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 the State Data in the format specified by the State.
- d. **Backup and Recovery of State Data.** Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. **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, or integrity 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. The parties agree that any damages relating to a breach of this **Section 31** are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract.

- f. **State's Governance, Risk and Compliance (GRC) platform.** Contractor is required to assist the State with its security accreditation process through the development, completion and ongoing updating of a system security plan using the State's automated GRC platform and implement any required safeguards or remediate any security vulnerabilities as identified by the results of the security accreditation process.

32. 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. The provisions of this Section survive the termination of this Contract.

- a. **Meaning of Confidential Information.** For the purposes of this Contract, 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; and, (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: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) 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.
- b. **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 a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.

- c. 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 and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. 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.
- e. Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar 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; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor's Confidential Information will be destroyed after the retention period expires.

33. Data Privacy and Information Security.

- a. **Undertaking by Contractor.** Without limiting Contractor's obligation of confidentiality as further described, 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 State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. 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 State IT policies and standards, which are available to Contractor upon request.
- b. **Audit by Contractor.** No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. **Right of Audit by the State.** 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 Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, 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. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. **Audit Findings.** Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. **State's Right to Termination for Deficiencies.** 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.

34. RESERVED

35. RESERVED

- 36. **Records Maintenance, Inspection, Examination, and Audit.** 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 the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 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 Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any 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 the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 37. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) 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. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.
- 38. 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 subcontractor that performs Contract Activities in connection with this Contract.
- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.

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- 40. Prevailing Wage.** Contractor must comply with prevailing wage requirements to the extent applicable to this Contract.
- 41. RESERVED**
- 42. 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 this Contract.
- 43. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 44. 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 Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 45. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 46. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 47. 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 or Program Managers. 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

STANDARD CONTRACT TERMS

unlikely or fails to respond within 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.

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

49. Website Incorporation. The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.

50. Schedules. All Schedules and Exhibits 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 C	NOT USED
Schedule D	NOT USED
Schedule E	Contractor Hosted Software and Services
Schedule F	Data Security Requirements
Schedule G	NOT USED
Schedule H	Safeguard Requirements of Confidential Tax Data

51. Entire Agreement and Order of Precedence. This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits which are hereby expressly incorporated, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE

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CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

- 52. 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.
- 53. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 54. Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 55. 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

Schedule A – Statement of Work

Contract No. 210000001535

Digital Cigarette Stamps and Related Services

BACKGROUND

The Tobacco Products Tax Act (Act 327 of 1993) provides for a tax upon the sale or importation of tobacco products. The Tobacco Products Act restricts the application of cigarette stamps to currently licensed cigarette wholesalers and unclassified acquirers (herein after referred to as Distributors). Treasury administers the collection and disposition of the tax. Prior to 2014, cigarette stamps were produced for application via a heat applied process and contain multiple layers. Act 188 of 2012 was passed authorizing the use of digital stamps and other requirements. Heat applied cigarette stamps were replaced with digital stamps, machines, scanners, processes and related services.

OBJECTIVES

The Contractor will provide all, but not limited to, the following consumables and related services:

- a. Contract will include Digital Cigarette Stamps, supporting systems (e.g., ordering system, desktop inventory track/trace system, mobile inventory track/trace application), and related services.
- b. Supply the State of Michigan with approx. 450 million digital stamps annually.
- c. Monitor maintenance including machine manufacturer agreements, applicable software licensing updates, MSA compliant software, machine optimization reporting, maintain updated UPC codes, including adds/deleted provided by MI.
- d. Provide a system that allows Authorized MI Stampers to order stamps online.
- e. Provide a track and trace stamp inventory system that will capture all authorized digital stamp purchases made by State of Michigan approved 'stampers'.
- f. Provide a mobile version of the track and trace system for our Enforcement teams.
- g. Ensure MSA compliance by utilizing industry approved software such as Tax Rite, or other software as approved by Treasury.

The awarded Contractor will provide services from May 1, 2022, through April 30, 2027, and the resulting contract will include five, one-year options. For required transition services, the start date shall be October 12, 2021.

DEFINITIONS

For the purposes of this contract, the following terms have the following meanings:

“Authorized Stampers” includes wholesalers or unclassified acquirers licensed with the State of Michigan to affix digital stamps with SOM UPC codes to collect SET on.

“Authorized Users” means all persons authorized by the state to access and use the stamp ordering system, desktop inventory trace/track system and mobile inventory track/trace application under this contract.

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

“Distributor” due to Michigan’s unique Tobacco Product Tax Act (TPTA) this term includes both in-state wholesalers as well as Unclassified Acquirers. Distributor and Authorized Stampers are one and the same.

“Encrypt” the process of transforming information using an algorithm to make it unreadable to anyone except those possessing unique scanners, typically referred to as a key. The State prefers data to be encrypted on the stamp and readily available for security feature verification.

“ENDS” Electronic Nicotine Delivery Systems; A term used to describe various electronic smoking devices. Commonly called e-cigarettes or vape pens. An ENDS device typically consists of a battery, microprocessor, heater, and cartridge tank.

“Machine Subcontractor” Contractor delegates performance of a portion of the Deliverable(s) to Industry approved High Speed and Hand stamping manufacturers (e.g., R.E.D. Stamp, Inc. and United Silicone, an ITW Company). In the event of IQOS or other new tobacco products requiring stamps, the scope of these high speed stamping sub-contractors may be expanded to support new products as needed.

“Program Manager” has the meaning set forth in Contract Terms, Section 4. The State of Michigan Division Administrator over the Tobacco Unit is the State Program Manager. The Vendor’s Program Manager is also called the Contractor Representative.

SCOPE OF WORK

The Contractor must provide the following:

1. Stamps or equivalent indicia as approved at the sole discretion of Treasury.
2. Contractor must share digital stamp technology with the State and other parties as permitted by Treasury (i.e., for use with handheld devices/smartphones, machines, stamp application, etc.).

3. Related Services:

- a. Provide sufficient licenses for any proprietary software or hardware needed by the State and any licensed wholesalers and unclassified acquirers licensed to apply cigarette stamps, ensure MSA compliance, or any other proposed indicia.
- b. Provide access to any Information Technology system proposed in any solution to employees or designated representatives of the State Treasurer, licensed wholesalers and unclassified acquirers, any State authorized entity and, to the extent permitted or required by Treasury, the general public.
- c. Treasury shall have sole authority to determine the security requirements and security framework for users of said system and related test environments, and the granting of access rights to any systems and services provided by the Contractor.

4. Optional Services:

At the State's discretion, optional services that are within the scope of the Contract may be added at a future date by a mutually agreed upon separate statement of work through a Contract Change Notice.

1. Requirements and Deliverables

The following is a preliminary listing of the major tasks involved for developing the end deliverables of this project. The parties may agree to modify this listing upon mutual written agreement. However, the Contractor is not constrained from supplementing this listing through additional steps, sub tasks, or elements deemed necessary to permit the development of alternative approaches, or the application of proprietary techniques.

1.1. Digital Stamps:

1.1.1. General Stamp Specifications

- a. Per TPTA, stamps must be stamped on the bottom of the cigarette packs. Stamps must be compatible with current high speed and hand stamping machines (see below).
- b. Contractor will be required to maintain a minimum of 5 weeks inventory on all stamp denominations outlined in section e below.
- c. Contractor must provide both Overt and Covert security features.
- d. Contractor does not charge by number of security features. The only limitation to the number of security features is the physical space of the stamp itself.
- e. Stamps must be provided in various denominations and layout as follows:
 - 1) R1 – MI-State /20 (30,000 R/L)
 - 2) R2 – MI-State /20 (1,200 R/L) 60MC

- 3) R4 – MI-Tribal /20 (30,000 R/L)
 - 4) R5 – MI-Tribal /20 (1,200 R/L) 60MC
 - 5) Due to the constantly evolving industry that includes adding new products to the market, Treasury reserves the right to request additional denominations and/or layouts or types of stamps if needed. Examples of future layouts would be IQOS, or vape products if legislatively required.
- f. The stamp rolls have ascending, or descending numbers printed on the base paper at a standard interval to provide an exact count of stamps remaining and stamps used on the roll.
 - g. The stamps must readily and permanently adhere to all cigarette package wrapper materials or the cigarette package itself in such a manner that they cannot be removed without either being destroyed or rendered unusable as an indicator of tax payment or destroying the wrapper. Contractor guarantees the stamps will be designed and manufactured to ensure stamps are affixed at least 90% to individual cigarette packs, so the stamps cannot be removed without being mutilated or destroyed.

1.1.2. Overt Security Features (Level 1; visible to the naked eye or can be felt via touch. Includes Holograms, colored inks and security thread)

Stamps will carry several overt security features providing for an easy initial verification by enforcement, licensees, and public with little to no training and unaided visual inspection. At a minimum, the following must be included:

1. State Seal constructed of color-controlled gratings creating a true color replication of the Michigan State Seal at certain defined angles of viewing. Bidders may also propose alternative stamp designs that include banknote-grade anticounterfeit color shifting features.
2. Unique images for Retail stamps and Tribal stamps. Each has similar components but very different visual characteristics for easy visual differentiation. Tribal Stamps must be visibly identifiable by the naked eye.

1.1.3. Covert Security Features (Level 2; only visible to trained examiners using readily available tools. Examples include ultraviolet images, hidden text or images embedded into the stamp)

The “semi-covert” level will require the use of a simple hand-held magnifying device, which will allow trained officers to visually examine semi-covert features.

The “covert” level would require a verification device such as a Digital Microscope and Laptop to distinguish the features embedded into the stamp.

Stamps will carry several Covert security features.

1.1.4. Stamp Compatibility

Stamps and roll configurations must be compatible with the State of Michigan's existing high speed stamping machines. The high-speed stamping machines in all SOM Authorized Stampers sites are owned by the stampers and manufactured by either Red Stamp or United Silicone Inc (USI). This includes rolls to be delivered are 2 stamps wide on a paper liner of 30,000 stamps, or 1 stamp wide on a paper liner of 1,200 stamps.

Other Stamp Features required:

1. An open architecture 2-D QR bar code with secured access easily read by enforcement officers and auditors using laptop, tablet, or smart phone devices.
2. The open architecture 2-D bar code enables other reporting sectors, such as retailers, secondary acquirers, etc. to authenticate and report non-readable stamps.

1.1.5. Encrypted Data included on Stamps:

The following information must be encrypted on each stamp:

- a. Authorized Stamper name.
- b. Option to include a designated stamping agents name.
- c. Unique stamp number.
- d. Date the stamp was affixed to the cigarette pack.
- e. Denomination of the cigarette pack.
- f. UPC code.
- g. Cigarette pack brand name.
- h. Cigarette pack manufacturer name.
- i. Distributors Invoice number(s) *

***Note:** The majority of Michigan Distributors utilize pre-stamping fulfillment methodology. Therefore, the distributors invoice numbers are not currently captured in the encrypted stamp barcode. However, for the few distributors who utilize 'just-in-time' fulfillment, the State would reserve the right to request this.

1.2. Digital Stamping Machines and Maintenance:

1.2.1. General Stamping Machines and Maintenance Requirements

- a. High Speed Stamping machines must be MSA compliant, utilizing approved MSA software (e.g., Tax Rite).

- b. The annual license fees for the required MSA compliance Tax Rite Software must be an itemized line-item cost within bid.
- c. Contractor must have the ability to extract MSA UPC compliance data & report out metadata to substantiate MSA compliance.
- d. In the event any additional machine subcontractors join the market, Contractor will pursue & obtain an agreement in a timely fashion.
- e. Lake Image Systems, or a Treasury approved optical verification system, will be used for optical verification and digital stamp signature data collection.
- f. During the contract period, stamping machines will only be brought online at an authorized State of Michigan Distributor site for the use of stamping State of Michigan digital stamps.
- g. Distributors will be responsible for machine purchases, leases, maintenance agreements and service call costs.
- h. Contractor will partner with both the SOM and machine manufacturers to provide reporting and review machine error rates or overrides and react appropriately to rectify any negative trends based on established expectations.
- i. Contractor will complete Factory Acceptance Testing (FAT) on any High-Speed machines installed or moved during the term of the contract. The FAT will ensure all physical and environmental security factors are in place, all data transmissions are fully uploaded to the contractor's inventory database, and MSA compliance software is active and accurate. The FAT must be completed within 30 days of installation/move date unless an alternative timeframe is agreed upon by the State Program Manager. FAT reports will be provided to Treasury upon completion of FAT.
- j. Contractor must immediately inform Program Manager or designee of the sale or lease of any machine and the name and address of the seller and/or purchaser.
- k. Should Treasury decide to disable a machine, only the SOM Program Manager or appointee has the authority/ability to set a flag in the Track and Trace system that would stop the daily transmission of the UPC control file which will then put the machine in 96 hour shut-down cycle to disable the machine.
- l. Contractor will provide a Technical Support number to authorized Stamping licensees in the event of machine malfunctions or degradation of stamping production.

1.3. Stamp Ordering System

1.3.1 General Stamp Ordering System Requirements

- a. Allow ordering by the distributor without payment.
- b. Allow Treasury to see any outstanding balances due by a licensee (in the event there is a change in policy and Treasury no longer pays for digital stamps).
- c. Allow expedited deliveries only if licensee provides billing data and pays for any expedited delivery charge.
- d. Additional authorized users for each distributor must be approved by SOM.
- e. Electronically generated emails to SOM for each distributor stamp order.
- f. The Stamp ordering system will require a unique Login ID & meet industry standard for password security.

- g. Stamp Ordering System will ensure shipment delivery addresses are only modifiable by authorized contractor staff, and with the approval of SOM.
- h. Contractor to provide training to any added authorized users. See Section 1.7.3 for additional details on training requirements.
- i. Contractor to periodically provide SOM with list of inactive authorized users to ensure system security protocols.

1.4. Stamp Tracking/Tracing & Inventory System Requirements

1.4.1 General Stamp Tracking/Tracing & Inventory System Requirements

- a. The Stamp track and trace system will have the ability to trace stamps by roll, distributor, date, and individual stamp serial number level.
- b. Must require unique user IDs and meet industry standards for password security.
- c. Must support unique stamping events for tracking the status of the stamp(s) from start to finish through the supply chain (e.g., ordered, shipped, received, applied, scrapped etc.).
- d. Must include accounting fields and ability for licensee to pay. Treasury currently pays for all stamps vs. the industry norm of the Licensee paying for them. In the event this were to change, accounting fields to support this would be required.
- e. System must have the capability to include the distributors invoice number encrypted or traced when the product is sold using “just in time” order fulfillment processes vs. pre-stamped.
- f. The system will capture and house the following stamping data elements:
 - Authorized Stamper name
 - Date & time
 - Status (e.g., ordered, shipped, received, applied, scrapped)
 - Brand code
 - Serial Number
 - Roll Range
 - Stamp Machine ID
 - Stamp Item No. (R1, R2, R4, R5)
 - Stamp Item Name (MI/20 (30,000 roll), Tribal/20 (1,200 roll), etc.
 - Shipment Data - including Ship Date, Ship to, etc.
 - Stamper receipt date
 - Stamper acceptance data
 - Contractor Invoice No.
 - Distributor Invoice No. (we reserve the right to request)
 - Quantity Shipped
 - Ship to City, State, County & Zip
 - Manufacturer UPC Data including UPC Number, Brand and Manufacturer Name

1.5. Physical Security of Stamps

1.5.1. Manufacturing Facility Security - Manufacturing Facility must contain, but not be limited to the following:

- a. Fire exit doors with break alarm bell for local alert in the event of an exit.
- b. Locks on all outside doors.
- c. Intrusion alarm system.
- d. Maintain Visitor logs of all non-employees entering office, manufacturing and storage areas.
- e. Limited access to all production and storage areas by the contractor's employees or agents and visitors.
- f. Cameras with archived footage meeting industry standards, that will be available for review by authorized State personnel if requested.

1.5.2. Stamp Storage Security - Stamp Storage within the Manufacturing Facility must contain, but not be limited to the following:

- a. Stamps must be stored in contractor's climate-controlled warehouse.
- b. SOM stamps must be stored in separate room, i.e., not co-mingled with any other states stamps.
- c. Contractor storage area must be restricted within the warehouse compound.
- d. The storage area must be protected against damage or loss (fire, water).
- e. Key card must be required for entry into the storage location.
- f. The storage area must have security appropriate for storage of negotiable instruments.
- g. Treasury must have access to the storage area for purposes of inspection or examination without advance notice to the Contractor.
- h. Cameras with archived footage meeting industry standards, that will be available for review by authorized State personnel if requested.

1.6. Mobile Application/Scanning Requirements

1.6.1. General Mobile Application System Requirements

- a. Contractor must provide mobile ability to Treasury designees (Enforcement/MSP) to remotely scan stamps during offsite inspections to verify stamp authenticity.
- b. Mobile Stamp application must be compatible with IOS platform.
- c. Mobile app must be an open architecture solution that does not require the state to purchase proprietary devices.
- d. Mobile app must be integrated, i.e., not require multiple separate devices to scan remotely.
- e. Mobile application fulfillment, both initial and ongoing for the duration of the contract should be downloadable from the Apple App Store, and at no additional charge.
- f. Contractor will issue Mobile application unique ID's only on approval of Authorized Treasury personnel.
- g. Contractor will provide application support during standard business hours via a 800# for all users.
- h. Mobile application must provide approve security protocols separate from the physical device.
- i. Ability to issue unique user IDs for all mobile application users.

- j. Mobile App must capture, display, and upload the following data elements into the remote track and trace system:
 - Unique Stamp ID
 - Date Shipped
 - Authorized Stamper Name
 - Status (e.g., ordered, shipped, received, applied, scrapped)
- k. Upgrades to mobile application to meet industry standards are provided at no additional charge.
- l. Mobile app must be QR compatible.

1.7. Related Services

1.7.1. General Related Services Requirements

- a. Fraud Prevention: Contractor will actively monitor the market looking for counterfeit stamps using data mining tools and methodologies.
- b. Contractor will report to the SOM any such appearances of possible counterfeit product.
- c. Annual SOC testing If Applicable, the Contractor must perform annual testing of all security control requirements to determine they are working as intended. Annual certification must be provided in writing to the Program Manager or designee in the form of a SOC II Type II or similar audit report within 30 days of audit report completion.
- d. Disaster Contingency Plan: Contractor will provide a disaster recovery plan to illustrate operational impact in case of an emergency.
- e. Help Desk Support (direct) for SOM authorized Distributors: Contractor will provide a Help Desk/Technical Support process and system to receive, issue & log a unique tracking number, prioritize, escalate (if needed), and resolve problems/issues reported by authorized Treasury Licensees. This includes order/delivery questions, Stamp ordering & inventory system setup & support questions, adding authorized distributor ID's when needed, adding authorized mobile application users as needed, and password resets.
- f. Internal Support – SOM requires a dedicated Relationship Manager within Contractor's organization. This RM would be the SOM point person for any all reporting, support, problem resolution, or any other contract related issues.

1.7.2 Contract Transition

In the event of a new contractor assuming MI's Digital Stamp contract; the new Contractor will provide a transition plan that includes the following:

- a. Existing High Speed and Hand stamping systems must be compatible with a new vendor's system. The SOM stampers use Red Stamp and USI High Speed machines.
- b. New Contractor will coordinate transition of UPC lists, Stamper Contact data, Machine S/N's from previous contractor. A dedicated transition team would

need to be assigned to ensure a seamless transition (see sec 4.5 Key Personnel).

- c. All historical stamp meta-data will be provided to the new contractor prior to new contact start date.
- d. Vendor Interface testing would be required to test and implement interfaces to the SOM authorized stampers' stamping machines, as well as internal interfaces to the ordering, tracking and mobile application platforms.
- e. Training on the mobile application for Treasury Enforcement & MSP personnel.
- f. Training on the Inventory system for all Treasury personnel.
- g. Training on the Stamp Ordering system for all Distributors' authorized personnel.

In addition to providing a Transition Plan, the Contractor must also provide a Project Plan as describe in Statement of Work, Section 5.1.

1.7.3. Training

In addition to the Training provided during any Contract Transition (See 1.7.2), the Contractor must also provide the following ongoing training as part of the standard contract pricing:

- a. Provide timely training to SOM Treasury staff on accessing and using the Inventory and tracking system to track stamps from the order step through the application step.
 - i) Contractor must provide electronic documentation and training materials for all users.
 - ii) Contractor must provide Web-based training.
 - iii) Contractor will include reporting functionality in the training.
- b. Provide timely training to SOM Treasury, Enforcement and MSP on accessing and using the mobile Inventory tracking application as it relates to enforcement in the field.
 - i) Contractor must provide electronic documentation and training materials for all users.
 - ii) Contractor must provide Web-based training.
- c. Provide timely training to SOM Authorized Stampers and staff on the Stamp Ordering system.
 - i) Contractor must provide electronic documentation and training materials for all users.
 - ii) Contractor must provide Web-based training.

1.8 Policies, Standards and Procedures (PSP)

IT Policies, Standards and Procedures (PSP)

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products provided as a result of this RFP must comply with all applicable State IT policies and standards. Contractor is required to review all applicable links provided below and state compliance in their response.

Public IT Policies, Standards and Procedures (PSP):

https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html

Acceptable Use Policy

To the extent that Contractor has access to the State's computer system, 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 the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

SOM Digital Standards

All software items provided by the Contractor must adhere to the State of Michigan Application/Site Standards which can be found at www.michigan.gov/standards.

Mobile Responsiveness

The Contractor's Solution must utilize responsive design practices to ensure the application is accessible via a mobile device.

ADA Compliance

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. The State is requiring that Contractor's proposed Solution, where relevant, to level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Contractor may consider, where relevant, the W3C's Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT) for non-web software and content. The State may require that Contractor complete a Voluntary Product Accessibility Template for WCAG 2.0 (WCAG 2.0 VPAT) or other comparable document for the proposed Solution.

http://www.michigan.gov/documents/dmb/1650.00_209567_7.pdf?20151026134621

1.9 End-User Operating Environment

The SOM environment is X86 VMware, IBM Power VM and Oracle VM, with supporting enterprise storage monitoring and management.

The software must run under commonly used web browsers. At a minimum, the software must support Internet Explorer v11 or higher, or Edge, Chrome v71 or higher, Firefox v62 or higher, and Safari v12 or higher for iOS operating systems.

Contractor must support the current and future State standard environment at no additional cost to the State.

1.10 Software

The Contractor is providing SICPATRACE[®] software solution architecture. The SICPATRACE[®] solution requires no end-user license agreements to access the solution

1.11 Hosting

Contractor must maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 24 hours, and a Recovery Time Objective (RTO) of 24 hours.

1.12 Products and Services

In managing its obligation to meet the above milestones and deliverables, the Bidder is required to utilize the applicable [State Unified Information Technology Environment \(SUITE\)](#) methodologies, or an equivalent methodology proposed by the Bidder.

SUITE's primary goal is the delivery of on-time, on-budget, quality systems that meet customer expectations. SUITE is based on industry best practices, including those identified in the Project Management Institute's PMBoK and the Capability Maturity Model Integration for Development. It was designed and implemented to standardize methodologies, processes, procedures, training, and tools for project management and systems development lifecycle management. It offers guidance for efficient, effective improvement across multiple process disciplines in the organization, improvements to best practices incorporated from earlier models, and a common, integrated vision of improvement for all project and system related elements.

While applying the SUITE framework through its methodologies is required, SUITE was not designed to add layers of complexity to project execution. There should be no additional costs from the Bidder, since it is expected that they are already following industry best practices which are at least similar to those that form SUITE's foundation.

SUITE's companion templates are used to document project progress or deliverables. In some cases, Bidders may have in place their own set of templates for similar use.

Because SUITE can be tailored to fit specific projects, project teams and State Program Managers may decide to use the Contractor's provided templates, as long as they demonstrate fulfillment of the SUITE methodologies.

1.13 Secure Web Application Standard

Contractor's solution must meet the State's Secure Application Development Standards as mandated by the State.

Secure Application Development Life Cycle (SADLC)

Contractor is required to meet the States Secure Application Development Life Cycle requirements that include:

1.13.1 Security Accreditation

Contractor is required to complete the State Security Accreditation process for the solution.

1.13.2 Application Scanning

Externally hosted solutions

Contractor is required to grant the right to the State to scan either the application code or a deployed version of the solution; or in lieu of the State performing a scan, Contractor will provide the State a vulnerabilities assessment after Contractor has used a State approved application scanning tool. These scans must be completed and provided to the State on a regular basis or at least for each major release.

For COTS or vendor owned applications, Contractor, at its sole expense, must provide resources to complete the scanning and to complete the analysis, remediation and validation of vulnerabilities identified by the scan as required by the State Secure Web Application Standards.

Types of scanning and remediation may include the following types of scans and activities:

- Dynamic Scanning for vulnerabilities, analysis, remediation, and validation.
- Static Scanning for vulnerabilities, analysis, remediation, and validation.
- Third Party and/or Open-Source Scanning for vulnerabilities, analysis, remediation and validation.

1.13.3 Infrastructure Scanning

Externally hosted solutions

A Contractor providing Hosted Services must scan the infrastructure at least once every 30 days and provide the scan's assessment to the State in a format that can be uploaded by the State and used to track the remediation.

2. Service Requirements

2.1. Shipping Requirements

Delivery will be expected within 3 calendar days from the date of order. Deliveries will be direct to the Distributor address of record. Please see Attachment 9, Authorized SOM Distributors.

- a. Liability of shipment with vendor.
- b. Contractor will provide a direct to distributor shipping model.
- c. Contractor will only ship orders placed by an authorized SOM distributor. (See Exhibit 4)
- d. Contractor must provide delivery of stamps utilizing a 3rd party Common Carrier (FedEx or UPS) or other shipping method approved by Treasury.
- e. Contractor will only ship orders to the address of record for any stamper. ONLY Treasury can approve orders being re-routed to an alternate delivery address.
- f. Standard shipping (3 business days) to the distributor is paid for by the SOM.
- g. Contractor must ship orders to MI authorized stampers within a maximum of 48 hours (based on business days) of order placed into the stamp ordering system. State Holidays are not considered business days.
- h. Contractor must ensure items and quantities delivered are exactly the items and quantities on the order confirmation. No substitutions will be allowed without SOM approval. (from SLA)
- i. Extenuating circumstances delaying 3-day delivery window must be communicated to the distributor.
- j. Each roll is packed/shipped in a custom fit, serial numbered cardboard box, securely sealed. The box must be labeled with the denomination, quantity and roll number.
- k. Contractor will provide shipping security protocols to be in place to eliminate any risk of lost or stolen stamps.
- l. Contractor must have capability to expedite deliveries if approved by SOM & be able to charge distributor for any expedited costs. (Stamper will pay any expedited shipping costs as a separately priced option)
- m. Incomplete delivery attempts will be completed the next business day.

3. Acceptance

3.1. Acceptance, Inspection, and Testing

The State will use the criteria provided in Section 16 of the Contract Terms to determine acceptance of the Contract Activities.

4. Staffing (Customer Service)

4.1. Customer Service Toll-Free Number

The Contractor must specify its toll-free number for the State and its authorized users to make contact with the Contractor's Customer Service Representatives. The Contractor's Customer Service Representatives must be available for calls during the hours of 8:00 am to 5:00 pm EST.

1-800-313-2790
ussupport@sicpa.com

4.2. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 8:00 a.m. to 5:00 p.m. EST and possible night and weekend hours depending on the requirements of the project.

4.3. Key Personnel

The Contractor must appoint individuals who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 8 hours.

Contractor's Key Personnel must be on-site as needed, per mutually agreed upon times.

The State has identified the following positions as Key Personnel.

1. **Contractor Representative**: Acts as a central point of contact for all contractual activities.
2. **Project Manager**: Provides implementation services.
3. Identify any other Contractor staff who will be involved, identify by name the individuals, and describe in detail their roles and responsibilities.
Descriptions of roles should be functional and not just by title.

The Contractor must appoint a Contractor Representative who will respond to State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning key staff.

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's program Manager, 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. The State may require a 30-calendar day training period for replacement personnel.

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 the **Termination for Cause** section of the Standard Contract Terms. 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 fix 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 Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

- i. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel's removal.
- ii. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed \$50,000.00 per individual.

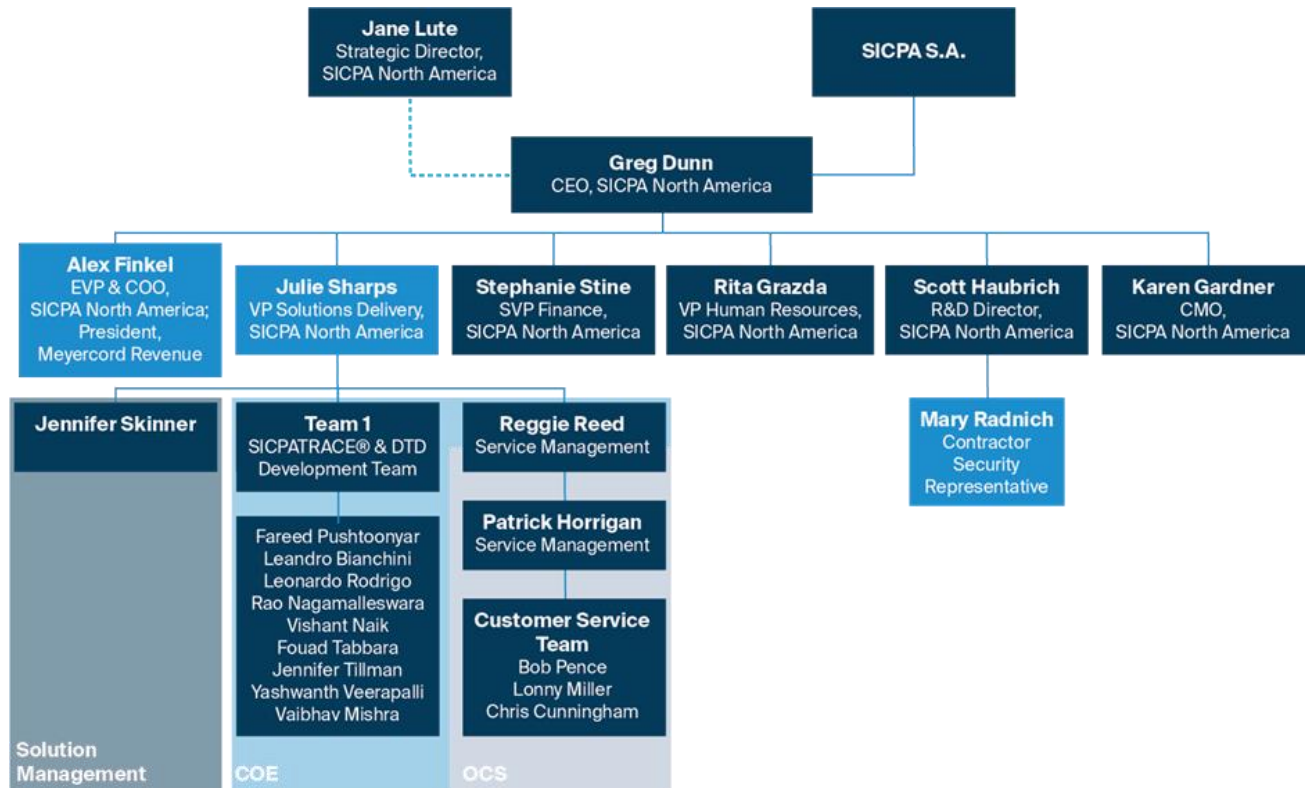
Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; 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.

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

Key Personnel Position Title	Assigned Resource Name
Contractor Representative	Alex Finkel
Project Manager	John Connors
Contractor Security Officer	Mary Radnich

4.4. Organizational Chart

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.



4.5. Disclosure of Subcontractors

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.

- The relationship of the subcontractor to the Contractor.
- Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
- A complete description of the Contract Activities that will be performed or provided by the subcontractor.

The legal business name, address, telephone number of the subcontractor(s).	ProCat Distribution Technologies 2 Eastwick Drive Suite 100 Gibbsboro, NJ 08026 (856) 767-8500
A description of subcontractor's organization and the services it will provide and information concerning subcontractor's ability to provide the Contract Activities.	ProCat Distribution Technologies is committed to supporting SICPA to meet the needs of this RFP. Under this program, ProCat Distribution Technologies will provide their TaxRight MSA solution, which scans the UPC barcode oneach carton of cigarettes as part of the process that affixes SOM tax stamps indicia to cigarette packs. TaxRight MSA compares carton UPCs scanned to the list of authorized carton UPCs downloaded from the SICPATRACE® system, where SICPA and the SOM will maintain UPCs on the SOM MSA Tobacco Product Directory. The TaxRight software prevents State tax stamps from being affixed to any cigarette carton with a UPC that is not on the State's approved MSA list.
The relationship of the subcontractor to the Bidder.	ProCat Distribution Technologies is proposed as a subcontractor to SICPA.
Whether the Bidder has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.	ProCat and SICPA have worked together on the Louisiana Attorney General MSA Program to collect MSA data from cigarette tax stampers that apply Louisiana FUSON® heat- applied stamps. This is integrated with SICPA's FUSON® Modularity product.
A complete description of the Contract Activities that will be performed or provided by the subcontractor.	ProCat will provide the MSA software that interfaces with high speed stamping machines to collect stamping data and stop the machine if an unlisted UPC is fed into the machine. The ProCat software will also exchange data each stamping machine and the SICPA server to download UPC data and upload stamping data. ProCat will also provide the hardware on which the ProCat software operates; and perform operations and maintenance on the hardware and software and provide customer support for the MSA software, collaborating as required with SICPA and the

	stamping machine service providers to ensure that customer support issues are resolved.
Of the total bid, the price of the subcontractor's work.	The price for ProCat's work is specified in Exhibit B – Pricing, in Line Item 3. MSA Compliance Software

4.6. Contractor Staff Security

The Contractor will be subject the following security procedures:

- 1) Security measures must be implemented before work begins.
- 2) Background and criminal history checks must be completed for all Contractor. Background checks include, but are not limited to:
 - a) Determine if the person has been charged or convicted of a felony.
 - b) Obtain criminal history check from local police and/or State Police.
 - c) Fingerprint prospective employees as part of the background check with the policing agency.
- 3) No individuals will be hired until they have cleared the background check.
- 4) Conduct unannounced reviews of employee's compliance with work processing procedures and established internal controls.

4.7. Access to Tax Information

If the Contractor ever has access to FTI then, at that time, they must comply with the requirements of PUB 1075 and agree to add IRS Exhibit 7 to the contract.

5. Project Management

5.1. Project Plan

The Contractor will carry out any project under the direction and control of the Program Manager. In the event of a new contractor assuming MI's Digital Stamp contract; within **30 calendar days** of the Effective Date, the Contractor must submit a final project plan to the Program Manager for approval.

The Project Plan must include the following:

1. A project schedule.
2. Delivery cost and resource estimates for each phase of the Project.
3. Cost estimates for the ongoing maintenance resource and infrastructure requirements and costs for the solution(s) post-implementation.
4. Provisions for project management due diligence including:
 - a. Preparation and maintenance of project plans and schedules using Microsoft Project or other tool as may be required by State standards at the time.
 - b. Preparation and maintenance of project organization and staffing chart.
 - c. Status reports and weekly status meetings
 - d. Issue identification, logging, review, escalation, and resolution.
 - e. Monitoring, reporting, and analyzing actual results versus forecasted results including budget, hours, milestone achievement, estimates to complete, key dependencies, key quality or acceptance gates and any other items the Contractor or State deems necessary to deliver the project.

For each proposed project approved by the State, the Contractor must:

1. Deliver Projects in a manner that is designed to help minimize disruption to the State business environment.
2. Balance Project scope, quality, effort, schedule, budget, and resource risks or conflicts jointly with the State.
3. Develop and report business and technical risk and impact analyses.
4. Conduct post-delivery analysis, documenting preferred experiences, and compiling recommendations for purposes of continuous service improvements.

The Contractor shall implement their Preliminary Project Plan under the State's guidance. The State reserves the right to initiate modifications to the Project Plan by mutual agreement with the Contractor.

5.2. Meetings

The Contractor must attend meeting as outlined in this RFP and as requested by the State.

The State may request a kickoff meeting with the bidder within 30 days of the effective date.

5.3. Reporting

- a. Contractor will be able to provide all data elements outlined in sections 1.4 (Stamp Tracking/Tracing & Inventory System Requirements) and 1.1.5 (Encrypted Data included on Stamps) in a format downloadable to MS Excel.
- b. Contractor will provide Treasury with monthly inventory status reports.
- c. Contractor will provide Treasury with monthly easy button usage reports.
- d. Contractor will supply custom reporting as requested by the State for special projects.

- e. Contractor will provide reports to the SOM via a web browser, and no additional software or hardware will be required by the State.
- f. Access to the reporting system will be available 24 hours a day, 7 days a week but must be available 99% of the time.

6. Pricing – also see Schedule B

6.1. Price Term

Pricing is firm for the entire length of the Contract.

7. Ordering

7.1. Authorizing Document

The appropriate authorizing document for the Contract will be a delivery order or purchase order.

8. Invoice and Payment

8.1. Invoice Requirements

All invoices submitted to the State must include: (a) date; (b) delivery/purchase order ID number; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.

The Contractor must provide no more than one invoice per month for the products and services rendered and accepted by the State.

8.2. Payment

1. Pricing is included as Schedule B.
2. Stamps and Related Support Services/Systems – Payment will occur following acceptance of invoices.

9. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of **\$5,000** and an additional **\$100 per day** for each day Contractor fails to remedy the late or improper completion of the Work.

10. Service-Level Agreements (SLAs)

The Contractor will be held accountable to meet the requirements and the service level requirements (Schedule E, Exhibit 1) established in this Contract.

Schedule B – Pricing

Contract No. 210000001535
 Digital Cigarette Stamps and Related Services

1. Pricing must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
2. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.
3. Should the State require a design change to a stamp, State will provide Contractor with a minimum of 90-day notice that it is planning a design change to allow Contractor to properly manage stamp inventories.

Item	Unit	Description	Annual Quantity (1)	Unit Price (2)	Annual Price
1	TH	New Tax Stamps	450,000,000	\$ 0.00361	\$1,624,500
2	MO	Related Support Services/Systems	12	\$0	\$0
3	A	MSA Compliance Software (TaxRight) per license	38	\$ 1,200	\$45,600
4	1x	HD Sense Taggant Reader (for covert feature verification)	40 (one time) *	\$450**	\$18,000

* The HD Sense Taggant Reader is a one-time purchase. Additional readers can be acquired over the life of the contract at the discretion of the Treasury.

**The HD Sense price is per detector for the lease of each detector for the contract term. There is no additional monthly or annual charge.

- (1) The State reserves the right to CHANGE the quantities estimated above.
- (2) Pricing is inclusive of all costs.

PRICING TABLE 2 – Optional Resources

Additional Resources and Costs Available from Bidder (e.g. hourly rates for system modifications)	
1.	<p>Michigan Digital Stamping Program TaxRight Equipment Refresh Recommendation</p> <p>The Michigan Digital Stamping program was first implemented in 2013. While the vast majority of the equipment that was installed at the program's implementation is still running, ProCat and SICPA are recommending that Michigan consider replacing many of the electronic components for each high-volume stamping machine (HVSM) deployed by authorized wholesaler for use with Michigan Digital Stamps at the start of the next contract.</p> <p>Recommended replacement parts include:</p> <ol style="list-style-type: none">1. PC – Replaced with an upgraded Windows 10 unit with 16 GB of RAM.2. Cognex cameras – two per machine3. TaxRight PLC units4. Touch screen monitors5. Honeywell hand scanners6. Edgeport units7. UPS <p>Refresh to be done by a trained service tech from the respective company.</p> <p>Price to do the equipment refresh: \$14,500 per HVSM, inclusive of the above replacement parts and implementation services.</p> <p>Note: Price includes equipment, configuration, labor, and travel expenses.</p> <p>Note: Prices are subject to manufacturer price increases</p> <p>Note: This does not include any Lake equipment</p>
2.	<p>SICPA will charge an hourly rate of \$150 for any requested system modifications</p>

Schedule E, Contractor Hosted Software and Services

1. Definitions. In addition to the definitions found in the Contract Terms, for the purposes of this Contract, the following terms have the following meanings:

“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.

“Harmful Code” means any: (a) virus, trojan horse, worm, backdoor or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems or software; or (b) time bomb, drop dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise prevent, restrict or impede the State's or any Authorized User's use of such software.

“Hosted Services” means the hosting, management and operation of the Software and other services for remote electronic access and use by the State and its Authorized Users as described in one or more written, sequentially numbered, statements of work referencing this Contract, including all Specifications set forth in such statements of work, which, upon their execution will be attached as **Schedule A** to this Contract and by this reference are incorporated in and made a part of this Contract.

“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.

“Open-Source License” has the meaning set forth in **Section 2.4**

“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 the Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software and system architecture and configuration.

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

“Specifications” means the specifications for the Software set forth in the applicable Statement of Work and, to the extent consistent with and not limiting of the foregoing, the Documentation.

“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.

“Support Services” means the Software maintenance and support services Contractor is required to or otherwise does provide to the State pursuant to this **Schedule E** and **Exhibit 1** to this **Schedule E**.

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

“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.

“Warranty Period” means the ninety (90) calendar-day period commencing on the date of the State's Acceptance of the Software.

2. Hosted Software License Grant and Source Code Escrow

2.1 Contractor License Grant. Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, irrevocable (except as provided herein) 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:

(a) access and use the Hosted Services, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for Processing State Data;

(b) 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 Hosted Services;

(c) prepare, reproduce, print, download and use a reasonable number of copies of the Specifications and Documentation for any use of the Hosted Services under this Contract; and

(d) access and use the Hosted Services for all such non-production uses and applications as may be necessary or useful for the effective use of the Hosted Services 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 Hosted Services, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Hosted Services as described in **Section 2.2**.

2.2 License Restrictions. The State will not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Hosted Services 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 Hosted Services or Documentation in any manner or for any purpose that is unlawful under applicable Law.

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

2.4 Open-Source Licenses. For Contractor Hosted Software only (and not for the provision of Software-as-a-Service), any use hereunder of Open-Source Components shall be governed by, and subject to, the terms and conditions of the applicable open-source license ("Open-Source License"). Contractor must identify and describe in an exhibit to the Statement of Work each of the Approved Open-Source Components of the Software, and include an exhibit attaching all applicable Open-Source Software Licenses or identifying the URL where these licenses are publicly available.

2.5 Source Code Escrow. The parties may enter into a separate intellectual property escrow agreement. Such escrow agreement will govern all aspects of Source Code escrow and release. 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 32.a** of this Contract (provided no provision of **Section 32.e** calling for return of Confidential Information before termination of this Contract will apply to the deposit material).

3. Hosted Services Testing and Acceptance.

3.1 Hosted Service Preparation. Promptly upon the parties' execution of a Statement of Work, Contractor will take all steps necessary to make the Hosted Services procured thereunder ready and available for the State's use in accordance with the Statement of Work and this Contract, including any applicable milestone date or dates set forth in such Statement of Work.

3.2 Testing and Acceptance.

(a) When Contractor notifies the State in writing that the Hosted Services are ready for use in a production environment, the State will have thirty (30) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the notice to test the Hosted Services to determine whether they comply in all material respects with the requirements of this Contract and the Specifications. For purposes of Testing and Acceptance, Hosted Services will be deemed to comply in all material respects with the requirements of this Contract and the Specifications where no items are deemed a Severity Level 1 or Severity Level 2 as defined in Schedule E – Service Level Agreement.

(b) Upon completion of the State's testing, the State will notify Contractor of its acceptance (“**Accept**” or “**Acceptance**”) or, if it has identified any noncompliance with the Specifications, rejection (“**Reject**” or “**Rejection**”) of the Hosted Services. If the State Rejects the Hosted Services, the State will provide a written list of items that must be corrected. On receipt of the State's notice, Contractor will promptly commence, at no additional cost or charge to the State, all reasonable efforts to complete, as quickly as possible and in any event within twenty (20) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the State's notice, such necessary corrections, repairs and modifications to the Hosted Services to bring them into full compliance with the Specifications.

(c) If any corrective measures are required under **Section 3.2(b)**, upon completion of all such measures, Contractor will notify the State in writing and the process set forth in **Section 3.2(a)** and **Section 3.2(b)** will be repeated; provided that if the State determines that the Hosted Services, as revised, still do not comply in all material respects with the Specifications, the State may, in its sole discretion:

- (i) require the Contractor to repeat the correction, repair and modification process set forth in **Section 3.2(b)** at no additional cost or charge to the State; or
- (ii) terminate any and all of the relevant Statement of Work, this Contract and any other Statements of Work hereunder.

(d) The parties will repeat the foregoing procedure until the State Accepts the Hosted Services or elects to terminate the relevant Statement of Work as provided in **Section 3.2(c)(ii)** above. If the State so terminates the relevant Statement of Work, Contractor must refund to the State all sums previously paid to Contractor under such Statement of Work within ten (10) Business Days of the State's written notice of termination, and the State will be relieved of all obligations thereunder.

4. Support Services.

4.1 Maintenance and Support Services. Contractor will provide Hosted Service maintenance and support services (collectively, "**Support Services**") in accordance with the provisions set forth in this **Schedule E** and in the Service Level Agreement, attached as **Exhibit 1** to this **Schedule E** (the "**Support Services and Service Level Agreement**").

4.2 Maintenance Services. Contractor will provide Hosted Service maintenance and support services (collectively, "**Software Support Services**") in accordance with the provisions of this **Schedule E**, including **Exhibit 1** to this **Schedule E**. 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. Contractor will continuously maintain the Hosted Services to optimize Availability that meets or exceeds the Availability Requirement as defined in **Exhibit 1** to this **Schedule E**. Such maintenance services include providing to the State and its Authorized Users:

(a) all updates, bug fixes, enhancements, new releases, new versions and other improvements to the Hosted Services, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; and

(b) all such services and repairs as are required to maintain the Hosted Services or are ancillary, necessary or otherwise related to the State's or its Authorized Users' access to or use of the Hosted Services, so that the Hosted Services operate properly in accordance with the Contract and this **Schedule E**.

4.3 Support Service Responsibilities. Contractor will:

(a) correct all Service Errors in accordance with the Support Service Level Requirements as defined in **Exhibit 1** to this **Schedule E**, including by providing defect repair, programming corrections and remedial programming.

(b) provide unlimited telephone support between the hours of 8 am and 5 pm, EST;

(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 **Exhibit 1** to this **Schedule E**.

5. Software and Service Warranties.

5.1 Contractor represents and warrants to the State that:

(a) Contractor has, and throughout the Term and any additional periods during which Contractor does or is required to perform the Services, including Hosted 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;

(b) neither Contractor's grant of the rights or licenses hereunder nor its performance of any Services or other obligations under this Contract does or at any time will: (i) conflict with or violate any applicable law, including any law relating to data privacy, data security or personal information; (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 by the State or any Authorized User to any third party, and Contractor must promptly notify the State in writing if it becomes aware of any change in any applicable law that would preclude Contractor's performance of its material obligations hereunder;

(c) as accessed and used by the State or any Authorized User in accordance with this Contract and the Specifications, the Hosted Services, Documentation and all other Services and materials provided by Contractor under this Contract will not infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third party;

(d) there is no settled, pending or, to Contractor's knowledge as of the Effective Date, threatened action, and it has not received any written, oral or other notice of any action (including in the form of any offer to obtain a license): (i) alleging that any access to or use of the Services, Hosted Services, or Software does or would infringe, misappropriate or otherwise violate any Intellectual Property Right of any third party; (ii) challenging Contractor's ownership of, or right to use or license, any software or other materials used or required to be used in connection with the performance or receipt of the Services, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to perform the Services,

including Hosted Services, or its other obligations under this Contract, and it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any such litigation, claim or proceeding;

(e) the Software, Services (including Hosted 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 Exhibit 1 to this **Schedule E**;

(f) 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;

(g) the Contractor Systems and Services (including Hosted Services) are and will remain free of Harmful Code;

(h) 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;

(i) Contractor will perform all Services in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with generally recognized industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet Contractor's obligations (including the Availability Requirement and Support Service Level Requirements) under this Contract;

(j) 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 Services, will apply solely to Contractor's (or its subcontractors) facilities and systems that host the Services (including any disaster recovery site), and 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; and

(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.

5.2 DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS CONTRACT, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY SUBJECT MATTER HEREOF.

Schedule E, Exhibit 1

Support Services and Service Level Agreement (SLA) for Hosted Services

Contractor shall deliver Services in accordance with this Exhibit *Service Level Agreement* beginning with Go-Live. Services by the Contractor include:

- SICPATRACE® Data Management System (DMS) Web Application
- SICPATRACE® Digital Tax Stamps
- SICPATRACE® Mobile Inspection app

This Service Level Agreement specifically excludes the following:

- High-speed stamping machines sold to cigarette stampers by Red Stamp and United Silicone (USI).
- High-speed stamping machine ancillary equipment (including cameras and camera subsystems used to validate and capture cigarette carton UPC values and stamp data and the TaxRight MSA Compliance Software) purchased from original equipment manufacturers and sold to cigarette stampers by Red Stamp or USI.
- Low-speed stamping hardware and software sold to cigarette stampers by RedStamp and USI.
- Smart phone devices used to operate the SICPATRACE Mobile Inspection app.

For any items excluded from this Service Level Agreement, the conditions and remedies described in this attachment are not applicable to the Contractor. Contractor shall not be responsible for resolving issues stemming from the performance of excluded items and Contractor shall bear no liability or incur any penalties associated with this Service Level Agreement should any Status defined in this SLA be incurred due to an excluded item.

Status	Description	Qualifying Conditions	Response Time	Support Effort	Resolution Time
Critical/Systems Down (Severity Level 1)	Production application down or major malfunction resulting in a product inoperative condition. Users unable to reasonably perform their normal functions. The specific functionality is mission critical to the business and the situation is considered an emergency.	<ul style="list-style-type: none"> * Stamping operations completely unusable * Stamping issue that stops monitoring or alerting resulting in a loss of business productivity * Business mission-critical endpoints using SICPA interfaces cannot be restored (MSA Compliance, Stamping metadata upload, etc.) * Users cannot login to critical system interfaces (SICPATRACE DMS Web Application or SICPATRACE Mobile Inspection App) * Upgrades to newer version of supported software have failed to install 	1 Hours	<p>Requires urgent effort by SICPA, Michigan Treasury, and Stamper.</p> <p>May require referral of problem to Redstamp or USI.</p> <p>Critical situations may require support throughout SICPA's support hours 8 a.m. to 5 p.m. ET on business days.</p> <p>If Red Stamp, USI or Stamper is unavailable to engage in this effort SICPA may reduce the severity level. If the customer refuses to implement the steps suggested to troubleshoot or correct the issue, SICPA Support may close the ticket.</p>	4 hours
Significant Impact (Severity Level 2)	Critical loss of application functionality or performance resulting in high number of users unable to perform their normal functions.	<ul style="list-style-type: none"> * Service interruptions to some, but not all, stamping operations * Time-sensitive issues reported by Customer that may adversely affect stamping 	4 hours	<p>Requires intensive support effort from SICPA and Customer until a fix is developed or workaround is available.</p> <p>SICPA Support personnel will agree with Customer what effort is</p>	1 business day

	<p>Major feature/product failure where inconvenient workaround or no workaround exists.</p> <p>The program is usable but severely limited.</p>	<p>application, monitoring, or productivity</p> <ul style="list-style-type: none"> * Important tasks cannot be performed but the error does not impair essential operations * Most users are unable to access critical SICPA systems, but workarounds are available 		<p>required.</p> <p>If the authorized or designated customer contact is not available to engage in this effort, SICPA Support may reduce the Severity level. If the customer refuses to implement the steps suggested to troubleshoot or correct the issue, SICPA Support may close the ticket.</p>	
<p>Normal/Minor Impact (Severity Level 3)</p>	<p>Moderate loss of application functionality or performance that impacts multiple users in their normal functions.</p> <p>Minor feature/product failure where there is:</p> <ul style="list-style-type: none"> - a convenient workaround - minor performance degradation - no impact on production. 	<ul style="list-style-type: none"> * System is up and running, but the problem causes some operational impact. Workarounds exist but they are only temporary * The stamping operations still function in the customers' business environment but there are functional limitations that are not critical in the daily operation * Does not prevent operation, but there is some degradation in performance * Moderate loss of functionality affecting multiple users * Issue is important to long-term productivity 	1 Business day	<p>Requires moderate support effort from SICPA and Customer until a fix is developed or workaround is available.</p> <p>If the Customer refuses to implement the steps suggested to troubleshoot or correct the issue, SICPA Support may close the ticket.</p>	10 business days

Low/Information (Severity Level 4)	<p>Minor loss of application functionality, product feature requests, how- to questions.</p> <p>The issue consists of: "how-to" questions including:</p> <ul style="list-style-type: none"> - issues related to one or multiple modules - integration, installation and configuration inquiries - enhancement requests - documentation questions 	<ul style="list-style-type: none"> * Problem does not have significant impact on stamping operations or occurs in functionality that is not critical or frequently used * The problem causes little impact to stamping operations, or a reasonable workaround exists * The problem results in minimal or no interruptions to normal stamping operations * Non-critical, minor loss of functionality or product feature request * Minor infractions including documentation or cosmetic error not impacting production * Functionality does not match documented specifications * Service Enhancement requests 	2 business days	Requires low support effort from SICPA and Customer until a fix is developed, a workaround is available or an answer to the customer question has been provided.	Mutually agreed future release
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Issue Severity	Response Time	Resolution Time	Invoice Credit
Severity 1	1 hour	24 hours or more would result in an Occurrence.	Invoice Credit of \$3,000
Severity 2	1 day	2 days or more would result in an Occurrence.	Invoice Credit of <u>\$2,000</u>
Severity 3	1 day	30 days or more would result in an Occurrence.	Corrective Action Plan
Severity 4	2 weeks	Failure to deliver in mutually agreed future release.	Corrective Action Plan

- Contractor must keep a 3-week safety stock of stamps in inventory readily available. If inventory falls below the 3-week safety stock a service credit of \$5,000 may be assessed for each occurrence. This applies to pre-paid stamp orders only.
- The Contractor must maintain stamp inventory adequate to fulfill 100% of stamp orders. A service credit of 2% of the monthly service cost may be assessed for orders that are not fulfilled due to lack of available stamp inventory.

Additional Terms

The Contractor Response Time and Resolution Time as defined in this SLA only applies during Contractor's support hours of 8 a.m. to 5 p.m. ET on business days.

Parties agree that Contractor's failure to meet the performance metrics in this Exhibit (*Service Level Agreement*) will result in damage to Agency. Contractor shall provide service credits in the amounts specified in this Exhibit (*Service Level Agreement*). This Exhibit (*Service Level Agreement*) is applicable to the Services following Contractor completion of Implementation Services.

Customer Project Manager will provide Contractor with written notification of each Contractor breach of Service Level Agreement Qualifying Conditions. In order to receive an Invoice Credit, Customer Project Manager must submit written notice of each breach to Contractor within 30 days of an Occurrence.

An Occurrence for purposes of Contractor payment of defined Invoice Credit penalties is defined as an SLA Qualifying Condition occurring in 2 or more consecutive months.

The maximum liquidated damages related to Occurrences in a month is limited to 10% of the Monthly service cost*.

Upon mutual agreement of the Parties, Parties may add or modify performance metrics and Service Level Agreements in accordance with the Change Control process of this Contract

* "Monthly services cost" is the Contractor invoiced amount for provision of Tax Stamps for a month.

Schedule F - 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 **Section 1** 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.

“**Contractor Systems**” has the meaning set forth in **Section 5** 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 (44 U.S.C. § 3551 et seq.).

“**Hosted Services**” means the hosting, management and operation of the computing hardware, ancillary equipment, Software, firmware, data, other services (including support 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.

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

“**PSP**” means the State’s IT Policies, Standards and Procedures located at:

https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html

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

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

2. Contractor will appoint a Contractor employee to respond to the State’s inquiries regarding the security of the Contractor Systems who has sufficient knowledge of the security of the Contractor Systems and the authority to act on behalf of Contractor in matters pertaining thereto (“**Contractor Security Officer**”). The Contractor Security Officer will be considered Key Personnel under the Contract.

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

3.1. Deleted - Not Applicable

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

3.3. 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 the Contract, and must, at a minimum, remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) MOD Controls using minimum control values as established in the applicable PSP, and must, at a minimum, remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) HIGH Controls using minimum control values as established in the applicable PSP;

3.4. provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of the State's Confidential Information and the nature of such Confidential Information, consistent with best industry practice and standards;

3.5. 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 "hackers" and others who may seek, without authorization, to disrupt, damage, modify, access or otherwise use Contractor Systems 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) the State's Confidential Information 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's Confidential Information;

3.6. ensure that State Data is encrypted in transit and at rest using AES 128 bit or higher encryption;

3.7. ensure that State Data is encrypted in transit and at rest using currently certified encryption modules in accordance with FIPS PUB 140-2 (as amended). *Security Requirements for Cryptographic Modules*;

3.8. ensure the Hosted Services support Identity Federation/Single Sign-on (SSO) capabilities using Security Assertion Markup Language (SAML) or comparable mechanisms;

3.9. ensure the Hosted Services have multi-factor authentication for privileged/administrative access; and

3.10. assist the State, at no additional cost, with development and completion of a system security plan using the State's automated governance, risk and compliance (GRC) platform.

4. Unauthorized Access. Contractor may not access, and must not permit any access to, State systems, in whole or in part, whether through Contractor's Systems 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 4**. All State-authorized connectivity or attempted connectivity to State systems must 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.

5. Contractor Systems. Contractor will be solely responsible for the information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems) and networks used by or for Contractor in connection with the Services ("**Contractor Systems**") and must prevent unauthorized access to State systems through the Contractor Systems.

6. Security Audits. During the Term, Contractor will:

6.1. maintain complete and accurate records relating to its data protection practices, IT security controls, and the security logs of any of the State's Confidential Information, including any backup, disaster recovery or other policies, practices or procedures relating to the State's Confidential Information and any other information relevant to its compliance with this Schedule;

6.2. upon the State's request, 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 Contractor Systems and their housing facilities and operating environments; and

6.3. if requested by the State, provide a copy of Contractor's SSAE 18 SOC 2 Type 2 audit report to the State within thirty (30) days after Contractor's receipt of such report. Any such audit reports will be recognized as Contractor's Confidential Information.

6.4. if requested by the State, provide a copy of Contractor's FedRAMP System Security Plan. The System Security Plan will be recognized as Contractor's Confidential Information.

7. Nonexclusive Remedy for Security Breach. 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.

8. PCI Compliance.

8.1. Contractors that process, transmit, store or affect the security of credit/debit cardholder data, must adhere to the PCI Data Security Standard. The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.

8.2. The Contractor must notify the State's Contract Administrator (within 24 hours of discovery) of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the card associations (e.g. Visa, MasterCard, and Discover) and state acquirer representative(s), or a PCI approved third party, to conduct a thorough security review. The Contractor must provide, at the request of the State, the results of such third party security review. The review must validate compliance with the PCI Data Security Standard for protecting cardholder data. At the State's sole discretion, the State may perform its own security review, either by itself or through a PCI approved third party.

8.3. The Contractor is responsible for all costs incurred as the result of the breach. Costs may include, but are not limited to, fines/fees for non-compliance, card reissuance, credit monitoring, and any costs associated with a card association, PCI approved third party, or State initiated security review.

8.4. Without limiting Contractor's obligations of indemnification as further described in this Contract, Contractor must 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 breach.

8.5. The Contractor must dispose of cardholder data when it is no longer needed in compliance with PCI DSS policy. The Contractor must continue to treat cardholder data as confidential upon contract termination.

8.6. The Contractor must provide the State's Contract Administrator with an annual Attestation of Compliance (AOC) or a Report on Compliance (ROC) showing the contractor is in compliance with the PCI Data Security Standard. The Contractor must notify the State's Contract Administrator of all failures to comply with the PCI Data Security Standard.

Schedule H, Safeguard Requirements of Confidential Tax Data

This section sets forth the safeguard requirements for handling, storage, and processing of confidential tax information for a Contractor and their subcontractor(s) and is incorporated as an integral part of the Contract. It will facilitate administration and enforcement of the laws of the State of Michigan in a manner consistent with the applicable statutes, regulations, published rules and procedures or written communication.

I. Authority

Authority for the Michigan Department of Treasury to require that this section be included in the Contract is contained in 1941 PA 122, as amended, MCL 205.28(1)(f), which subjects current or former contractors to the same restrictions and penalties imposed upon department employees regarding the treatment of confidential information. A private contractor or its employees are strictly prohibited from disclosing taxpayer information to a third party. The prohibition against disclosure does not bar an employee of a private contractor with whom the State of Michigan (State) contracts that processes tax returns or payments pursuant to the Contract from having access to confidential information that is reasonably required for the processing or collection of amounts due this State. Private contractors and any subcontractors will follow Treasury guidelines for Authorized representatives.

II. Confidentiality

It is agreed that all information exchanged under this section will be kept confidential in accordance with the confidentiality provisions contained in the Revenue Act, MCL 205.28(1)(f) which states in part;

“Except as otherwise provided in this subdivision, an employee, authorized representative, or former employee or authorized representative of the department or anyone connected with the department will not divulge any facts or information obtained in connection with the administration of a tax or information or parameters that would enable a person to ascertain the audit selection or processing criteria of the department for a tax administered by the department.”

Confidential information obtained under this contract will not be disclosed except as required by state law, or in the proper administration of applicable laws, promulgated rules and procedures. In the event, confidentiality statutes are amended, Treasury will notify Contractor of any changes. No employee, agent, authorized representative or legal representative of Contractor will disclose any information obtained by virtue of this section to any other division within their company or any other governmental agency, department or unit within such governmental agency whether local, state, federal or

foreign, department or unit within such governmental agency, or any unauthorized third party. No tax returns or tax return information accessed by Contractor will be duplicated or disseminated within or outside the company without the written approval of the Program Manager. Tax returns and tax return information remain the property of Treasury.

Contractor may use a taxpayer's name, address and Social Security number or employer identification number to the extent necessary in connection with the processing and mailing of forms for any report or return required in the administration of any tax in the performance of the Contract. The use of the Social Security number must be in accordance with the state Social Security Number Privacy Act 454 of 2004, as amended.

Confidential information obtained under this agreement will not be disclosed in part of a report or document that is subject to FOIA.

The penalties for violating the confidentiality provisions of the Revenue Act are contained in, MCL 205.28(2) and MCL 205.27(4). MCL 205.28(2) states:

“A person who violates subsection (1)(e), (1)(f), (4) or (5) is guilty of a felony, punishable by a fine of not more than \$5,000.00, or imprisonment for not more than 5 years, or both, together with the costs of prosecution. In addition, if the offense is committed by an employee of this state, the person will be dismissed from office or discharged from employment upon conviction.”

MCL 205.27(4) states:

A person who is not in violation pursuant to subsection (2), but who knowingly violates any other provision of this act, or of any statute administered under this act, is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 1 year, or both.

Information received by Treasury from the U.S. Internal Revenue Service, pursuant to section 6103(d) of the Internal Revenue Code or any other federal agency will not be subject to the exchange.

III. Procedure for Security

Contractor will safeguard any tax return information obtained under the Contract as follows:

- A. Access to the tax returns and tax return information will be allowed only to those authorized employees and officials of Contractor who need the information to perform their official duties in connection with the uses of the information authorized in this Contract.
- B. Any records created from tax returns and tax return information will be stored in an area that is physically safe from access by unauthorized persons during duty hours and locked in a secure area during non-duty hours, or when not in use.

- C. Any records matched and any records created by the match will be processed under the immediate supervision and control of authorized personnel in a manner in which will protect the confidentiality of the records, and in such a way that unauthorized persons cannot retrieve any such records by means of a computer, remote terminal or other means.
- D. All personnel who will have access to the tax returns and tax return information and to any records created by the tax return information will be advised annually of the confidential nature of the information, the safeguards required to protect the information and the civil and criminal sanctions for noncompliance contained in MCL 205.28 (2) and MCL 205.27(4) and will sign confidentiality certifications.
- E. All confidential information, electronic and paper, will be secured from unauthorized access and with access limited to designated personnel only. State tax return information will not be commingled with other information. All Michigan tax returns and return information will be marked as follows: **CONFIDENTIAL - DO NOT DISCLOSE - MICHIGAN TREASURY TAX RETURN INFORMATION**
- F. Treasury, Office of Privacy and Security or Program Manager may make onsite inspections or make other provisions to ensure that adequate safeguards are being maintained by the Contractor.
- G. The Treasury Office of Privacy and Security may monitor compliance of systems security requirements during the lifetime of the Contract or any extension.
- H. Contractor will also adopt policies and procedures to ensure that information contained in their respective records and obtained from Treasury and taxpayers will be used solely as stipulated in the Contract.

IV. Computer System Security of Tax Data

The identification of confidential tax records and defining security controls are intended to protect Treasury tax return information from unlawful disclosure, modification, destruction of information and unauthorized secondary uses.

Computer system security and physical security of tax data stored and processed by Contractor must be in compliance with the following security guidelines and standards established by Treasury. These guidelines apply to any computer system developed by Contractor, either through its own systems staff, or through a contractor, subcontractor or vendor):

A. Controlled Access Protection

All computer systems processing, storing and transmitting Michigan tax information must have computer access protection controls. These security standards are delineated in the National Institute of Standards and Technology (NIST) Special

Publications number 800-53 “Recommended Security Controls for the Federal Information Systems” at <http://csrc.nist.gov/publications/PubsSPs.html>. To meet these standards, the operating security features of the system must have the following minimum requirements: a security policy, accountability, assurance, and documentation.

- 1) **Security Policy** – A security policy is a written document describing the system in terms of categories of data processed, users allowed access and access rules between the users and the data. Additionally, it describes procedures to prevent unauthorized access by clearing all protected information on objects before they are allocated or reallocated out of or into the system. Further protection must be provided where the computer system contains information for more than one program/project, office, or Agency and that personnel do not have authorization to see all information on the system.
- 2) **Accountability** – Computer systems processing Michigan tax information must be secured from unauthorized access. All security features must be available (audit trails, identification and authentication) and activated to prevent unauthorized users from indiscriminately accessing Michigan tax information. Everyone who accesses computer systems containing Michigan tax information is accountable. Access controls must be maintained to ensure that unauthorized access does not go undetected. Computer programmers and contractors who have a need to access databases, and are authorized under the law, must be held accountable for the work performed on the system. The use of passwords and access control measures must be in place to identify who accessed protected information and limit that access to persons with a need to know.

a) On-line Access –Users will be limited to any Treasury on-line functions, by limiting access through functional processing controls and organization restrictions.

Any employee granted access privileges through the Contractor's Security Administrator will be approved for access and viewing rights to Treasury on-line systems by the Department of Treasury, Office of Privacy and Security.

b) Operating Features of System Security

Contractor must meet the following levels of protection with respect to tax return information. Individual user accountability must be ensured through user identification number and password.

- i. Access rights to confidential tax information must be secured through appropriate levels of authorization.
- ii. An audit trail must be maintained of accesses made to confidential information.

- iii. All confidential and protected information must be cleared from a system before it is used for other purposes not related to the enforcement, collection or exchange of data not covered by this section or by an addendum to this Contract.
- iv. Hard copies made of confidential tax return information must be labeled as confidential information.
- v. Confidential Treasury tax information will be blocked or coded as confidential on system.
- vi. Any computer system in which Michigan tax return information resides must systematically notify all users upon log-in of the following disclosure penalties for improperly accessing or making an authorized disclosure of Michigan tax return information:

NOTICE TO EMPLOYEES AND AUTHORIZED REPRESENTATIVES

This system contains Michigan Department of Treasury tax return information. **DO NOT DISCLOSE OR DISCUSS MICHIGAN RELATED TAX RETURN INFORMATION** with unauthorized individuals. The Revenue Act at MCL 205.28(1)(f) prohibits such disclosure.

MICHIGAN PENALTIES

A person making a willful unauthorized disclosure or inspection (browsing) of tax return information may be charged with the following Michigan penalties:

- Criminal penalties up to \$5,000 and/or imprisonment for 5 years, plus costs and dismissal from employment if it is found that a current or former employee or authorized representative has made an unauthorized disclosure of a tax return or tax return information or divulged audit selection or processing parameters. [MCL 205.28(2)]
- A misdemeanor, punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 1 year, or both if the person is not in violation pursuant to MCL 205.27(2), but who knowingly violates any other provision of this act, or of any statute administered under this act.

This statement is subject to modification. A confidentiality statement, subject to modification, will be sent as needed by the Security Administrator to all employees, contractors, and legal representatives of Contractor.

- 3) **Assurance** – Contractor must ensure that all access controls and other security features are implemented and are working when installed on their computer system. Significant enhancements or other changes to a security system must follow the process of review, independent testing, and installation assurance. The security system must be tested at least annually to assure it is functioning correctly. All anomalies must be corrected immediately.
- a) The Contractor must initiate corrective action for all non-conformities as soon as detected and immediately advise the Program Manager. Notice of the corrective action must be provided to the Program Manager. All non-conformities must be reported to the Program Manager with the following:
 - a. Duration of non-conformity/interruption
 - b. Reason for non-conformity/interruption
 - c. Resolution.
 - b) All non-conformities to the specifications/tasks of the Contract must be corrected within four (4) hours. The State recognizes there will be instances when adherence to this time frame will not be possible. However, the State will only tolerate this on an exception basis. To request an exception to this time frame, the Contractor must submit a detailed project plan to address the non-conformity within four (4) hours to the Program Manager for approval.
- 4) **Documentation** – Design and test documentation must be readily available to the state. The developer or manufacturer should initially explain the security mechanisms, how they are implemented and their adequacy (limitations). This information should be passed on to the security officer or supervisor. Test documentation should describe how and what mechanisms were tested and the results. If recognized organizations/tests/standards are used, then a document to that effect will suffice. For example, a system that has been tested and certified as meeting certain criteria may have a document stating this fact, without detailed tests/results of information. Contractor, however, must ensure the documentation covers the exact system and that it includes the specific computer system used by Contractor.

Additionally, documentation must include a security administrator's guide. The security administrator's guide is addressed to the System's Administrator and Security Officer and will describe the protection mechanisms provided by the security system, guidelines on their use and how they interact. This document will present cautions about security functions and describe privileges that should be controlled when running a secure system. The document will be secured and locked at all times with access rights only by the Systems Administrator and Security Officer.

Note: When a security system is designed or purchased for a specific computer or computer system, the security mechanisms must be reviewed by the State to ensure that needed security parameters are met. An independent test should be implemented on the specific computer or computer system to ensure that the security system meets the security parameters within this contract and developed with the computer system. The test may be arranged by the developer but must be done by an independent organization. Contractor must assign responsible individuals (Security Officers) with knowledge of information technology and applications to oversee the testing process. These individuals must be familiar with technical controls used to protect the system from unauthorized entry.

Finally, contingency and backup plans must be in place to ensure protection of Michigan tax information.

V. Electronic Transmission of Michigan Tax Information

The two acceptable methods of transmitting Michigan tax information over telecommunications devices are encryption and using guided media. Encryption involves altering data objects in a way that the objects become unreadable until deciphered with the appropriate software at the intended destination. Guided media involves transmission of data over twisted pair cable, coaxial cable or end to end fiber optics which are typically used in secure computer networks like the state's Local Area Network (LAN), telephone systems, and television distribution.

Cryptography standards have been adopted by the IRS and can be used to provide guidance for encryption, message authentication codes or digital signatures and digital signatures with or without an associated certification infrastructure. For further information, see IRS Publication 1075 at the IRS web site.

Unencrypted cable circuits of fiber optics are an acceptable alternative for transmitting Michigan tax information. Adequate measures must be taken to ensure that circuits are maintained on cable and not converted to unencrypted radio or microwave transmission. Additional precautions should be taken to protect the cable, i.e., burying the cable underground or in walls or floors and providing access controls to cable vaults, rooms and switching centers.

A. Remote Access

Accessing databases containing Michigan tax information from a remote location – that is, a location not directly connected to the Local Area Network (LAN) will require adequate safeguards to prevent unauthorized entry.

For remote access, the contractor is required to use an identification security card that requires both PIN and card in possession. The State identified and approved methods for remote vendor access are as follows:

- SecureID through VPN – State provided SecureID token and VPN software in

order to access State of Michigan resources. Appropriate Acceptable Use policies and signoffs are required

- Follow-the Sun SecureID – Vendor is provided with VPN software and a SOM technical resource coordinates with the DTMB Client Service Center to provide secure ID code access to specific State of Michigan resources. Appropriate Acceptable Use Policies and signoffs are required.

B. Portable Computer Devices

Any entrusted confidential information collected or accessed during this Contract must be encrypted when stored on all storage devices and media. This includes, but not limited to, disk drives for servers and workstations, and portable memory media (PDAs, RAM drives, memory sticks, etc.).

VI. Record Keeping Requirements for Information Received

Each Contractor, requesting and receiving information will keep an accurate accounting of the information received. The audit trail will be required which will include the following information:

- a. Taxpayer's name
- b. Identification number
- c. Information requested
- d. Purpose of disclosure request
- e. Date information received
- f. Name of Division and employee making request
- g. Name of other employees who may have had access
- h. Date destroyed
- i. Method of destruction

The Contractor will adopt and implement formal procedures to:

- Ensure proper handling of tax returns and tax return information;
- Secure and safeguard information from unauthorized use; and
- Ensure appropriate destruction of information and materials retrieved from Treasury.

A. Electronic Media

Contractor will keep an inventory of magnetic and electronic media received under the Contract.

Contractor must ensure that the removal of tapes and disks and paper documents containing Michigan tax return information from any storage area is properly recorded on charge-out records. Contractor is accountable for missing tapes, disks, and paper documents.

- B. *Recordkeeping Requirements of Disclosure Made to State Auditors*
When disclosures are made by Contractor to State Auditors, these requirements pertain only in instances where the Auditor General's staff extracts Michigan tax returns or tax information for further review and inclusion in their work papers. Contractor must identify the hard copies of tax records or if the tax information is provided by magnetic tape format or through other electronic means, the identification will contain the approximate number of taxpayer's records, the date of inspection, the best possible description of the records and the name of the Auditor(s) making the inspection.

The Disclosure Officer must be notified, in writing, of any audits done by auditors, internal or otherwise, of Contractor that would involve review of Treasury processing parameters.

VII. Contract Services

To the extent the Contractor employs an independent agency, consultant, or agent to process confidential information which includes Michigan tax return information; the Contractor will notify the Treasury Disclosure Officer before the execution of any such agreement. Each agreement will include in the agreement the following recommended safeguard provisions:

- A. The identification of confidential tax records and defining security controls are intended to protect Treasury tax return information from unlawful disclosure, modification, destruction of information and unauthorized secondary uses.
- B. **DEFINITION OF TREASURY TAX RETURN INFORMATION AS DEFINED IN REVENUE ADMINISTRATIVE BULLETIN (RAB) 1989-39:**

Taxpayer's identity, address, the source or amount of his/her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments, or tax payments whether the taxpayer's return was, is being or will be examined or subject to their investigation or processing, or any other data, received by, recorded by, prepared by, furnished to or collected by the agency with respect to a return or with respect to the determination of the existence, or liability (or the amount thereof) of any person under the tax laws administered by the Department, or related statutes of the state for any tax, penalty, interest, fine, forfeiture, or other imposition or offense. The term "tax return information" also includes any and all account numbers assigned for identification purposes.

- C. An acknowledgment that a taxpayer has filed a return is known as a "fact of filing" and may not be disclosed. All tax return data made available in any format will be used only for the purpose of carrying out the provisions of the Contract between Contractor and the sub-contractor. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract between

Contractor and the subcontractor. In addition, all related output will be given the same level of protection as required for the source material.

- D. The subcontractor will certify that the data processed during the performance of the Contract between Contractor and the subcontractor will be completely purged from all data storage components of the subcontractor's computer facility, and no output will be retained by the subcontractor at the time the work is completed.
- E. Destruction of tax data, including any spoilage or any intermediate hard copy printout which may result during the processing of Michigan tax return information, will be documented with a statement containing the date of destruction, description of material destroyed, and the method used. Destruction parameters must meet the standards of Section IX, Disposal of Tax Information, of this agreement.
- F. Computer system security and physical security of tax data stored and processed by the subcontractor must be in compliance with security guidelines and standards established by this contract. See section VI (Record Keeping Requirements for Information Received in Paper Format) for more details.
- G. The Contractor will be responsible for maintaining a list of employees authorized to access Michigan tax return information and will provide a copy of such list to Treasury.
- H. No work involving information furnished under the contract will be subcontracted without the specific approval of Treasury. Contractor and approved subcontractors handling Michigan tax return information will be required to sign the *Vendor, Contractor or Subcontractor Confidentiality Agreement* provided by Treasury, (Form 3337). The original agreements will be returned to the Disclosure Officer for the Department of Treasury and a copy sent to the Program Manager.

VIII. Transport of Tax Information

In the event, it is necessary to transport confidential tax return information the Contractor is responsible for holding the carrier responsible for safeguarding the records. The Contractor must obtain a signed *Vendor, Contractor or Subcontractor Confidentiality Agreement* (Form 3337) for each carrier employee who has access to Michigan tax return information. The original agreements will be returned to the Department of Treasury, Disclosure Officer and a copy sent to the Program Manager.

If it is necessary to transfer records and responsibility for transport to a third carrier due to a mishap during transportation, the Contractor is responsible for ensuring safeguard standards remain enforce. This type of incident will be documented in accordance with the incident reporting guidelines in procedure PT-03253, "Incident Reporting and Handling".

Any such incidents must be reported to the Contract Administrator immediately.

IX. Disposal of Tax Information

Materials furnished to Contractor, such as tax returns, remittance vouchers, W-2 reports, correspondence, computer printouts, carbon paper, notes, memorandums and work papers will be destroyed by burning, mulching, pulverizing or shredding. If shredded, destroy paper using cross cut shredders which produce particles that are 1 mm x 5mm (0.04in x 0.2 in.) in size (or smaller).

Data tracks should be overwritten or reformatted a minimum of three times or running a magnetic strip over entire area of disk at least three (3) times to remove or destroy data on the disk media—Electronic data residing on any computer systems must be purged based on Treasury's retention schedule.

Contractor and its subcontractor(s) will retain all confidential tax information received by Treasury only for the period of time required for any processing relating to the official duties and then will destroy the records. Any confidential tax information that must be kept to meet evidentiary requirements must be kept in a secured, locked area and properly labeled as confidential return information. See Procedure for Security (Section III of this agreement) for more details.

– X. Security Responsibility

Contractor will designate a security person who will ensure that each individual having access to confidential tax information or to any system which processes Michigan tax return information is appropriately screened, trained and executes a *Vendor, Contractor or Subcontractor Confidentiality Agreement* (Form 3337) before gaining access or transaction rights to any process and computer system containing Treasury tax return information.

Each Contractor or their subcontractor(s) employees' access and transaction rights will be reviewed periodically to ensure that there is a need to know Treasury tax return information displayed in any media.

Michigan tax return information will be made available only to individuals authorized by the Contract. Contractor will maintain a list of persons authorized to request and receive information and will update the list as necessary. A copy of the list must be furnished to the Michigan Department of Treasury Disclosure Officer and Program Manager.

XI. Security Breach Notification

The Contractor is required to report to Treasury, on Form 4000, Incident Reporting (Available to awarded Contractor) any use or disclosure of confidential information, whether suspected or actual, **immediately** after becoming aware of the misuse or disclosure. The Contractor may substitute its internal form for Form 4000 if all pertinent information is included.

The Contractor agrees to immediately contain the breach if it is determined ongoing.

Treasury has the right to terminate the Contract when a breach has occurred and the Contractor cannot demonstrate proper safeguards were in place to avert a breach. Treasury must approve Contractor's resolution to the breach.

XIII. Certification of Compliance

The Contractor will fully protect State Tax Information (STI) entrusted to them. Each Contractor or subcontractor who will have access to STI must read and sign a confidentiality agreement. This contract requires that all information obtained from the Michigan Department of Treasury under the Revenue Act, PA 122 of 1941, MCL 205.28 (1)(f) be kept confidential. In the event of a security breach involving STI in the possession of the Contractor, the Contractor agrees to provide full cooperation to conduct a thorough security review. The review will validate compliancy with the Contract, and state laws and regulations.

If, as a result of the Contractor's failure to perform as agreed, the State is challenged by a governmental authority or third party as to its conformity to or compliance with State, Federal and local statutes, regulations, ordinances or instructions; the Contractor will be liable for the cost associated with loss of conformity or compliance.

The Contractor understands the cost reflects violation fines identified by the Michigan Social Security Number Privacy Act, 454 of 2004 and the Michigan Identity Theft Protection Act, Act 452 of 2004 as amended.