



# STATE OF MICHIGAN PROCUREMENT

DTMB – Financial Services  
320 South Walnut Street, Lansing MI 48909

## CONTRACT CHANGE NOTICE

Change Notice Number **1**  
to  
Contract Number **210000000027**

<b>CONTRACTOR</b>	GRAND VALLEY STATE UNIVERSITY
	049 JHZ, 1 Campus Dr
	Allendale, MI 49401-9403
	Robert Smart
	616-331-2281
	smartr@gvsu.edu
	CV0020757

<b>STATE</b>	Program Manager	Dave Fox	DTMB
		517-930-0972	
		FoxD@michigan.gov	
	Contract Administrator	Todd Huhn	DTMB
		517-335-0954	
		huhnt@michigan.gov	

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Hosting and Professional Services for Pathways to Potential for MDHHS.				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
10/01/2020	9/30/2023	3 – 1 year	9/30/2023	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
<b>Effective 11/29/2021:</b> DTMB Program Manager is being added to the contract and a change to the MDHHS Program Manager. DTMB Program Manager Dave Fox 517-930-0972 FoxD@michigan.gov  DHHS Program Manager Paula Kaiser Van Dam 517-241-0638 KaiserP@michigan.gov				

**FOR THE CONTRACTOR:**

Grand Valley State University

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**Company Name**

E-SIGNED by Robert Smart  
on 2021-11-30 13:11:08 EST

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**Authorized Agent Signature**

Robert Smart

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**Authorized Agent** (Print or Type)

2021-11-30 13:11:08 UTC

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**Date**

**FOR THE STATE:**

E-SIGNED by Arlene Wittenberg  
on 2021-11-30 13:28:10 EST

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**Signature**

Arlene Wittenberg IT Procurement Manager

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**Name & Title**

State of Michigan, DTMB-FS

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**Agency**

2021-11-30 13:28:10 UTC

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**Date**



# STATE OF MICHIGAN IT PROCUREMENT

DTMB – Financial Services  
320 South Walnut Street, Lansing MI 48909

## NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **210000000027**

between  
THE STATE OF MICHIGAN  
and

<b>CONTRACTOR</b>	GRAND VALLEY STATE UNIVERSITY
	049 JHZ, 1 Campus Dr
	Allendale, MI 49401-9403
	Robert Smart
	616-331-2281
	smartr@gvsu.edu
	CV0020757

<b>STATE</b>	Program Manager	Tanisha Carter	DHHS
		517-284-4987	
		CarterT4@michigan.gov	
	Contract Administrator	Todd Huhn	DTMB
		517-335-0954	
		huhnt@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Hosting and Professional Services for Pathways to Potential			
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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			<b>\$203,160.00</b>

**FOR THE CONTRACTOR:**

Grand Valley State University

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**Company Name**

E-SIGNED by Robert Smart  
on 2021-03-03 16:46:26 EST

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**Authorized Agent Signature**

Vice Provost for Research Administration

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**Authorized Agent** (Print or Type)

2021-03-03 16:46:26 UTC

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Date

**FOR THE STATE:**

E-SIGNED by Lacey Wilke  
on 2021-03-12 11:25:22 EST

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Signature

DTMB Financial Services

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Name & Title

State of Michigan

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Agency

2021-03-12 11:25:22 UTC

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Date





# STATE OF MICHIGAN

## CONTRACT TERMS Technology Hosting and Professional Services Contract

This Technology Hosting and Professional Services Contract (this “**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Grand Valley State University (“**Contractor**”), a Michigan University. This Contract is effective on October 1, 2020 (“**Effective Date**”), and unless earlier terminated, will expire on September 30, 2023 (the “**Term**”).

This Contract may be renewed for up to Three additional One Year periods. Renewal must be by written notice from the State and will automatically extend the Term of this Contract.

### 1. Definitions.

“**Allegedly Infringing Features**” has the meaning set forth in **Section 11(a)(ii)**.

“**Authorized Users**” means all Persons authorized by the State to access and use the Services through the State’s account under this Contract, subject to the maximum number of users specified in the applicable Statement of Work.

“**Availability Requirement**” has the meaning set forth in **Section 2**.

“**Business Day**” means a day other than a Saturday, Sunday, or State Holiday.

“**Change Notice**” has the meaning set forth in **Section 2.2**.

“**Confidential Information**” has the meaning set forth in **Section 8.1**.

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

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

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

“**Contractor Personnel**” means all employees and agents of Contractor, all Subcontractors and all employees and agents of any Subcontractor, involved in the performance of Services.

“**Contractor Security Officer**” has the meaning set forth in **Section 2.5(a)**.

“**Contractor Service Manager**” has the meaning set forth in **Section 2.5(a)**.

**"Documentation"** means all generally available documentation relating to the Services, including all user manuals, operating manuals and other instructions, specifications, documents and materials, in any form or media, that describe any component, feature, requirement or other aspect of the Services, including any functionality, testing, operation or use thereof.

**"DR Plan"** has the meaning set forth in **Section 10(a)**.

**"Effective Date"** has the meaning set forth in the preamble.

**"Fees"** has the meaning set forth in **Section 6.1**.

**"FERPA"** means the Federal Education Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, including 34 C.F.R. part 99, and any other applicable rules and regulations.

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

**"HIPAA"** has the meaning set forth in **Section 7.1**.

**"Hosted Services"** has the meaning set forth in **Section 2.1(a)**.

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

**"Key Personnel"** means any Contractor Personnel identified as key personnel in this Contract or any Statement of Work.

**"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

**"Loss"** means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys'

fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers. "Losses" has a correlative meaning.

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

"**Personal Health Information (PHI)**" has the meaning set forth in **Section 7.1**.

"**Personally Identifiable Information (PII)**" has the meaning set forth in **Section 7.1**.

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

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

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

"**Representatives**" means a party's employees, officers, directors, consultants, legal advisors and, with respect to Contractor, Contractor's Subcontractors.

"**Service Level Agreement**" means the service level agreement attached as **Schedule B** to this Contract, setting forth Contractor's obligations with respect to the hosting, management and operation of the Service Software.

"**Software**" means software owned by the State, called Pathways to Potential Client Log that Contractor hosts as part of the Hosted Services and provides remote access to and use of as part of the Services.

"**Services**" has the meaning set forth in **Section 2**

"**State**" means the State of Michigan.

"**State Data**" has the meaning set forth in **Section 7.1**.

"**State Project Manager**" has the meaning set forth in **Section 2.8**.

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

“**Statement of Work**” has the meaning set forth in **Section 2.1(a)**. The Initial Statement of Work is attached as **Schedule A**, and any subsequent Statements of Work shall be sequentially identified and attached as Schedule A-1, A-2, A-3, etc.

“**Subcontractor**” means any entity that performs any Services under this Contract and otherwise has the meaning set forth in **Section 2.4(a)**.

“**Support Services**” has the meaning set forth in **Section 2**.

“**Support Service Level Requirement**” has the meaning set forth in **Section 2**.

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

“**Transition Period**” has the meaning set forth in **Section 5.3**.

“**Transition Responsibilities**” has the meaning set forth in **Section 5.3**.

“**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.

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

## **2. Services.**

2.1 **Services**. Throughout the Term and at all times in connection with its actual or required performance under this Contract, Contractor will, in accordance with all terms and conditions set forth in this Contract and each applicable Statement of Work and other Schedules attached to this Contract, provide to the State and its Authorized Users the following services (“**Services**”):

(a) “**Hosted Services**” the hosting, management and operation of the Software and other services necessary to ensure that the State and its Authorized Users have remote electronic access to and use of the Software, as measured over the course of each calendar month during the Term, in accordance with the provisions set forth in the Service Level Agreement, attached as **Schedule B** to this Contract (the “Access and Availability Requirement”); implement and maintain the security requirements set forth in **Schedule C** to this Contract; and maintain a DR plan, which is attached as **Schedule D** to this Contract;

(b) “**Support Services**” provide maintenance and support services as set forth in the Service Level Agreement, attached as **Schedule B** to this Contract; and

(c) such other services as may be specified in the applicable Statement of Work.

## 2.2 Change Notices.

(a) Any modifications or changes to the Services under any executed Statement of Work will be effective only if and when memorialized in a mutually agreed written change notice (“**Change Notice**”) signed by both Parties, provided, however, that for any Services provided on a limited basis (for example, on a per user, server, CPU or named-user basis), the State may, at any time, increase or decrease the number of its licenses hereunder subject to a corresponding forward-going adjustment of the Fees to reflect these changes in accordance with the pricing set forth in the applicable Statement of Work.

(b) In the event the Services are customizable, a more detailed change control process may be specified in the applicable Statement of Work. In such event, the change control process set forth in such Statement of Work shall control.

2.3 Compliance with Laws. Contractor must comply with all applicable Laws as they concern this Contract, including by securing and maintaining all required and appropriate visas, work permits, business licenses and other documentation and clearances necessary for performance of the Services.

2.4 Subcontracting. Contractor will not itself, and will not permit any Person to, subcontract any Services, in whole or in part, without the State’s prior written consent, which consent may be given or withheld in the State’s sole discretion. Without limiting the foregoing:

(a) Contractor must ensure each Contractor subcontractor (including any subcontractor of a Contractor subcontractor, each, a “**Subcontractor**”) complies with all relevant terms of this Contract, including all provisions relating to State Data or other Confidential Information of the State;

(b) the State’s consent to any such Subcontractor does not relieve Contractor of its representations, warranties or obligations under this Contract;

(c) Contractor will remain responsible and liable for any and all: (i) performance required hereunder, including the proper supervision, coordination and performance of the Services; and (ii) acts and omissions of each Subcontractor (including, such Subcontractor’s employees and agents, who, to the extent they are involved in providing any Services, are deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor;

(d) any noncompliance by any Subcontractor or its employees or agents with the provisions of this Contract or any Statement of Work will constitute a breach by Contractor;

(e) prior to the provision of Services by any Subcontractor, Contractor must obtain from each such proposed Subcontractor:

- (i) the identity of such Subcontractor and the location of all its data centers, if any, that will be used in Processing any State Data, which information Contractor shall promptly disclose to the State in writing; and
- (ii) a written confidentiality and restricted use agreement, giving the State rights at least equal to those set forth in **Section 7** (State Data), **Section 8** (Confidentiality), **Section 9** (Security) and **Section 10** (Disaster Recovery) and containing the Subcontractor's acknowledgment of, and agreement to, the provisions of **Section 2.5** (Contractor Personnel), a fully-executed copy of which agreement Contractor will promptly provide to the State upon the State's request.

**2.5 Contractor Personnel.** Contractor will:

- (a) subject to the prior written approval of the State, appoint: (i) a Contractor employee to serve as a primary contact with respect to the Services who will have the authority to act on behalf of Contractor in matters pertaining to the receipt and processing of support requests and the Support Services (the "**Contractor Service Manager**"); and (ii) 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**"); and (iii) other Key Personnel, who will be suitably skilled, experienced and qualified to perform the Services;
- (b) provide names and contact information for Contractor's Key Personnel in the Statement of Work;
- (c) maintain the same Contractor Service Manager, Contractor Security Officer and other Key Personnel throughout the Term and such additional period, if any, as Contractor is required to perform the Services, except for changes in such personnel due to: (i) the State's request pursuant to **Section 2.5(d)**; or (ii) the death, disability, resignation or termination of such personnel or other circumstances outside Contractor's reasonable control; and
- (d) upon the reasonable written request of the State, promptly replace any Key Personnel of Contractor.

**2.6 Management and Payment of Contractor Personnel.**

- (a) Contractor is solely responsible for the payment of Contractor Personnel, including all fees, expenses and compensation to, by or on behalf of any Contractor Personnel and, if applicable, the withholding of income taxes and payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.
- (b) Contractor will ensure that no Person who has been convicted of a felony or any misdemeanor involving, in any way, theft, fraud, or bribery provides any Services or has access to any State Data, State Systems or Software, or State facilities. On a case-by-case basis, the State may request that Contractor initiate a background check on any Contractor Personnel before they may have

access to State Data, State Systems or Software, or State facilities. Any request for a background check shall be initiated by the State and must be reasonably related to the type of work requested. The scope of the background check is at the discretion of the State and the results shall be used solely to determine the eligibility of Contractor Personnel to work with State Data, State Systems or Software, or in State facilities. If provided to the State, results of background checks will be promptly returned to Contractor, and will be treated as Confidential Information. All investigations will include a Michigan State Police Background check (ICHAT) and may include a National Crime Information Center (NCIC) Finger Print check. Contractor will present attestation of satisfactory completion of such tests. Contractor is responsible for all costs and expenses associated with such background checks.

2.7 Time is of the Essence. Contractor acknowledges and agrees that time is of the essence with respect to its obligations under this Contract and that prompt and timely performance of all such obligations, including all timetables and other requirements of this Contract and each Statement of Work, is strictly required.

2.8 State Project Manager. The State will appoint and, in its reasonable discretion, replace, a State employee to serve as the primary contact with respect to implementation of the Services (the “**State Project Manager**”).

### **3. License Grant and Restrictions.**

3.1 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) 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 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 3.3**.

3.2 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 Services or Documentation in any manner or for any purpose that is unlawful under applicable Law.

3.3 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 Service Software. Such Fees will be Contractor's sole and exclusive remedy for use of the Service Software, including any excess use.

3.4 State License Grant. The State hereby grants to Contractor a limited, non-exclusive, non-transferable license (i) to use the State's name, trademarks, service marks or logos, solely in accordance with the State's specifications, and (ii) to display, reproduce, distribute and transmit in digital form the State's (or individual agency's, department's or division's) name, trademarks, service marks or logos in connection with promotion of the Services as communicated to Contractor by the State. Use of the State's (or individual agency's, department's or division's) name, trademarks, service marks or logos will be specified in the applicable Statement of Work.

#### **4. Service Preparation, Testing and Acceptance.**

4.1 Service Preparation. Promptly upon the parties' execution of a Statement of Work, Contractor will take all steps necessary to make the 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.

#### **5. Termination, Expiration and Transition.**

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

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

(b) If the State terminates this Contract under this **Section 5.1**, 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 this 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 5.2**.

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



5.2 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 immediately, or (b) continue to perform in accordance with **Section 5.3**. 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 to the extent the funds are available.

5.3 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 90 calendar days; the “**Transition Period**”), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract to continue without interruption or adverse effect, and to facilitate the orderly transfer of the Services to the State or its designees. Such transition assistance may include but is not limited to: (a) continuing to perform the Services at the established Statement of Work rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Services 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 State Data; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, the “**Transition Responsibilities**”). The Term of this Contract is automatically extended through the end of the Transition Period.

5.4 Effect of Termination. Upon and after the termination or expiration of this Contract or one or more Statements of Work for any or no reason:

(a) Contractor will be obligated to perform all Transition Responsibilities specified in **Section 5.3**.

(b) All licenses granted to Contractor in State Data will immediately and automatically also terminate. Contractor must promptly return to the State all State Data not required by Contractor for its Transition Responsibilities, if any.

(c) Contractor will (i) return to the State all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the State’s Confidential Information; (ii) permanently erase the State’s Confidential Information from its computer systems; and (iii) certify in writing to the State that it has complied with the requirements of this **Section 5.4(c)**, in each case to the extent such materials are not required by Contractor for Transition Responsibilities, if any.

(d) Notwithstanding any provisions of this Contract or any Statement of Work to the contrary, upon the State’s termination of this Contract or any Statement of Work for cause pursuant to **Section 5.1**, the State will have the right and option to continue to access and use the Services under each applicable Statement of Work, in whole and in part, for a period not to exceed one hundred and eighty (180) days from the effective date of such termination pursuant to the terms and conditions of this Contract and each applicable Statement of Work and at a reduced rate of fifty (50%) off the applicable Fees set forth in each such Statement of Work.

5.5 Survival. The rights, obligations and conditions set forth in this **Section 5.5** and **Section 1** (Definitions), **Section 5.3** (Effect of Termination; Data Retention), **Section 7** (State Data), **Section 8** (Confidentiality), **Section 9** (Security), **Section 11** (Infringement) **Section 12** (Limitations of Liability), **Section 13** (Representations and Warranties), **Section 14** (Insurance) and **Section 15** (General Provisions), and any right, obligation or condition that, by its express terms or nature and context is intended to survive the termination or expiration of this Contract, survives any such termination or expiration hereof.

## **6. Fees and Expenses.**

6.1 Fees. Subject to the terms and conditions of this Contract, the applicable Statement of Work, and the Service Level Agreement, the State shall pay the fees set forth in the applicable Statement of Work, subject to such increases and adjustments as may be permitted pursuant to **Section 6.2** ("Fees").

6.2 Fees during Option Years. Contractor's Fees are fixed during the initial period of the Term. Contractor may increase Fees for any renewal period by providing written notice to the State at least sixty (60) calendar days prior to the commencement of such renewal period. An increase of Fees for any renewal period may not exceed three percent (3%) of the Fees effective during the immediately preceding twelve (12) month period. No increase in Fees is effective unless made in compliance with the provisions of this **Section 6.2**.

6.3 Responsibility for Costs. Contractor is responsible for all costs and expenses incurred in or incidental to the performance of Services, including all costs of any materials supplied by Contractor, all fees, fines, licenses, bonds, or taxes required of or imposed against Contractor, and all other of Contractor's costs of doing business.

6.4 Taxes. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Contract are for the State's exclusive use. Notwithstanding the foregoing, all Fees are inclusive 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.

6.5 Invoices. Contractor will invoice the State for Fees in accordance with the requirements set forth in the Statement of Work, including any requirements that condition the rendering of invoices and the payment of Fees upon the successful completion of Milestones. Contractor must submit each invoice in electronic format, via such delivery means and to such address as are specified by the State in the Statement of Work. Each separate invoice must:

- (a) clearly identify the Contract and purchase order number to which it relates, in such manner as is required by the State;
- (b) list each Fee item separately;

(c) include sufficient detail for each line item to enable the State to satisfy its accounting and charge-back requirements;

(d) for Fees determined on a time and materials basis, report details regarding the number of hours performed during the billing period, the skill or labor category for such Contractor Personnel and the applicable hourly billing rates;

(e) include such other information as may be required by the State as set forth in the Statement of Work; and

(f) Itemized invoices must be submitted to DTMB-Accounts-Payable@michigan.gov.

6.6 Payment Terms. Invoices are due and payable by the State, in accordance with the State's standard payment procedures as specified in 1984 Public Act no. 279, MCL 17.51, et seq., within forty-five (45) calendar days after receipt, provided the State determines that the invoice was properly rendered. 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.

6.7 State Audits of Contractor.

(a) During the Term, and for four (4) years after, Contractor must maintain complete and accurate books and records regarding its business operations relevant to the calculation of Fees and any other information relevant to Contractor's compliance with this **Section 6**. During the Term, and for four (4) years after, upon the State's request, Contractor must make such books and records and appropriate personnel, including all financial information, available during normal business hours for inspection and audit by the State or its authorized representative, provided that the State: (a) provides Contractor with at least fifteen (15) days prior notice of any audit, and (b) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations.

(b) The State may take copies and abstracts of materials audited. The State will pay the cost of such audits unless an audit reveals an overbilling or over-reporting of five percent (5%) or more, in which case Contractor shall reimburse the State for the reasonable cost of the audit. Contractor must immediately upon written notice from the State pay the State the amount of any overpayment revealed by the audit, together with any reimbursement payable pursuant to the preceding sentence.

6.8 Payment Does Not Imply Acceptance. The making of any payment or payments by the State, or the receipt thereof by Contractor, will in no way affect the responsibility of Contractor to perform the Services in accordance with this Contract, and will not imply the State's Acceptance of any Services or the waiver of any warranties or requirements of this Contract, including any right to Service Credits.

6.9 Payment Disputes. The State may withhold from payment any and all payments and amounts the State disputes in good faith, pending resolution of such dispute, provided that the State:

- (a) timely renders all payments and amounts that are not in dispute;
- (b) notifies Contractor of the dispute prior to the due date for payment, specifying in such notice:
  - (i) the amount in dispute; and
  - (ii) the reason for the dispute set out in sufficient detail to facilitate investigation by Contractor and resolution by the parties;
- (c) works with Contractor in good faith to resolve the dispute promptly; and
- (d) promptly pays any amount determined to be payable by resolution of the dispute.

Contractor shall not withhold or delay any Hosted Services or Support Services or fail to perform any other Services or obligations hereunder by reason of the State's good faith withholding of any payment or amount in accordance with this **Section 6.9** or any dispute arising therefrom

6.10 Availability and Support Service Level Credits. Contractor acknowledges and agrees that any credits assessed under the Service Level Agreement: (a) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from not meeting the Availability Requirement or the Support Service Level Requirement, which would be impossible or very difficult to accurately estimate; and (b) may, at the State's option, be credited or set off against any Fees or other charges payable to Contractor under this Contract or be payable to the State upon demand. Credits may not exceed the total amount of Fees that would be payable for the relevant service period in which the credits are assessed.

6.11 Right of Set-off. 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.

## **7. State Data.**

7.1 Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the Software; (b) User Data; and (c) the State's data collected, used, processed, stored, or generated in connection with the Services, including but not limited to (i) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Services, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any

other of the elements here listed; and (ii) personal health information (“**PHI**”) collected, used, processed, stored, or generated as the result of the Services, which is defined under the Health Insurance Portability and Accountability Act (“**HIPAA**”) and its related rules and regulations. 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 7.1** survives termination or expiration of this Contract.

**7.2 Contractor Use of State Data.** Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; 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 the State without the State’s prior written consent. With prior approval given by MDHHS, Social Security Numbers, if allowed, will only be used to verify individuals for the Client Log. This **Section 7.2** survives termination or expiration of this Contract.

**7.3 Backup and Extraction of State Data.** Contractor will conduct, or cause to be conducted periodic back-ups of State Data at a frequency that will ensure the RPO requirements set forth in **Section 10(a)** of this Contract. All backed up State Data shall be located in the continental United States. Contractor must, within five (5) Business Days of the State’s request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of State Data in the format specified by the State.

**7.4 Discovery.** Contractor shall immediately notify the State upon receipt of any requests which in any way might reasonably require access to State Data or the State’s use of the Hosted Services. Contractor shall notify the State Project Manager by the fastest means available and also in writing. In no event shall Contractor provide such notification more than twenty-four (24) hours after Contractor receives the request. Contractor shall not respond to subpoenas, service of process, FOIA requests, and other legal requests related to the State without first notifying the State and obtaining the State’s prior approval of Contractor’s proposed responses. Contractor agrees to provide its completed responses to the State with adequate time for State review, revision and approval.

**7.5 Loss or Compromise of Data.** In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, 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 at [MDHHSPrivacySecurity@michigan.gov](mailto:MDHHSPrivacySecurity@michigan.gov); (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. This **Section 7.5** survives termination or expiration of this Contract.

7.6 HIPAA Compliance. The State and Contractor must comply with all obligations under HIPAA and its accompanying regulations, including but not limited to entering into a business associate agreement, if reasonably necessary to keep the State and Contractor in compliance with HIPAA.

7.7 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. Contractor's Service Software must comply, where relevant,

with level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.

7.8 FERPA Compliance. If applicable, Contractor will comply with all obligations under FERPA and its accompanying regulations.

## **8. Confidentiality.**

8.1 Meaning of Confidential Information. The term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; 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 or is: (a) in the possession of the State and 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). Notwithstanding the above, in all cases and for all matters, State Data is deemed to be Confidential Information.

8.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to the Contractor’s subcontractor is permissible where: (a) the subcontractor is a Permitted Subcontractor; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Permitted Subcontractor’s responsibilities; and (c) Contractor obligates the Permitted Subcontractor in a written contract to maintain the State’s Confidential Information in confidence. At the State’s request, any of the Contractor’s Representatives may be required to execute a separate agreement to be bound by the provisions of this **Section 8.2**.

8.3 Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms

of this Contract. Each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

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

8.5 Surrender of Confidential Information upon Termination. Upon termination or expiration of this Contract or a Statement of Work, in whole or in part, each party must, within five (5) Business Days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control. If Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and certify the same in writing within five (5) Business Days from the date of termination to the other party.

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

**10. Disaster Recovery and Backup.** Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will:

(a) 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 (the "**DR Plan**"), and implement such DR Plan in the event of any unplanned interruption of the Hosted Services. Contractor's current DR Plan, revision history, and any reports or summaries relating to past testing of or pursuant to the DR Plan are attached as **Schedule D**. Contractor will actively test, review and update the DR Plan on at least an annual basis using industry best practices as guidance. Contractor will provide the State with copies of all such updates to the Plan within fifteen (15) days of its adoption by Contractor. All updates to the DR Plan are subject to the requirements of this **Section 10**; and

(b) provide the State with copies of all reports resulting from any testing of or pursuant to the DR Plan promptly after Contractor's receipt or preparation. If Contractor fails to reinstate all material Hosted Services within the periods of time set forth in the DR Plan, the State may, in addition to any other remedies available under this Contract, in its sole discretion, immediately terminate this Contract as a non-curable default under **Section 5.1(a)**.



## 11. Infringement.

11.1. Infringement Mitigation. If Contractor receives or otherwise learns of any threat, warning or notice alleging that all, or any component or feature, of the Services violates a third party's rights, Contractor must promptly notify the State of such fact in writing, and take all commercially reasonable actions necessary to ensure the State's continued right to access and use such Services and otherwise protect the State from any Losses in connection therewith, including investigating such allegation and obtaining a credible opinion of counsel that it is without merit.

(a) If any of the Services or any component or feature thereof is ruled to infringe or otherwise violate the rights of any third party by any court of competent jurisdiction, or if any use of any Services or any component thereof is threatened to be enjoined, or is likely to be enjoined or otherwise the subject of an infringement or misappropriation claim, Contractor must, at Contractor's sole cost and expense:

- (i) procure for the State the right to continue to access and use the Services to the full extent contemplated by this Contract and the Specifications; or
- (ii) modify or replace all components, features and operations of the Services that infringe or are alleged to infringe ("**Allegedly Infringing Features**") to make the Services non-infringing while providing equally or more suitable features and functionality, which modified and replacement services shall constitute Services and be subject to the terms and conditions of this Contract.

11.2. Infringement Remedies. If neither of the remedies set forth in **Section 11(a)** is reasonably available with respect to the Allegedly Infringing Features then Contractor may direct the State to cease any use of any materials that have been enjoined or finally adjudicated as infringing, provided that Contractor will:

- (i) refund to the State any prepaid Fees for Services that have not been provided; and
- (ii) in any case, at its sole cost and expense, secure the right for the State to continue using the Allegedly Infringing Features for a transition period of up to six (6) months to allow the State to replace the affected Services or Allegedly Infringing Features without disruption.

(b) The remedies set forth in this **Section 11** are in addition to, and not in lieu of, all other remedies that may be available to the State under this Contract or otherwise.

## 12. Limitations of Liability.

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

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

### **13. Contractor Representations and Warranties.**

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

(a) it is duly organized or established and validly existing entity as represented under this Contract under the laws and regulations of the State of Michigan;

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

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

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

(e) the prices proposed by Contractor were arrived at independently.

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

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

(h) 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.

13.2 Service Warranties. 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 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 shall 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 knowingly 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 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 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 Services will in all material respects conform to and perform in accordance with the all requirements of this Contract.

(f) the Contractor systems and Services are and will remain free of Harmful Code;

(g) 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 first approved in writing by the State;

(h) 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 to provide the Services under this Contract;

(i) 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

(j) 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.

13.3 **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.

## 14. Insurance.

### 14.1 Required Coverage.

(a) **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better and a financial size of VII or better.

Insurance Type	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<u>Minimal Limits:</u>  \$1,000,000 Each Occurrence Limit  \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit  \$2,000,000 Products/Completed Operations  <u>Deductible Maximum:</u>  \$250,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
<b>Umbrella or Excess Liability Insurance</b>	
<u>Minimal Limits:</u>  \$5,000,000 General Aggregate	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds.

<b>Workers' Compensation Insurance</b>	
<u>Minimal Limits:</u>  Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Privacy and Security Liability (Cyber Liability) Insurance</b>	
<u>Minimal Limits:</u>  \$1,000,000 Each Occurrence  \$1,000,000 Annual Aggregate	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.

(b) If Contractor's policy contains limits higher than the minimum limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits are not intended, and may not be construed to limit any liability or indemnity of Contractor to any indemnified party or other persons.

(c) If any of the required policies provide **claim-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of contract work; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the contract of work; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

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

14.2 Non-waiver. This **Section 14** is not intended to and is not 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).

## **15. General Provisions.**

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

15.2 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Contract is to be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party has authority to contract for or bind the other party in any manner whatsoever.

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

15.4 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder, other than routine communications having no legal effect, must be in writing and addressed to the parties as follows (or as otherwise specified by a party in a notice given in accordance with this Section):

If to Contractor:

201 Front Ave SW

Grand Rapids, MI 49504

E-mail: [bauerkal@gvsu.edu](mailto:bauerkal@gvsu.edu)

Attention: Kallie Bauer

Title: Project Manager

If to the State:

State of Michigan

320 South Walnut Street.

Lansing, MI 48909

E-mail: [huhnt@michigan.gov](mailto:huhnt@michigan.gov)

Attention: Todd Huhn

Title: Department Analyst, DTMB FS

Notices sent in accordance with this **Section 15.4** will be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail (with confirmation of transmission), if sent during normal business hours of the recipient, and on the next business day, if sent after normal business hours of the recipient; or (d) on the fifth (5<sup>th</sup>) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

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

15.6 Assignment. Contractor may not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Contract, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the State's prior written consent. The State has the right to terminate this Contract in its entirety or any Services or Statements of Work hereunder, pursuant to **Section 5.2**, if Contractor delegates or otherwise transfers any of its obligations or performance hereunder, whether voluntarily, involuntarily, by operation of law or otherwise, and no such delegation or other transfer will relieve Contractor of any of such obligations or performance. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Contractor (regardless of whether Contractor is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Contract for which the State's prior written consent is required. Any purported assignment, delegation, or transfer in violation of this **Section 15.6** is void.

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

15.8 Amendment and Modification: Waiver. This Contract may only be amended, modified or supplemented by an agreement in writing signed by each party's Contract Administrator. No waiver by any party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Contract, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Contract will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15.9 Severability. If any term or provision of this Contract is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto will negotiate in good faith to modify this Contract so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order

that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

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

15.11 Equitable Relief. Each party to this Contract acknowledges and agrees that (a) a breach or threatened breach by such party of any of its obligations under this Contract would give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto is, in addition to any and all other rights and remedies that may be available to such party at law, at equity or otherwise in respect of such breach, entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each party to this Contract agrees that such party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this **Section 15.11**.

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

15.13 Unfair Labor Practice. Under 1980 PA 278, MCL 423.321, et seq., the State must not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under MCL 423.322. This information is compiled by the United States National Labor Relations Board. A contractor of the State, in relation to the contract, must not enter into a contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Under MCL 423.324, the State may void any contract if, after award of the contract, the contractor as an employer or the name of the subcontractor, manufacturer or supplier of the contractor appears in the register.



15.14        Schedules All Schedules that are referenced herein and attached hereto are hereby incorporated by reference, as follows:

- (a) Schedule A- Statement of Work
  - (i) Schedule A1 - Pricing
- (b) Schedule B- Service Level Agreement
- (c) Schedule C-Data Security Requirements
- (d) Schedule D- Disaster Recovery Plan

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

15.16        Entire Agreement. This Contract, including all Statements of Work and other Schedules, constitutes the sole and entire agreement of the parties to this Contract with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms of this Contract and those of any Schedule or other document, the following order of precedence governs: (a) first, this Contract, excluding its Exhibits and Schedules; and (b) second, the Schedules to this Contract. NO TERMS ON CONTRACTORS INVOICES, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE SERVICES, OR DOCUMENTATION HEREUNDER WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF SUCH SERVICE OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

# STATE OF MICHIGAN

## Schedule A PROJECT SCOPE

### 1. DEFINITIONS

The following terms have the meanings set forth below. All initial capitalized terms that are not defined below shall have the respective meanings given to them in Section 1 of the Contract Terms and Conditions. "Solution" means the Software-as-a-Service (SaaS) solution.

Term	Definition
Client Log	Pathways to Potential Client Log database
CDRL	Johnson Center's Community Data and Research Lab
DTMB	Department of Technology, Management and Budget
EDW	Enterprise Data Warehouse
GVSU	Grand Valley State University
MDHHS	Michigan Department of Health and Human Services

### 2. BACKGROUND

Established in 1992 with support from the W.K. Kellogg Foundation, Grand Valley State University's ("GVSU") Dorothy A. Johnson Center for Philanthropy (Johnson Center) is a university-based center serving nonprofits, foundations, and others seeking to transform their communities for the public good. The Johnson Center is recognized nationally for its applied research and professional development benefiting funders and nonprofit leaders.

The Johnson Center's Community Data and Research Lab ("CDRL") has worked since 2014 with the Michigan Department of Health and Human Services ("MDHHS") providing MDHHS a web-based Pathways to Potential Client Log database ("Client Log").

Pathways to Potential is a MDHHS initiative that aims to meet participating Michigan kindergarten through high school students' basic needs by connecting them with community resources and making government assistance more easily accessible, while also providing an incentive for school attendance. The Client Log is a client management and data entry tool for Pathways to Potential Success Coaches and other MDHHS staff to record and obtain reports on worker functions and daily tasks.

Additionally, the Department of Technology, Management and Budget (DTMB) provides caseload data to incorporate into the Client Log.

### 3. PURPOSE

Provide MDHHS Pathways to Potential Success Coaches and other staff a tracking tool to log contacts with clients, including students, adult/caregivers of students, and community members that interact with Success Coaches, and record work/status of programs, including monthly attendance/absenteeism information.

Add new clients to the Client Log via file transfer from DTMB of Enterprise Data Warehouse ("EDW") caseload data thereby reducing the burden of work on the MDHHS Success Coaches.

### 4. CONTRACT TERM

The contract overall term will be 3 years with 3, 1-year options.

### 5. SPECIFIC STANDARDS

#### 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. All services and products provided must comply with all applicable State IT policies and standards.

Public IT Policies, Standards and Procedures (PSP):

[https://www.michigan.gov/dtmb/0,5552,7-358-82547\\_56579\\_56755---,00.html](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](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.

#### Look and Feel Standard

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](http://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. Contractor must provide a list of all mobile devices that are compatible with the Solution. Additionally, Contractor must provide list of features that can be performed 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 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](http://www.michigan.gov/documents/dmb/1650.00_209567_7.pdf?20151026134621)

### 6. USER TYPE AND CAPACITY

Type of User	Access Type	Number of Users	Number of Concurrent Users
State Employees	Admin Access	5	5
State Employees	Field Staff Access	400	400
SOM Contractors	Admin Access	1	1

Vendor	Admin Access	1	1
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Contractor must be able to meet the expected number of concurrent Users.

## 7. ACCESS CONTROL AND AUDIT

The Contractor's solution must have the ability to integrate with the State's IT Identity and Access Management (IAM) environment as described in the State of Michigan Digital Strategy ([http://www.michigan.gov/dtmb/0,5552,7-150-56345\\_56351\\_69611-336646--,00.html](http://www.michigan.gov/dtmb/0,5552,7-150-56345_56351_69611-336646--,00.html)), which consist of:

1. MILogin/Michigan Identity, Credential, and Access Management (MICAM)
  - a. An enterprise single sign-on and identity management solution based on IBM's Identity and Access Management products including, IBM Security Identity Manager (ISIM), IBM Security Access Manager for Web (ISAM), IBM Tivoli Federated Identity Manager (TFIM), IBM Security Access Manager for Mobile (ISAMM), and IBM DataPower, which enables the State to establish, manage, and authenticate user identities for the State's Information Technology (IT) systems.
2. MILogin Identity Federation
  - a. Allows federated single sign-on (SSO) for business partners, as well as citizen-based applications.
3. MILogin Multi Factor Authentication (MFA, based on system data classification requirements)
  - a. Required for those applications where data classification is Confidential and Restricted as defined by the 1340.00 Michigan Information Technology Information Security standard (i.e. the proposed solution must comply with PHI, PCI, CJIS, IRS, and other standards).
4. MILogin Identity Proofing Services (based on system data classification requirements)
  - a. A system that verifies individual's identities before the State allows access to its IT system. This service is based on "life history" or transaction information aggregated from public and proprietary data sources. A leading credit bureau provides this service.

To integrate with the SOM MILogin solution, the Contractor's solution must support SAML, or OAuth or OpenID interfaces for the SSO purposes.

## 8. DATA RETENTION

The input file from Contractor is "flush and fill". There is no data retention required.

## 9. SECURITY

Contractor must review the Data Security requirements set forth in Schedule C – Data Security Requirements to the SaaS Terms and Conditions. Contractor must note any exceptions to the security requirements by redlining Schedule C – Data Security Requirements.

The Solution will be storing sensitive data.

Contractor must describe how it will comply with the following and provide supporting evidence as part of their proposal:

- Must provide a FedRAMP authorization for all subcontracted or third-party hosting environments.
- Must be encrypted in transit and at rest using FIPS validated AES encryption modules with a key size of 256 bits or higher.
- Must implement NIST compliant multi-factor authentication for privileged/administrative and other identified access. The use of restricted methods such as SMMS text with passcode, phone call with temporary passcode or other approved multi-factor authentication methods may be appropriate based on the data classification and level of access.

- Must remain compliant with NIST Special Publication 800-53 (most recent version) MOD controls using minimum control values as established in the applicable State PSP's.

## **10. END-USER OPERATING ENVIRONMENT**

The SOM IT environment includes X86 VMware, IBM Power VM, MS Azure/Hyper-V and Oracle VM, with supporting platforms, enterprise storage, monitoring, and management.

Contractor must accommodate the latest browser versions (including mobile browsers) as well as some pre-existing browsers. To ensure that users with older browsers are still able to access online services, applications must, at a minimum, display and function correctly in standards-compliant browsers and the state standard browser without the use of special plugins or extensions. The rules used to base the minimum browser requirements include:

- Over 2% of site traffic, measured using Sessions or Visitors (or)
- The current browser identified and approved as the State of Michigan standard

This information can be found at <https://www.michigan.gov/browserstats>. Please use the most recent calendar quarter to determine browser statistics. For those browsers with over 2% of site traffic, except Internet Explorer which requires support for at minimum version 11, the current browser version as well as the previous two major versions must be supported.

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

## **11. SOFTWARE**

Contractor has worked since 2014 with the Michigan Department of Health and Human Services (MDHHS) providing MDHHS a web-based Pathways to Potential Client Log database (Client Log). The Client Log is a client management and data entry tool for Pathways to Potential Success Coaches and other MDHHS staff to record and obtain reports on worker functions and daily tasks.

## **12. SOLUTION REQUIREMENTS**

Reserved.

## **13. INTEGRATION**

There are no integration services needed at this time, however the State may need integration services in the future.

## **14. MIGRATION**

There are no migration services needed at this time, however the State may need migration services in the future.

## **15. TESTING SERVICES AND ACCEPTANCE**

There are no testing services needed at this time, however the State may need testing services in the future.

## **16. TRAINING SERVICES**

There are no training services needed at this time, however the State may need training services in the future.

## **17. HOSTING**

The Contractor must continue to host and maintain the Pathways to Potential Client Log for the duration of this contract. Hosting and maintenance activities include:

- Host the Client Log website and database on the Grand Valley State University High Performance Computing Center servers.
- Coordinate, implement, and communicate MDHHS requests for new or updated functionality or maintenance of the Client Log not effecting the weekly EDW file transfer.
- Incorporate EDW caseload data into the Client Log weekly and any maintenance affecting the weekly EDW file transfer.

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. Contractor must include a copy of its Disaster Recovery Plan as **Schedule D** part of their proposal, which will be treated by the State as confidential information.

## **18. SUPPORT AND OPERATIONS**

Contractor must review the State's standard Service Level Agreement (SLA) attached as Schedule B to the SaaS Terms and Conditions. Contractor must note any exceptions to the SLA by redlining Schedule B – Service Level Agreement.

### **Support Hours**

The State requires the Contractor to provide Support Hours as 8 a.m. to 5 p.m. Eastern, Monday thru Friday ~~Support Hours (Other)~~

## **19. DOCUMENTATION**

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

The Contractor's user documentation must provide detailed information about all software features and functionality, enabling the State to resolve common questions and issues prior to initiating formal support requests.

## **20. TRANSITION SERVICES**

Upon termination or expiration of the agreement, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the agreement to continue without interruption or adverse effect, and to facilitate the orderly transfer of the services to the State or its designees. Such transition assistance may include but is not limited to: (a) continuing to perform the services at the established rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable services 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 (in a format specified by the State) to the State all data stored in the solution; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

## **21. PRODUCTS AND SERVICES**

Contractor will log how many hours have been used and include on the monthly progress report. Unused hours carry over from year to year, but will not extend beyond the period of this Contract.

- 750 hours (approximately 250 hours per year) are allocated to implement maintenance change requests not effecting the EDW. These hours include communication and coordination of

maintenance change requests that have no impact to the weekly EDW file transfer. A minimum of 8 hours will be invoiced each month.

- 312 hours (approximately 104 hours per year) are allocated to the EDW caseload process, and coordination and communication of this project and maintenance change requests that will impact the EDW weekly file transfer.
- Reallocation to above hours are allowed if mutually agreed to and clearly documented between CDRL, MDHHS and DTMB.
- CDRL must notify the MDHHS and DTMB Project Managers if work or change request exceeds a total of 1,062 hours before beginning any work effort.
- Additional hours will require a Contract Change Notice

## 22. CONTRACTOR KEY PERSONNEL

**Contractor Contract Administrator.** Contractor must identify the individual appointed by it to (a) administer the terms of this Contract, and (b) approve and execute any Change Notices under this Contract.

Contractor	
<b>Name</b>	Teri Behrens
<b>Address</b>	201 Front Ave SW Grand Rapids, MI 49504
<b>Phone</b>	616-331-7585
<b>Email</b>	behrenst@gvsu.edu

**Contractor Project Manager.** Contractor must identify the Contractor Project Manager who will serve as the primary contact with regard to services who will have the authority to act on behalf of the Contractor in matters pertaining to the implementation services.

Contractor	
<b>Name</b>	Kallie Bauer
<b>Address</b>	201 Front Ave SW Grand Rapids, MI 49504
<b>Phone</b>	616-331-7585
<b>Email</b>	<a href="mailto:bauerkal@gvsu.edu">bauerkal@gvsu.edu</a>

**Contractor Service Manager.** Contractor to provide name of individual to serve as primary contact with respect to the Services, who will have the authority to act on behalf of Contractor in matters pertaining to the receipt and processing of Support Requests and the Support Services.

Contractor	
<b>Name</b>	Brian Herron
<b>Address</b>	201 Front Ave SW Grand Rapids, MI 49504
<b>Phone</b>	616-331-7585
<b>Email</b>	herronrb@gvsu.edu

**Contractor Security Officer.** Contractor to provide name of individual to respond to State inquiries regarding the security of the Contractor's systems. This person must have sufficient knowledge of the security of the Contractor Systems and the authority to act on behalf of Contractor in matters pertaining thereto.

<b>Contractor</b>
<b>Name</b> Jeff Williams
<b>Address</b> 201 Front Ave SW Grand Rapids, MI 49504
<b>Phone</b> 616-331-7585
<b>Email</b> willije6@gvsu.edu

### 23. CONTRACTOR PERSONNEL REQUIREMENTS

The Contractor must present certifications evidencing satisfactory Michigan State Police Background checks ICHAT and drug tests for all staff identified for assignment to this project.

In addition, proposed Contractor personnel will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Prints, if required by project. For this project, fingerprinting will not be required.

Contractor will pay for all costs associated with ensuring their staff meets all requirements.

Contractor must describe how they will meet the requirements set forth in this section.

### 24. STATE RESOURCES/RESPONSIBILITIES

The State will provide the following resources as part of the implementation and ongoing support of the Solution.

**State Contract Administrator.** The State Contract Administrator is the individual appointed by the State to (a) administer the terms of this Contract, and (b) approve and execute any Change Notices under this Contract.

**State Project Manager.** The State Project Manager will serve as the primary contact with regard to implementation Services who will have the authority to act on behalf of the State in approving Deliverables, and day to day activities.

**Agency Business Owner.** The Agency Business Owner will serve as the primary contact for the business area with regard to business advisement who will have the authority to act on behalf of the State in matters pertaining to the business Specifications.

**State Technical Lead.** The State Technical Lead will serve as the primary contact with regard to technical advisement.

Contractor must identify all State resources and responsibilities required for the successful implementation and ongoing support of the Solution.

### 25. MEETINGS

MDHHS Pathways to Potential, DTMB, and CDRL are all responsible for maintaining timely communication in order to ensure issues and requests are fully addressed and completed in a timely manner. Timely communication generally means a response within 3 business days.

### 26. PROJECT CONTROL & REPORTS

A monthly progress report must be submitted to MDHHS and DTMB Project Managers throughout the life of this project. The report will be provided No later than the 15<sup>th</sup> of the following month for previous month. This report may be submitted with the billing invoice. Each progress report must contain the following:

- Hours: Indicating the number of hours expended during the past month, and the cumulative total to date for the project.



- Deliverables: Indicating the work that was completed for the hours used during the current reporting period.
- Funds: Indicating the amount of funds expended during the current reporting period, and the cumulative total to date for the project.

## **27. MILESTONES AND DELIVERABLES**

The Contractor Project Manager will be responsible for maintaining an MS Project schedule (or approved alternative) identifying tasks, durations, forecasted dates and resources – both Contractor and State - required to meet the timeframes as agreed to by both parties.

Changes to scope, schedule or cost must be addressed through a formal change request process with the State and the Contractor to ensure understanding, agreement and approval of authorized parties to the change and clearly identify the impact to the overall project.

### **SUITE Documentation**

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

## **28. PRICING**

Please see **Schedule A1 - Pricing** for a detailed description of all costs associated with maintaining and supporting the Solution, including all requested services set forth in the Contract..

If Contractor reduces its prices for any of the software or services during the term of this Contract, the State shall have the immediate benefit of such lower prices for new purchases. Contractor shall send notice to the State's Contract Administrator with the reduced prices within fifteen (15) Business Days of the reduction taking effect.

### **Travel and Expenses**

The State does not pay for overtime or travel expenses.

## **29. ADDITIONAL INFORMATION**

The State reserves the right to purchase any additional services or products from the Contractor during the duration of the Contract.

# STATE OF MICHIGAN

## Pathways to Potential

### Schedule A1 PRICING

The payment will be invoiced on the 15th of each month (ex: 11.15.19 for 10.01.19 – 10.31.19) based on the project management and base monthly Client Log and EDW process maintenance fees, additional actual hours worked on Client Log request communication and implementation during the previous month, and the prorated portion of the fixed annual hosting fee as outlined below.

Year 1	10/2020-9/2021	\$67,720
Year 2	10/2021-9/2022	\$67,720
Year 3	10/2022-9/2023	\$67,720
<b>Total</b>		<b>\$203,160</b>

#### Monthly Payment Breakdown

Project Management	\$900.00
Base Client Log Maintenance Fee	\$1,560.00
Base EDW Process Maintenance Fee	\$1,560.00
Server Hosting Fee	\$333.33
<b>Standard fee per-month</b>	<b>\$4,353.33</b>

Additional Client Log maintenance hours will be billed based on an hourly rate, and are expected to average \$1,290.00 per month.

Estimated expenses total: **\$203,160**(invoiced amount will not exceed **\$203,160**)

## **SCHEDULE B**

### **Service Level Agreement**

**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.

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

**“Availability”** has the meaning set forth in **Section 4(a)**.

**“Availability Requirement”** has the meaning set forth in **Section 4(a)**.

**“Available”** has the meaning set forth in **Section 4(a)**.

**“Contractor Service Manager”** has the meaning set forth in **Section 3.1**.

**“Corrective Action Plan”** has the meaning set forth in **Section 5.6**.

**“Critical Service Error”** has the meaning set forth in **Section 5.4(a)**.

**“Exceptions”** has the meaning set forth in **Section 4.2**.

**“High Service Error”** has the meaning set forth in **Section 5.4(a)**.

**“Hosted Services”** has the meaning set forth in **Section 2.1(a)**.

**“Low Service Error”** has the meaning set forth in **Section 5.4(a)**.

**“Medium Service Error”** has the meaning set forth in **Section 5.4(a)**.

**“Resolve”** has the meaning set forth in **Section 5.4(b)**.

**“Scheduled Downtime”** has the meaning set forth in **Section 4.3**.

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

**“Service Availability Credits”** has the meaning set forth in **Section 4.5(a)**.

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

**“Service Level Credits”** has the meaning set forth in **Section 5.5**.

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

**“Service Period”** has the meaning set forth in **Section 4(a)**.

**“Software”** has the meaning set forth in the Contract.

**“Software Support Services”** has the meaning set forth in **Section 5**.

**“State Service Manager”** has the meaning set forth in **Section 3.2**.

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

**“Support Request”** has the meaning set forth in **Section 5.4(a)**.

**“Support Service Level Requirements”** has the meaning set forth in **Section 5.4**.

**“Term”** has the meaning set forth in the Contract.

## **2. Services.**

2.1 Services. Throughout the Term, Contractor will, in accordance with all terms and conditions set forth in the Contract and this Schedule, provide to the State and its Authorized Users the following services:

- (a) the hosting, management and operation of the Software and other services for remote electronic access and use by the State and its Authorized Users (**“Hosted Services”**);
- (b) the Software Support Services set forth in **Section 5** of this Schedule;

## **3. Personnel**

3.1 Contractor Personnel for the Hosted Services. Contractor will appoint a Contractor employee to serve as a primary contact with respect to the Services who will have the authority to act on behalf of Contractor in matters pertaining to the receipt and processing of Support Requests and the Software Support Services (the **“Contractor Service Manager”**). The Contractor Service Manager will be considered Key Personnel under the Contract.

3.2 State Service Manager for the Hosted Services. The State will appoint and, in its reasonable discretion, replace, a State employee to serve as the primary contact with respect to the Services who will have the authority to act on behalf of the State in matters pertaining to the Software Support Services, including the submission and processing of Support Requests (the **“State Service Manager”**).

#### 4. Service Availability and Service Availability Credits.

(a) Availability Requirement. Contractor will make the Hosted Services Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a “**Service Period**”), at least 99.9% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the “**Availability Requirement**”). “**Available**” means the Hosted Services are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. “**Availability**” has a correlative meaning. The Hosted Services are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows:  $(\text{Actual Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \div (\text{Scheduled Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \times 100 = \text{Availability}$ .

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

- (a) failures of the State’s or its Authorized Users’ internet connectivity;
- (b) Scheduled Downtime as set forth in **Section 4.3**.

4.3 Scheduled Downtime. Contractor must notify the State at least twenty-four (24) hours in advance of all scheduled outages of the Hosted Services in whole or in part (“**Scheduled Downtime**”). All such scheduled outages will: (a) last no longer than five (5) hours; (b) be scheduled between the hours of 6:00 p.m. and 6:00 a.m., Eastern Time; and (c) occur no more frequently than once per week; provided that Contractor may request the State to approve extensions of Scheduled Downtime above five (5) hours, and such approval by the State may not be unreasonably withheld or delayed.

4.4 Service Availability Reports. Within thirty (30) days after the end of each Service Period, Contractor will provide to the State a report describing the Availability and other performance of the Hosted Services during that calendar month as compared to the Availability Requirement. The report must be in electronic or such other form as the State may approve in writing and shall include, at a minimum: (a) the actual performance of the Hosted Services relative to the Availability Requirement; and (b) if Hosted Service performance has failed in any respect to meet or exceed the Availability Requirement during the reporting period, a description in sufficient detail to inform the State of the cause of such failure and the corrective actions the Contractor has taken and will take to ensure that the Availability Requirement are fully met.

#### 4.5 Remedies for Service Availability Failures.

(a) If the actual Availability of the Hosted Services is less than the Availability Requirement for any Service Period, such failure will constitute a Service Error for which Contractor will issue to the State

the following credits on the fees payable for Hosted Services provided during the Service Period (“**Service Availability Credits**”):

Availability	Credit of Fees
≥99.98%	None
<99.98% but ≥99.0%	15%
<99.0% but ≥95.0%	50%
<95.0%	100%

(b) Any Service Availability Credits due under this **Section 4.5** will be applied in accordance with payment terms of the Contract.

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

**5. Support and Maintenance Services.** Contractor will provide Hosted Service maintenance and support services (collectively, “**Software Support Services**”) in accordance with the provisions of this **Section 5**. 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.

5.1 Support Service Responsibilities. Contractor will:

- (a) correct all Service Errors in accordance with the Support Service Level Requirements, including by providing defect repair, programming corrections and remedial programming;
- (b) provide unlimited telephone support 8 a.m. to 5 p.m. Eastern, Monday thru Friday
- (c) provide unlimited online support 8 a.m. to 5 p.m. Eastern, Monday thru Friday
- (d) provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and
- (e) respond to and Resolve Support Requests as specified in this **Section 5**.

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

- (a) proactively monitoring on a twenty-four (24) hour by seven (7) day basis all Hosted Service functions, servers, firewall and other components of Hosted Service security;

(b) if such monitoring identifies, or Contractor otherwise becomes aware of, any circumstance that is reasonably likely to threaten the Availability of the Hosted Service, taking all necessary and reasonable remedial measures to promptly eliminate such threat and ensure full Availability; and

(c) if Contractor receives knowledge that the Hosted Service or any Hosted Service function or component is not Available (including by written notice from the State pursuant to the procedures set forth herein):

- (i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;
- (ii) if Contractor's facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section 5.4**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and
- (iii) notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

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

(a) all updates, bug fixes, enhancements, 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.

**5.4 Support Service Level Requirements.** Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section 5.4 ("Support Service Level Requirements")**, and the Contract.

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

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

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



respond to and Resolve all Service Errors within the following times based on the severity of the Service Error:

<b>Support Request Classification</b>	<b>Service Level Metric  (Required Response Time)</b>	<b>Service Level Metric  (Required Resolution Time)</b>	<b>Service Level Credits  (For Failure to Respond to any Support Request Within the Corresponding Response Time)</b>	<b>Service Level Credits  (For Failure to Resolve any Support Request Within the Corresponding Required Resolution Time)</b>
Critical Service Error	One (1) hour	Three (3) hours	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
High Service Error	One (1) hour	Four (4) hours	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for each additional hour or	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for the first additional hour or

			portion thereof that the corresponding Service Error is not responded to within the required response time.	portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

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

5.5 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Section 5.4(b)** ("**Service Level Credits**") in accordance with payment terms set forth in the Contract.

5.6 Corrective Action Plan. If two or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Contractor does or is required to perform any Hosted Services, Contractor will promptly investigate the root causes of these Service Errors and provide to the State within five (5) Business Days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for the State's review, comment and approval, which, subject to and upon the State's written approval, shall be a part of, and by this reference is incorporated in, the Contract as the parties' corrective action plan (the "**Corrective Action Plan**"). The Corrective Action Plan must include, at a minimum: (a) Contractor's commitment to the State to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to Resolve and prevent any further occurrences of the Service Errors giving rise to such Support Requests; (b) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (c) time frames for implementing the Corrective Action Plan. There will be no additional charge for Contractor's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

## **SCHEDULE C**

### **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 Management Act of 2002 (44 U.S.C. ch. 35, subch. III § 3541 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.

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

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

[http://michigan.gov/dtmb/0,4568,7-150-56355\\_56579\\_56755---,00.html](http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html).

**“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 host the Software in Grand Valley State University’s High Performance Computing Center, and Contractor must maintain an annual SSAE 18 SOC 2 Type 2 audit for the Hosted Services throughout the Term , and in the event the contractor is unable to maintain SSAE 18 SOC 2 TYPE 2, the State may move the Software to an alternative provider, at contractor’s sole cost and expense;

3.2 ensure that the Software is securely hosted, supported, administered, and accessed in a data center that resides in the continental United States, and minimally meets Uptime Institute Tier 3 standards ([www.uptimeinstitute.com](http://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 NIST Special Publication 800-53 (most recent version) MOD Controls using minimum control values as established in the applicable State PSPs.

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 256bit 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 shall 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 shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.

**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 shall 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 16 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.

6.3 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.

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**SCHEDULE D**  
**Disaster Recovery Plan**

(Contractor's Disaster Recovery Plan is included as an attachment)

