STATE OF MICHIGAN

METRC APPLICATION PROGRAMMING INTERFACE

CONFIDENTIALITY & USER AGREEMENT

This is an agreement between the Provider as signed below and the State in which the Provider hereby agrees to the following terms and conditions.

1. RECITALS

A. Authority and Approval

Authority to enter into this Agreement is based on Section 207 of the MMFLA, Section 3 of the MTA, Section 7 of MRTMA, Rule 4 of the Emergency Rules promulgated under MRTMA, and any related, subsequent Administrative Rules promulgated under MRTMA.

B. Consideration

The Provider acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Agreement.

C. Purpose

Pursuant to the MMFLA, MTA, MRTMA, the Emergency Rules, and any subsequent Administrative Rules, Licensees are required to interface with the inventory tracking system developed by the State, currently known as METRC, as the primary inventory tracking system of record. Licensee information in METRC is confidential and is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, pursuant to Section 4 of the MTA. The State has agreed to permit Licensees to communicate information electronically to and from METRC through Provider's System or Services via an API, but this permission is valid only if the Provider of the System enters an agreement to protect the confidentiality of the information/data contained in METRC and the integrity of METRC's design and processes, and to comply with the security requirements and standards set forth below.

2. DEFINITIONS

A. API

"API" means the Application Programming Interface designed, developed, and maintained by Franwell, or any successor organization.

B. Key

"API Key" means an alphanumeric code generated through METRC to gain programmatic access to METRC and automatic electronic communication of data and information between Provider's System and METRC. There are two kinds of API Keys:

i. Vendor API Key

"Vendor API Key" means an API Key that is specific to Provider and Provider's

System, which must be used by every instance of Provider's System at all times, in combination with the User API Key specific to Licensee(s), in order to gain authorized programmatic access to METRC and automatic communication of data and information between Provider's System and METRC pertaining to such Licensee (s).

ii. User API Key

"User API Key" means an API Key that is specific to a particular Licensee, which only such Licensee is able and authorized to generate and obtain or deactivate. The User API Key may be deactivated by generating a new User API Key. The User API Key is linked directly to that Licensee's METRC account and allows access to that Licensee's METRC data and information.

C. Confidential Information

"Confidential Information" means all information, data, records, and documentary materials which are of a sensitive nature regardless of physical form or characteristics, and includes, but is not limited to non-public State records, sensitive State data, protected State data, PII Data, PCI Data, and other information or data concerning individuals and Licensees including financial information such as banking information and social security numbers, which has been communicated, furnished, or disclosed by the State to Provider. Confidential information includes but is not limited to any information obtained by Provider through the interface between the METRC system and the System. Confidential Information may also include any information disclosed to Provider by Licensee, either directly or indirectly, in writing, orally, or through the communication of data through the API, whenever or however disclosed, including but not limited to: **(i)** names, addresses, or records of consumers' personal information; **(ii)** consumer information or data; **(iii)** PII Data; **(iv)** PCI Data; **(v)** any other information that should reasonably be recognized as related to the PII Data of consumers; **(vi)** inventory tracking data, reports, or records related to the cultivation, manufacture, distribution, or sale of medical marijuana or marijuana product, if such data, reports, or records are or are intended to be provided to the State through the METRC system or otherwise; **(vii)** business plans and performance related to the past, present or future activities of such party, its affiliates, subsidiaries and affiliated companies; **(viii)** all types of Licensee data, including but not limited to, names and lists of other license holders, service providers, or affiliates; **(ix)** business policies, practices, and procedures; **(x)** names of employees; **(xi)** and any other information that should reasonably be recognized as related to business conducted by Licensee.

D. DTMB

"DTMB" means the State of Michigan's Department of Technology, Management, and Budget.

E. Emergency Rules

"Emergency Rules" means the Emergency Rules filed by the Marijuana Regulatory Agency on June 20th, 2019, 2019 MR 11, which were promulgated pursuant to section 8 of MRTMA.

F. Franwell

"Franwell" means Franwell, Inc., the company engaged by the State to design, develop, provide, host and maintain the State's METRC system, and also includes any successor organization.

G. Incident

"Incident" means an accidental or deliberate event that results in or poses a threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources of the State. Incidents include, but are not limited to: **(i)** successful attempts to gain unauthorized access to the METRC system or Confidential Information regardless of where such information is located; **(ii)** unwanted disruption or denial of service; **(iii)** the unauthorized use of METRC for the processing or storage of data; **(iv)** any unauthorized access by any person to Confidential Information, or **(v)** changes to the State's system hardware, firmware, or software characteristics without the State's knowledge, instruction, or consent.

H. Licensee

"Licensee" means a person holding a state operating license issued under the MMFLA or a state license issued under MRTMA.

I. MMFLA

"MMFLA" means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101 et seq.

J. MRTMA

"MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 et seq.

K. MTA

"MTA" means the Marihuana Tracking Act, 2016 PA 282.

L. METRC

"METRC" or "METRC system" means the marijuana inventory tracking system developed by Franwell to enable the State to track all legally grown marijuana from seed to sale, and also includes any successor inventory tracking system that the State permits or requires Licensees to utilize.

M. PCI Data

"PCI Data" means payment card information data. That is, any data related to card holders' names, credit card numbers, or other credit card or financial information as may be

protected by State and/or federal law.

N. PII Data

"PII Data" means personally identifiable information. That is, information about an individual collected by the State or any other governmental entity that could reasonably be used to identify such individual as outlined in section 207 of the Medical Marihuana Facilities Licensing Act, Section 3 of the Marihuana Tracking Act, and Rule 4 of the Emergency Rules, and includes, but is not limited to, any combination of **(i)** first and last name, **(ii)** first name or first initial and last name, **(iii)** residence or other physical address, **(iv)** electronic mail address, **(v)** telephone number, **(vi)** birth date, **(vii)** PCI Data, **(viii)** social security number, **(ix)** driver's license number, **(x)** identification card number, or **(xi)** any other information that identifies an individual personally.

O. Provider

"Provider" means a third-party system provider approved by the State to integrate with the statewide monitoring system required by the MMFLA, MTA, MRTMA, and the Emergency Rules.

P. Provider Contract

"Provider Contract" means an agreement between a Licensee and Provider entered into for the purpose of providing a System or Services to the Licensee.

Q. Services

"Services" means the services to be performed by Provider to Licensee pursuant to the Provider Contract in connection with the provision, operation or maintenance of the System.

R. State

"State" means the State of Michigan, Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency, responsible for the oversight of medical and adult-use marijuana in Michigan.

S. Subcontractor

"Subcontractor" means any third party engaged by Provider to aid in performance of Provider's obligations to Licensee(s).

T. System

"System" means the secondary software system provided by Provider for use by Licensee. Such Systems may be used to collect information to be used by the Licensees in operating their businesses, including, but not limited to, secondary inventory tracking and point of sale systems.

3. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

The Provider hereby agrees the Agreement shall not be effective or enforceable until it is approved

by the State. The State shall not be liable for the performance of any of its obligations hereunder or be bound by any provision hereof prior to the Effective Date. By entering into this Agreement, the State is under no obligation to appropriate funds for, or to make any payments to, Provider or any Licensee for any reason, including but not limited to the purpose of reimbursing Provider or Licensee for any payments or expenses Provider or any Licensee may make or incur, including, without limitation, any such payments or expenses made or incurred pursuant to any contract between Provider and any Licensee. Nor shall any provision in this Agreement be construed as imposing liability on the State for any expenses Provider or Licensee may make or incur in connection with this Agreement or the performance of this Agreement. Provider expressly waives any claims asserting liability against State in connection with this Agreement or the performance of this Agreement.

4. AUTHORIZATION

The State hereby authorizes Franwell to provide a Vendor API Key to Provider, which, when used in combination with a Licensee's User API Key which the Licensee may furnish to Provider, permits Provider's System to access the API for the purposes of communicating information to the METRC system, and retrieving such information from the METRC system, for use by Licensee(s) in operating the business of such Licensee(s). Provider must successfully complete METRC training and competency testing and Provider's authorization is limited to the specific functionality of METRC for which Provider has successfully completed training and competency testing. This Agreement, and Provider's rights and obligations hereunder, shall not be assigned without the prior written consent of the State, which may be approved or denied in the State's sole discretion.

The Vendor API Key shall permit Provider's System with access to the API only if the Vendor API Key is used in combination with the User API Key. A Licensee that contracts with Provider for use of Provider's System may furnish Provider with its User API Key to grant access to the API. The Provider agrees that it is not authorized to share a User API Key with other entities without permission from the State or a Licensee. The Provider acknowledges that the State or a Licensee shall have the right to block Providers' access to Licensee's METRC data by deactivating such Licensee's User API Key and generating, or having Franwell generate, a new User API Key through METRC. If the State deactivates the Vendor API Key as described under section 5, the User API Key may also be deactivated and a new User API Key must be generated.

The Provider agrees that notwithstanding any contrary provision in a Provider Contract, and in keeping with the State's obligation to maintain the confidentiality of Licensee(s) data and information, Provider expressly waives and shall not be entitled to seek or obtain injunctive, equitable or other relief against the State or Franwell to compel the furnishing of any Licensee's User API Key to Provider.

The Provider agrees that the Licensee shall maintain at all times the right to terminate the Provider Contract or otherwise discontinue use of Provider's System and Services. The Provider further agrees to operate in good faith and with fair dealing at all times when providing a System or Services that interface with the METRC system.

Data entered into the API should be done on a transactional / real-time basis. The Provider is required to perform a "GET" call on available daily purchasing limits before sale or transfer of marijuana.

A point of sale system must be able to maintain separate inventories and transactions for medical and adult-use licenses that operate from the same location.

5. CONFIDENTIALITY

Provider shall comply with and shall cause each of its agents, employees, Subcontractors, permitted assigns and any other individual or entity assisting with Provider's provision of a System or Services to Licensee to comply with the provisions of this §5 if that person will or may have access to Confidential Information in connection with its performance, which obligations shall survive the termination of this Agreement.

A. Confidentiality

Provider shall keep all Confidential Information confidential at all times, to ensure compliance with all laws and regulations concerning confidentiality of Confidential Information. Any request or demand, including subpoenas, by a third party for Confidential Information in the possession or control of Provider shall be immediately forwarded to the State's principal representative by the recipient of the request. The State shall have the right to move to quash any subpoena received from a third party seeking Confidential Information in the possession or control of Provider, whether the subpoena is directed to Provider or the State. Provider agrees to cooperate with the State, if requested, in proceedings related to any motion to quash a subpoena, at no expense to the State.

B. Personnel

Provider shall require its agents, employees, Subcontractors, and permitted assigns (collectively, "Provider Personnel"), who will or may come into contact with Confidential Information, to execute written agreements that bind such Provider Personnel to confidentiality provisions that are at least as protective of the Confidential Information as those contained in this Agreement.

C. Protection

Provider is responsible for the protection and security of all Confidential Information provided to it by the State or which is accessible using the API Key. If Provider provides physical or logical storage, processing or transmission of, or retains, stores, or is given, Confidential Information, Provider shall, and shall cause its agents, employees, Subcontractors, and permitted assigns to, **(i)** provide physical and logical protection for all related hardware, software, applications, and data that meet or exceed industry standards and requirements as set forth in this Agreement; **(ii)** maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), and annual security testing; **(iii)** comply with State and federal regulations and guidelines related to overall security, confidentiality, integrity, availability, and auditing; **(iv)** ensure that security is not compromised by unauthorized access to

computers, program, software, databases, or other electronic environments; and **(v)** report all Incidents immediately, and all attempted Incidents on an annual basis to the State.

Provider shall provide the State with access, subject to Provider's reasonable access security requirements, seven (7) days a week, twenty-four (24) hours a day, for the purpose of inspecting and monitoring access and use of Confidential Information and evaluating physical and logical security control effectiveness. As set forth in §3 of this Agreement, the State shall not be responsible for any expenses incurred in connection with this Agreement, including, but not limited to, Provider's expenses related to compliance with this section.

D. Use, Information Security Compliance, and Retention

Provider expressly agrees to be bound by and to comply with the State of Michigan Administrative Guide to State Government Policy 1340.00, Information Technology Information Security, posted at http://www.michigan.gov/dtmb/0,5552,7-150-9131_9347---,00.html and any subsequent amendments. Provider shall routinely review such statutes, rules, policies, standards and guidelines.

Provider shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by the DTMB or its designee. Confidential Information of any kind shall be stored, processed, or transferred only in or to facilities located within the United States, and shall not be distributed or sold to any third party, retained in any files or otherwise, or used by Provider or its agents in any way, except as authorized by this Agreement, by law, unless approved in writing by the State. Provider shall provide and maintain a secure environment that ensures confidentiality of all Confidential Information wherever located. Neither Provider nor any of its agents, employees, Subcontractors, or permitted assigns shall have any rights to use or access any data or information of the DTMB or any other Michigan state agency, except with the prior approval of the State.

E. Incident Notice

If Provider becomes aware of an Incident involving any Confidential Information, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, if any. Unless Provider establishes that neither Provider nor any of its agents, employees, Subcontractors, or permitted assigns was the cause or source of the Incident, Provider shall be responsible for the cost of notifying each person whose Confidential Information may have been compromised by the Incident.

In any case where an issue with Provider's system is found to cause a problem where data integrity, accuracy or ability to report data via the API is identified Provider shall notify all potentially affected licensees and the State as quickly as feasible to prevent state Licensees from reporting inaccurate or false information.

F. Incident Remediation

Provider, at its sole cost and expense, shall be responsible for determining the cause of an

Incident, and for producing a remediation plan to reduce the risk of a similar Incident in the future. Provider shall present its analysis and remediation plan to the State within ten (10) days of notifying the State of an Incident. The State reserves the right to adjust this plan, in its sole discretion. If Provider cannot produce its analysis and plan within the allotted time, the State or an independent third-party engaged by the State, in the State's sole discretion, may perform such analysis and produce a remediation plan, and Provider shall timely reimburse the State for the reasonable costs thereof.

In any case where Provider has an issue with Provider's system providing information to the state tracking system via the API, Provider will furnish a written plan to the State within 48 hours showing the affected Licensees with a remediation plan addressing how the issue will be resolved and information corrected.

G. Incident Liability

Disclosure of Confidential Information by Provider or any of its agents, employees, Subcontractors, or permitted assigns for any reason may be cause for legal action by third parties (including Licensee(s)) against Provider, the State, or their respective agents. Provider shall indemnify, defend, and hold harmless the State, its employees, and agents against any and all claims, damages, liability, and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Provider, or its employees, agents, Subcontractors, or assignees pursuant to this §5. Notwithstanding any other provision of this Agreement, Provider shall be liable to the State for all direct, consequential and incidental damages arising from an Incident caused by Provider or its agents, employees, Subcontractors, or permitted assigns. The State will notify Provider in writing if indemnification is sought; however, failure to do so will not relieve Provider, except to the extent that Provider is materially prejudiced. Provider must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations. The State is entitled to: **(i)** regular updates on proceeding status; **(ii)** participate in the defense of the proceeding; **(iii)** employ its own counsel; and to **(iv)** retain control of the defense, at its own expense, if the State deems necessary. Provider will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. Any litigation activity on behalf of the State or any of its subdivisions must be coordinated with the Michigan Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

H. End-of-Agreement Data Handling

Upon request by the State made before or within sixty (60) days after the effective date of termination of the Agreement, Provider will make available to the State a complete and secure download file of all data, including, but not limited to, all Confidential Information, schema and transformation definitions, or delimited text files with documented, detailed schema definitions along with attachments in their native format. All such data shall be encrypted and appropriately authenticated. The Provider agree that on the termination of

the provision of Services, Provider shall, at the choice of the State, return all Confidential Information in the possession or control of the Provider, and the copies thereof, to the State, or Provider shall destroy all such Confidential Information and certify to the State that it has done so. If legislation imposed upon Provider prevents it from returning or destroying all or part of the Confidential Information in the possession or control of Provider or obtained through the API, Provider warrants that it will guarantee the confidentiality of all Confidential Information in the possession or control of Provider or obtained through the API and will cease any activity that processes or otherwise utilizes such data.

I. Disposition of Data

The State retains the right to use the System to access and retrieve Confidential Information stored on Provider's infrastructure at the State's sole discretion. Provider warrants and shall cause each Subcontractor to warrant that upon request of the State, Provider or such Subcontractor shall submit its data processing facilities for an audit of its compliance with §5, including but not limited to the measures referred to in §5.D.

J. Safeguarding PII Data

If Provider or any of its agents, employees, Subcontractors, and permitted assigns will or may receive PII Data under this Agreement, Provider shall provide for the security of such PII Data, in a form acceptable to the State, including, without limitation, non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Provider shall take full responsibility for the security of all PII Data in its possession or in the possession of its agents, employees, Subcontractors, or permitted assigns, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof.

K. Safeguarding PCI Data

If Provider or any of its agents, employees, Subcontractors, and permitted assigns will or may receive PCI Data under this Agreement, Provider shall provide for the security of the PCI Data, in accordance with the following:

i. Provider must adhere to the Payment Card Industry Data Security Standard (PCI DSS). Provider is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.

ii. Provider must notify the State (within 24 hours of discovery) of any breaches in security where cardholder data has been compromised. In that event, provider must provide full cooperation to the card associations (e.g. Visa, MasterCard, and Discover) and state acquirer representative(s), or a PCI approved third party, to conduct a thorough security review. Provider must provide, at the request of the State, the results of such third party security review. The review must validate compliance with the PCI DSS for protecting cardholder data. At the State's sole

discretion, the State may perform its own security review, either by itself or through a PCI approved third party.

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

iv. Without limiting Provider's obligations of indemnification as further described in this Agreement, Contractor must indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the breach.

v. Provider must dispose of cardholder data when it is no longer needed in compliance with PCI DSS policy. Provider must continue to treat cardholder data as confidential upon termination of this Agreement.

vi. Provider must provide the State with an annual Attestation of Compliance (AOC) or a Report on Compliance (ROC) showing the Provider is in compliance with the PCI DSS. Provider must notify the State of all failures to comply with the PCI DSS.

L. API Key Revocation

A violation of this section or agreement including the failure to report or notify the State of any incident may result in the deactivation or revocation of the Vendor API Key. Misrepresentation or knowingly entering false information into the system could result in the revocation of the Vendor API Key.

M. Ownership

State data, which for purposes of this Agreement shall mean all data collected, used, processed, stored, or generated in connection with the services, 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. Provider 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.

Provider expressly agree that the METRC System is, and shall remain, the sole and exclusive property of Franwell with all title and rights of ownership therein. Nothing contained in this Agreement shall be construed as a sale of the METRC System or any portion thereof to Provider.

6. BREACH

A. Defined

In addition to any breaches specified in other sections of this Agreement, the failure of Provider to perform any of its material obligations hereunder in whole or in part or in a timely and satisfactory manner constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Provider, or the appointment of a receiver or similar officer for Provider or any of its property, which is not vacated or fully stayed within twenty (20) days after the institution or occurrence thereof, shall also constitute a breach. Breach also shall occur upon Provider's unauthorized use, disclosure or retention of Confidential Information. Provider shall, within 24 hours, provide the State with electric notice of the institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Provider, or the appointment of a receiver or similar officer for Provider or any of its property.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given electronically by the aggrieved party to the other party. Any Party may from time to time designate in writing by electronic notice substitute addresses or persons to whom such notices shall be sent.

i. State:

Executive Director
Marijuana Regulatory Agency
2407 N Grand River Ave, Lansing, MI 48907
MRA-ITSupport@michigan.gov

ii. Provider:

Name and title of person:
Company name:
Address:
Email address:

If such breach is capable of cure, as determined by the State, and is not cured within thirty (30) days of receipt of written notice, or if a cure cannot be completed within thirty (30) days, or if cure of the breach has not begun within thirty (30) days and pursued with due diligence, the State may exercise any of the remedies set forth in §7.

C. Deactivation

Notwithstanding any provision to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately deactivate Provider's Vendor API Key if the State determines such action is warranted to maintain the confidentiality of Confidential Information as required in §2.C and this agreement.

7. REMEDIES

If Provider is in breach under any provision of this Agreement, the State shall have all of the remedies listed in this §7.A in addition to all other remedies set forth in other sections of this Agreement following the notice and cure period set forth in §6.B. The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

The State may terminate this entire Agreement or any part of this Agreement. Exercise by the State of this right shall not be a breach of its obligations hereunder. Provider shall continue performance of this Agreement to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Provider shall take timely, reasonable, and necessary action to protect and preserve Confidential Information in the possession or control of the Provider. All Confidential Information in the possession or control of Provider shall be immediately returned to the State as specified in this Agreement and Provider shall certify that no copies of Confidential Information remain in the possession or control of Provider.

ii. Vendor API Key Deactivation

Irrespective of any period set forth in §6.B, immediately upon any breach of this Agreement, the State may deactivate Provider's Vendor API Key. Provider agrees that the Vendor API Key does not constitute a license as defined in MMFLA, MTA or MRTMA, and expressly waives any rights associated with the provision of a license in Michigan. Provider specifically agrees it has no right to a hearing or other legal or administrative process regarding the deactivation of the Vendor API Key.

iii. Damages

Notwithstanding any other remedial action by the State, Provider shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Agreement by Provider.

B. Early Termination in the Public Interest

The State is entering into this Agreement for the purpose of carrying out the public policy of the State of Michigan, as determined by its Governor, Legislature, and/or Courts. If this Agreement ceases to further the public policy of the State, the State, in its sole discretion, may deactivate Provider's Vendor API Key and terminate this Agreement. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder.

i. Obligations and Rights

Upon receipt of notice of breach, Provider shall be subject to and comply with the same obligations and rights set forth in §7.A.i.

C. Remedies Not Involving Termination

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Removal

Notwithstanding any other provision herein, the State may demand immediate removal of any of Provider's employees, agents, Subcontractors or permitted assigns whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Agreement is deemed to be contrary to the public interest or the State's best interest.

ii. Intellectual Property

If Provider infringes on a patent, copyright, trademark, trade secret, or other intellectual property right while performing the Services or providing the System, Provider shall, at the State's option (a) obtain the right to use such products and Services; (b) replace any goods, Services, or product involved with non-infringing goods, Services or products or modify such goods, Services or products so that they become non-infringing; or (c) if neither of the foregoing alternatives are reasonably available, remove any infringing goods, Services, or products.

D. Equitable Relief

Provider acknowledges and agrees that (a) a breach or threatened breach of any of its obligations under this Agreement may give rise to irreparable harm to the State for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by Provider of any such obligations, the State is, in addition to any and all other rights and remedies that may be available to the State 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.

8. OTHER PROVISIONS

A. Indemnification

Provider shall indemnify, defend, and hold harmless the State, its employees, and agents against any and all claims, damages, liability, and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Provider, or its employees, agents, Subcontractors, or assignees pursuant to the terms of this Agreement; however, the provisions in this Agreement shall not be construed or interpreted as a waiver, express or

implied, of any of the immunities, rights, benefits, protection, or other provisions of the Governmental Liability for Negligence Act, 1964 PA 170 ("Governmental Immunity Act"), as now or hereafter amended. The State will notify Provider in writing if indemnification is sought; however, failure to do so will not relieve Provider, except to the extent that Provider is materially prejudiced. Provider must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations. The State is entitled to: **(i)** regular updates on proceeding status; **(ii)** participate in the defense of the proceeding; **(iii)** employ its own counsel; and to **(iv)** retain control of the defense, at its own expense, if the State deems necessary. Provider will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. Any litigation activity on behalf of the State or any of its subdivisions must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

B. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Michigan, County of Ingham.

C. Governmental Immunity

Liability for claims for injuries to persons or property arising from the negligence of the State of Michigan, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act, as applicable now or hereafter amended. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Governmental Immunity Act. The Provider agrees that the State retains all such immunities, rights, benefits, and protections.

D. Disclaimer of Damages and Limitation of Liability

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 AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY CLAIM FOR DIRECT, CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES.

E. Choice of Law

This Agreement shall be construed, interpreted, and enforced according to the laws of the State of Michigan. Michigan law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other provision in whole or in part shall not be valid or

enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

F. Binding Arbitration Prohibited

The State does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Agreement or incorporated herein by reference shall be null and void.

G. Employee Financial Interest/Conflict of Interest

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the System or Services described in this Agreement. Provider has no interests and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Provider's Services and Provider shall not employ any person having such known interests.

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Provider and the State, all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

Facsimile and Portable Document Format ("PDF") copies of the Provider's signatures shall be treated as originals.

The Provider has caused their duly authorized representatives to execute this Agreement as of the date set forth above. The Provider hereby agrees to all the foregoing terms and conditions.

Provider: _____

Signature: _____

Print name: _____

Title: _____ _____

Agency Use Only

Authorized Functionality:

Plants	Packages	Harvest	Labs	Sales	Rooms	Strains	Items

State Authorizer: _____

Signature: _____

Title: _____ _____

Effective Date: _____