



MICHIGAN LOTTERY

Michigan Lottery
101 E Hillsdale
PO Box 30023
Lansing MI 48909

Request for Proposals

RFP Number: MSL16-001

Issue Date: August 19, 2016
Proposal Due Date: September 26, 2016

Title and Purpose of RFP:

**Development, Implementation, Operational Support
and Maintenance of Michigan Lottery Applications**

PART 1 – Proposal Submission Information

Project Request

This is a Request for Proposal (“RFP”) to invite interested parties to submit proposals for the development, implementation, operational support, and ongoing maintenance of Michigan Lottery web and downloadable applications (“Apps”) for the Michigan Bureau of State Lottery (“Lottery”). The Contractor must provide Lottery with completed Apps and as-needed Professional and Technical Services.

1.0. Introduction and Background

The Lottery is seeking one contractor to develop, construct, launch, and maintain new Applications (“Apps”) that will support lottery games sold online (“iLottery”) and in retail, in addition to meeting the objectives set forth in this RFP and by the Michigan Lottery digital staff and agency partners (e.g. iLottery gaming provider, website developer, etc.).

Lottery seeks to develop Apps using a flexible framework that can adapt to the ongoing advances in technology, can easily be updated on a rolling basis, and have the ability to integrate with Lottery’s existing platforms and agency partners.

In new Apps, the Lottery aims to take a lean approach to product development by releasing additions and updates to Apps in broad phases. Extensive research and the analysis of real-time feedback will be conducted at each release, which will drive the App updates and product development. The goal is to create Apps that will have the ability to quickly adapt to the evolving device market in order to maximize customer engagement and increase satisfaction and sales. The Lottery will drive these changes and provide final approval at every step of the development and maintenance processes.

The Contractor must provide services and tools to plan, build, monitor, and maintain the Apps produced by this project. The development process must meet the Lottery’s primary objectives.

The Lottery is issuing this RFP to invite interested parties (“Bidders”) to submit Proposals for the development, implementation, operational support, and maintenance of Apps. The Lottery envisions the Apps to be rolled out broadly in order to maximize consumer participation, convenience, and satisfaction.

In the RFP the Lottery has defined a series of objectives, requirements, and a Proposal evaluation approach that will represent its best interests in performance of its mission. As a result, the Lottery expects to make an award to the Bidder providing the most favorable Proposal to the State. Lottery is not, however, required to award a contract. There will be one (1) award for this RFP, if an award is made.

The Contractor is expected to enter into a written agreement (the “Contract”) with the Lottery within Fifteen (15) calendar days after notice of award identifying it as the Contractor.

The Contract resulting from this RFP will be in effect for four (4) years from the Contract effective date. The Contract may be extended, under its original terms, and any subsequent amendments, for a maximum of four (4) additional one-year renewal periods. The Lottery may opt to award more than one (1) renewal period at a time, and may negotiate the terms of the renewal.

All proposed App requirements must be delivered, installed, implemented, acceptance tested, approved, and ready to be fully operational by an agreed-upon schedule.

Authority of the RFP. This RFP and all activities leading toward the anticipated signing of a Contract pursuant to this RFP are enabled under Michigan statutes which establish the purpose, powers, duties, and procedural framework of the Lottery.

1.1. Lottery Objectives

The Lottery has the following objectives for issuing this RFP and entering into the previously described Contract:

- Promote the Lottery and its products;
- To build Apps that incorporate the Lottery’s iLottery Application and effectively stimulates interest, excitement, and participation in the Lottery’s online gaming;
- Achieve maximum effectiveness and efficiencies in expenditures for App development and maintenance;
- Acquire new Michigan Lottery account registrations;
- Acquire new Michigan Lottery account depositors;
- Engage existing Michigan Lottery account holders;
- Increase user satisfaction scores for Michigan Lottery applications;
- Plan, develop and execute fully functional Apps in a timely manner with respect to marketing, platforms, and product initiatives;
- Expand the reach of the Lottery’s digital footprint and develop an additional revenue stream to support the continued growth of the Lottery’s iLottery platform;
- Produce Apps that are adaptable to the evolving app marketplace and accessible on all devices defined by Lottery;
- Obtain solutions that will effectively integrate Apps with existing and future Lottery platforms and support the growing iLottery digital ecosystem;
- Incorporate responsible gaming practices;
- Maintain the public trust and confidence in the integrity of Lottery and its operations;
- Execute an agile development process that allows the Lottery to make ongoing updates to Apps based on real-time feedback.

1.2. Overview of the RFP

This RFP will provide the information necessary to submit Proposals. The organization of the RFP is as follows:

- Part One – background and Proposal preparation information
- Part Two – terms and conditions that will apply to the Contract
- Part Three – Vendor Services Requirements
- Part Four - how App pricing must be submitted
- Part Five – how App Proposals will be evaluated: App Proposal evaluation criteria, the evaluation process, and the proceedings leading to execution of a Contract

1.3. Issuing Officer

The Issuing Officer, acting on Lottery's behalf, is the sole point of contact with regard to this RFP, from the date of release until the Lottery's notice of award. All communications concerning this procurement must be addressed in writing to the Issuing Officer:

Lucy Kish
Procurement Manager
Michigan Lottery
P.O. Box 30023
101 East Hillsdale
Lansing, Michigan 48909
E-mail: kishl1@michigan.gov
517-335-5683 (P)
517-335-5685 (F)

1.4. Disclosure and Investigation Requirements

This RFP requires a series of disclosures and willingness to comply with background investigational requirements of the Lottery. This is a major procurement solicitation and all relevant Michigan statutes are applicable. Questions regarding the disclosures and investigation requirements are to be directed to the Issuing Officer.

1.5. Restrictions on Communication

Other than the Issuing Officer, potential Bidders and their agents or representatives shall make no unsolicited contact with any elected official or office of the State of Michigan, any Lottery employee, or any agent, or representative of the Lottery regarding this RFP. Bidders shall not represent themselves to anyone, including Michigan Lottery Retailers, as having the endorsement of the Lottery, nor as the Lottery's supplier of such gaming products and services. For potential Bidders currently doing business with

the Lottery, any communication regarding this RFP is prohibited except as provided for in this RFP. Any Bidder causing or attempting to cause a violation or circumvention of this ethical standard may, in the sole discretion of the Lottery, be disqualified from further consideration.

1.6. Schedule

The following calendar is set forth for informational and planning purposes. The Lottery reserves the right to change any of the dates. All dates below are associated with a time deadline of 4 pm Eastern Time unless otherwise stated.

- **RFP issued August 22, 2016**
- Deadline for RFP Protest August 29, 2016
- Inquiry Deadline September 5, 2016
- Lottery's Response to Inquiries September 12, 2016
- **Proposal Submission** September 26, 2016
- Best and Final Offers Tendered October 10, 2016
- Notice of Award October 13, 2016
- Deadline to Protest Award (five (5) days after Notice of Award)
- Administrative Board Approval November 15, 2016
- Contract Execution November 17, 2016
- Readiness for Lottery Quality Assurance Testing, Ninety (90) days after Contract sign off
- Lottery Acceptance Testing Completed, fourteen (14) days prior to Implementation
- **Implementation of Requirements to be completed three hundred thirty four (334) days after Contract sign off**

1.7. Addenda to the RFP

If any part of this RFP is amended, addenda will be published on the Michigan Lottery's website at www.milotteryconnect.com. It shall be the Bidder's responsibility to check this website regularly for any addenda, amendments, or cancellations related to this RFP.

1.8. Inquiries for RFP Clarification or Change

By submitting a Proposal, Bidders agree that they understand the requirements of this RFP, and they fully understand their obligations if they were to enter into a Contract with the Lottery. If a Bidder needs clarification or would like to request a change to the procurement technical or contractual requirements, the Bidder shall submit these to the Issuing Officer on or before the Inquiry Deadlines stated in Section 1.6.

If a Bidder discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission or other errors in this RFP, and fails to notify the Lottery on or before the Inquiry Deadlines, the Bidder submits a response to this RFP at its own risk. The Lottery will consider no requests for change or modifications after this deadline. The Bidder will not be entitled to additional compensation, relief, or time by reason of the error or its later correction. Further, Bidders understand and agree that a protest may not be based on any claim of ambiguity, conflict, discrepancy, exclusionary specifications, omissions or other error in the RFP that could have been raised before the Inquiry Deadlines.

Inquiries must be mailed or e-mailed to the Issuing Officer at the location set forth in Section 1.3. Bidders must observe the time schedule for submitting inquiries. This schedule will ensure that the Lottery has adequate time to respond and that the responses will be provided to Bidders in time to be incorporated into their Proposals.

Bidders are cautioned that an RFP inquiry shall be written in generic terms and must not contain cost information. The inclusion of specific cost in an inquiry may result in the Bidder's disqualification.

A copy of all questions, answers, and any changes in the RFP resulting from such requests will be available via addenda published on the Michigan Lottery's website at www.milotteryconnect.com. It shall be the Bidder's responsibility to check this website regularly for any addenda, amendments, or cancellations related to this RFP.

1.9. Time Period to File or Commence Protest

If the Bidder believes that the requirements are unnecessarily restrictive or limit competition, the Bidder shall include the reason, and any and all documented, factual information that supports this opinion, and any proposed changes to the requirements. This protest period will be the sole opportunity for Bidders to protest any terms and conditions contained in the RFP in Part 2.

Notwithstanding any limitation-periods prescribed by statute or otherwise, as a condition for the right to submitting a Proposal in response to this RFP, the Bidder agrees that any and all administrative clarification, protest, legal action, or any other proceeding of whatever nature, arising from or related to this RFP, must be filed or commenced within by the deadline shown in the schedule section, Section 1.6.

1.10. Acceptance of RFP Terms

A Proposal submitted in response to this RFP will be considered a binding offer. By submitting a Proposal, each Bidder covenants and agrees that it fully understands and will abide by the terms and conditions of this RFP and it will not make claims for or have any rights to cancel or withdraw its Proposal or for other relief due to any misunderstanding or lack of information. The signature of the Bidder or an officer of the Bidder legally authorized to execute contractual obligations will indicate acknowledgement of this condition.

1.11. Waiver of Deficiencies and Rejection for Non Compliance

Proposals that do not meet all material requirements of this RFP or that fail to provide all required information, documents, or supporting materials, or include language that is conditional or contrary to terms, conditions, and requirements, may be rejected as nonresponsive. The “material” requirements of the RFP are those set forth as: (i) mandatory, or (ii) without which an adequate analysis of how the Proposal addresses the RFP requirements is impossible.

The Lottery reserves the right to waive minor deficiencies in the Proposals. The decision as to whether a deficiency will be waived or will require the rejection of a Proposal will be solely within the discretion of the Lottery. Failure to comply with or respond to any part of this RFP may result in rejection of the Proposal. A waiver of non-compliance for a minor deficiency in the Proposal does not relieve the Contractor of a contractual obligation.

1.12. Rejection of Proposals

The Lottery reserves the right to reject any Proposal at any point prior to an award of the Contract, or to reject all Proposals and cancel this procurement, if such action has been determined by the Lottery in its sole discretion, to be in its best interest.

1.13. Proposals Valid for One Year

All Proposals submitted will remain valid for one (1) year from the date on which Proposals are due, unless the period is extended by mutual agreement of the Lottery and the affected Bidder or Bidders.

1.14. Proposal Form

The Proposal must be submitted as follows:

- Two (2) separate volumes (Technical and Price) that are mailed or hand delivered. Within the Technical volume, a separately sealed envelope addressed to “Lottery Security Director” shall contain all materials described in Section 1.30 and any forms provided, or referenced, in Appendix B (Security Forms).

- Responses must be in a sealed package identified on the outside by the Bidder's full name and address and the RFP number and must be specifically addressed to the Issuing Officer.
- Responses must be received by the Issuing Officer no later than the date and time shown in the schedule section, Section 1.6.
- Proposals that are unsigned or otherwise materially non-conforming may be rejected as non-responsive.
- Proposals must follow the outline below.

VOLUME I – Technical (Non-Price) Proposal

The Technical Proposal volume shall include descriptive and technical materials only and shall be appropriately labeled on the exterior of the Proposal. Cost figures shall not be contained in the Technical Proposal; however, Options offered by the Bidder at no additional cost must be so noted.

The original plus five (5) copies of the Technical Proposal are to be provided.

In addition, the Technical Proposal must be submitted on a CD or flash drive using a PDF file format. The electronic version should include all sections within a single file to facilitate searches for terms across the breadth of the Proposal.

The Technical Proposal must follow the outline provided below and employ divider pages with tabs to separate the response sections:

- Transmittal letter. The transmittal letter shall contain names, addresses, email and telephone numbers of individuals for the Lottery to contact regarding contractual, technical, site visit, and background investigation matters regarding the Proposal.
- Bid Bond (Refer to Sections 1.26)
- Disclosure of RFP Assistance (Refer to Section 1.27)
- Separately sealed envelope containing the disclosure of litigation, investigations, and other information including security forms (Refer to Section 1.29 and Appendix B)
- Acknowledgement of all RFP addenda
- Response to all paragraphs of the technical specifications in identical order to Part 3.

Response to General Proposal Requirements as identified in Appendix C.

- Bidder-supplied technical documentation as appendices
- List of Offered Options noting whether they are provided within the Baseline cost (without separate charge), or at additional cost. If there is additional cost, pricing should not be disclosed in the Technical Proposal.

VOLUME II – Price Proposal

The Price Proposal volume shall be appropriately labeled on the exterior of the Proposal. The Price Proposal shall be signed in ink, and must be signed by an individual authorized to legally bind the Bidder. All monetary values are to be proposed in US dollars. The original plus one (1) copy of the Price Proposal must be provided.

The Price Proposal must follow the outline provided below and employ tabbed divider pages to separate these response sections:

- Transmittal Letter
- Pricing for the Application and services as defined on Price Quotation Sheet
- Pricing for Offered Options (if applicable)

The pricing response must be in the form prescribed in Part 4 (Price Quotation Sheet).

1.15. Proposal Opening

Proposals will not be subject to public opening or review from the time of receipt by the Issuing Officer until the issuance of the Lottery's notification of intent to award. At the time the Lottery issues its intent to award notification, Proposals may be viewed by written request directed to the Issuing Officer.

1.16. Withdrawal of Responses

A Bidder may withdraw its Proposal by written notice submitted on the Bidder's letterhead, signed by an authorized representative of the Bidder, delivered to the Lottery Issuing Officer and received prior to the Proposal Submission deadline. The Bidder or its authorized representative may also withdraw its Proposal in person prior to the Proposal Submission deadline, upon presentation of appropriate identification and evidence of authority satisfactory to the Lottery.

1.17. Late Proposals

Proposals pursuant to this RFP must be received by the Issuing Officer no later than the Proposal Submission deadline. Failure of a Bidder to submit its Proposal by the specified time may result in rejection. Proposals that are rejected for being late will be returned unopened to the Bidder.

1.18. Proposal Clarification Process

The Lottery may request clarifications from Bidders for the purpose of resolving ambiguities or questioning information presented in the Proposals. Clarifications may occur throughout the Proposal evaluation process. Clarification responses shall be in writing and shall address only the information requested. Responses shall be submitted to the Issuing Officer within the reasonable time stipulated at the occasion of the request.

Clarifications are for the purpose of resolving ambiguities and improving the understanding of the Lottery regarding a Proposal. In no case does the clarification or any other process permit revision or supplementation of Proposal after submission. Clarifications are an opportunity to explain, but not enhance, the Proposal.

1.19. Latitude in Proposal Contents

Each Bidder is expected to provide the Lottery with information, evidence, and demonstrations that will make possible an award that best serves Lottery's objectives and requirements as set forth in the RFP.

Bidders are given wide latitude in the degree of detail they offer in their Proposal and the extent to which they reveal plans, designs, Applications, processes, and procedures in the Proposal.

There is no limit on the number of pages; however, Bidders should prepare their Proposals simply and economically, providing a straightforward and concise description of their ability to satisfy the requirements of this RFP. Proposals of excessive length, or that contain a preponderance of boilerplate text, are discouraged. Emphasis in each Proposal should be on completeness and clarity of content.

Failure of a Bidder to provide the appropriate information or materials in response to each stated requirement or request for information may result in lower scores during the evaluation or may ultimately result in Proposal rejection based on non-responsiveness to the requirements of the RFP. Responses to complex RFP requirements that are stated in a form semantically equivalent to "Bidder agrees to comply" may be rejected for non-responsiveness at the discretion of the Lottery.

1.20. Proposal Disclosure

Disclosure by a Bidder or agent of the Bidder, of Proposal contents prior to the Lottery's notification of its intent to award a Contract may result in rejection of the Proposal.

1.21. Disclosure and Ownership of Proposal Contents by Lottery

All matters set forth in a Proposal, including technical and price information, may be subject to disclosure after the Lottery's notification of its intent to award a Contract. All

information in a Proposal and any Contract resulting from this RFP are subject to the provisions of Michigan's public records laws regardless of copyright status.

Any and all materials submitted become the exclusive property of the Lottery. The Bidder waives all rights relating to the Proposal, including without limitation, any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use unless prohibited by law.

1.22. Joint Proposal Responses

Two (2) or more Bidders may together submit a Proposal. If a joint Proposal is submitted, the Proposal shall define the responsibilities that each Bidder is proposing to undertake. Of the Bidders submitting a joint Proposal, one (1) must be designated as the primary. The Proposal shall designate a single authorized official to serve as the sole point of contact between the Lottery and the joint responding Bidder.

1.23. Multiple Proposals from One Bidder Not Allowed

A Bidder shall submit a single Proposal. Within the Proposal the Bidder may identify Offered Options, including unsolicited products, services, and features that the Bidder believes may be appealing and useful to the Lottery. The inclusion of Offered Options (Refer to Section 1.31) accommodates the purpose of defining alternatives through multiple Proposals.

1.24. Costs Associated with Proposal

Neither the Lottery nor the State of Michigan shall be responsible for any of the costs of preparing or submitting a Proposal, including, but not limited to preparation, copying, postage, and delivery fees or expenses associated with any demonstrations or presentations that may be required by the RFP.

1.25. Mandatory Specifications

Specifications in the RFP shall be regarded by the Bidder as mandatory, as denoted by terms such as "required," "must," "shall" and "will," except where a function, feature, or capability is specifically noted as being "preferred", "desired", "desirable". In the case of a "preferred", "desired", "desirable" feature, the Bidder is not required to offer such, however, the evaluation of the Bidder's Proposal may be more favorable if these capabilities are offered.

1.26. Proposal Bid Bond

Each Bidder must submit with the Proposal a Bid Bond from a reliable surety company that is licensed by the State of Michigan, in form and substance and issued by an issuer acceptable to the Lottery, in the amount of five thousand dollars (\$5,000) to guarantee for one (1) year after submission of the Proposal the availability of the goods and services at

the price(s) quoted in the Proposal. The Bid Bond shall be payable to the “State of Michigan”.

The Bid Bond will be returned to all but the Contractor upon the execution of the Contract. The Bid Bond of the Contractor will be retained until the Contract is executed and the Lottery is furnished with an acceptable performance Bond as described in Section 2.6. The check or Bond will be forfeited to the Lottery if the Contractor fails to submit in a timely manner the performance Bond or other security, as required, or fails to execute the Contract in a timely manner as determined by Lottery.

1.27. Disclosure of RFP Assistance

The Bidder shall notify the Lottery in its Proposal, if it, or any of its Subcontractors, or its officers or directors have assisted with the drafting of this RFP, either in whole, or in part. This includes the conducting or drafting of surveys designed to establish an Application inventory, and/or arrive at an estimate for the value of the solicitation.

The Bidder shall provide a listing of all materials provided to the Lottery by the Vendor, or by the Lottery to the Vendor, containing information relevant to this RFP, including but not limited to: questionnaires, requirements lists, budgetary figures, assessments, white papers, presentations, or RFP draft documents. The Bidder shall provide a list of all individuals within the Lottery with whom any of its personnel, and/or Subcontractors’ personnel has discussed this RFP or any portion of this RFP.

The following constitutes a non-exclusive list of actions that would preclude the developer or co-developer of an RFP from bidding on an RFP. This list is not comprehensive, and the Lottery reserves the right to disqualify any Bidder, if the Lottery determines that the Bidder has used its position (whether as an incumbent Vendor, or as a Vendor hired to assist with the RFP development, or as a Vendor offering assistance gratis), to gain a leading edge on the competitive solicitation:

- The RFP development results in a “unique solution,” having proprietary influence for the benefit of the developer, or a very limited source list. The resulting RFP must be of a nature that displays neutrality and fairness; any implication of impropriety will preclude the developer from participating in the ensuing bid process.
- Retaining information assembled or compiled for the development of the RFP by the developer. The Bidder must share all pertinent information assembled for the RFP development, by making such information equally and fully available to all potential Bidders, via the Issuing Officer.
- The use of information assembled that would lead to an early response to the RFP by the RFP developer. This includes, but is not limited to: assessments, surveys, white papers, RFP draft documents, questionnaires, requirements lists, budgetary

figures, presentations, notes from conversations with State personnel, and any other form of information resulting in a competitive advantage.

1.28. Investigations During Proposal Evaluation

Subsequent to Proposal submission, Bidder understands and agrees that the Lottery may initiate investigations into the backgrounds of the Bidder and individuals or entities related to the Bidder, including, but not limited to, any officers, trustees, board members, principals, investors, owners, Subcontractors, employees, or any other individuals or entities related to the Bidders as deemed appropriate by Lottery.

Such background investigations may include fingerprint identification by the Michigan State Police and the Federal Bureau of Investigation, or any other public or private agencies deemed appropriate, and shall require the provision of information, as requested by the investigators. Any costs of background investigations are the responsibility of the Bidder.

The Lottery may reject a Proposal based upon the results of these background checks. The Bidder is advised that any person who knowingly provides false or intentionally misleading information in connection with any investigation by the Lottery may cause the Proposal to be rejected, or a subsequent Contract to be canceled.

If the Bidder or a Substantial Subcontractor is a subsidiary of a parent entity, the Lottery may request the above disclosures from the parent entity as necessary.

1.29. Litigation

Since the Lottery has a strong interest in the Contractor's continuing ability to deliver software and services that meet the most stringent standards for Application performance and integrity, the Lottery requires that Bidders list and summarize all pending or threatened litigation, administrative or regulatory proceedings, investigations, and similar matters that could materially affect the Bidder.

As part of this disclosure requirement, Bidders must state whether they or any owners of at least five (5%) percent interest in the bidding company, officers, trustees, board members, subcontractors, agents, or partners have ever been convicted of a felony, or a misdemeanor including but not limited to larceny, a gaming related offense, uttering and publishing, or any civil or criminal offenses excluding driving offenses. Failure to disclose such matters may result in rejection of the Proposal or in termination of a Contract.

In addition, the bidding company and any owners (or entities) with at least five (5%) percent interest in the bidding company and any officer shall complete a notarized 'Authorization To Release Background Information' form (Refer to Appendix B – Security Request and Release of Background Information).

Bidder(s) must also complete a notarized 'Request For Background Information' form (Refer to Appendix B – Security Forms).

Upon review of such matters a determination will be made by Lottery that might result in rejection of the Proposal or in termination of a Contract.

Such disclosures shall be submitted with the Proposal. This is a continuing disclosure requirement; any such matter commencing after submission of a Proposal and, with respect to the Contractor after the execution of a Contract, must be disclosed in a written statement to the Lottery Security Director within thirty (30) days from the first notice of any pending or threatened litigation, administrative or regulatory proceedings, investigations, and similar matters that could materially affect the Bidder.

1.30. Change of Financial Condition

If a Bidder who has submitted a Proposal in response to this RFP experiences a material change in financial condition prior to award, or during the Term of the Contract with the Lottery, the Lottery must be notified in writing at the time the change occurs or is identified.

"Material change" is defined as any event which, following Generally Accepted Accounting Principles (GAAP) (or the international equivalents to the extent available) would require a disclosure in the annual report of a publicly traded United States corporation or that would be required to be disclosed under State or Federal law. Failure to notify the Lottery of such a change may result in the rejection of a Proposal or termination of the Contract.

1.31. Optional Services and Offered Options

Optional Services as noted in this RFP is identified as being of interest to the Lottery and the Lottery anticipates acquiring such from the Contractor. However, the Lottery may choose not to exercise such an Option, and makes no commitment in this RFP to the quantity or timing for acquisition. The Bidder is required to include Optional Services in the Proposal and must identify pricing as requested in Part 4 Application System Pricing.

Offered Options are not identified in this RFP but may be identified by the Bidder and included in the Proposal. This is an opportunity for Bidders to offer Options that the Lottery may not have been aware of at the time the RFP was written. The Lottery makes no commitment to quantity or timing for acquisition of Offered Options. If any Offered Options are included in the Proposal, Bidder must identify pricing for each.

Any Optional Services or Offered Options that the Lottery chooses to exercise for the Contract under different quantity and/or timing considerations than required by the RFP or offered in the Proposal will be negotiated with the Contractor.

1.32. Independent Price Determination

By submission of a Proposal, the Bidder certifies that in connection with the Proposal:

- Prices have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition with any other Bidder.
- Unless otherwise required by law, the prices quoted have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to award directly or indirectly to any other Bidder or to any Person not representing the Bidder.
- No attempt has been made or will be made by the Bidder to induce any other Person or entity to submit or not submit a Proposal for the purpose of restricting competition.

1.33. Hiring and Business Relationships with Lottery Staff During Bid Process

During the period from the RFP release until the signing of the Contract, Bidders are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any Lottery officer, employee, agent, or representative. A Bidder making such an offer or proposition may be disqualified from further consideration, or a Contract signed pursuant to this RFP may be terminated.

Furthermore, for the duration of this RFP process, Bidders, their employees and any representative, designee or agent of the Bidder shall refrain from:

- Providing meals, entertainment, or other expenses for Lottery officers, employees, agents, or representatives.
- Providing gifts of any value to Lottery officers, employees, agents or representatives.

1.34. Disqualification for Non-Responsibility

Financial and business stability and wherewithal to perform and support the Lottery are required. Bidders that, in the Lottery's judgment after the evaluation of documents required to be submitted in response to this RFP, do not possess the capability to perform the Contract requirements, have a conflict of interest in serving the Lottery, or fail to demonstrate sufficient financial responsibility, security, integrity, and reliability to assure good faith performance, shall be rejected as non-responsible.

1.35. Applicable Laws and Procedures

Any dispute arising from this RFP, the Proposals, and the resulting Contract and the processes associated with the procurement, shall be governed by Michigan law (excluding choice-of-law principles) and resolved in the State of Michigan. With respect

to any claim between the parties, Bidder consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of *forum non-conveniens* or otherwise. Bidder agrees to appoint agents in the State of Michigan to receive service of process.

1.36. Protest of Award

Bidders that have submitted a Proposal may protest an award and signing of a Contract. Protests that do not follow the procedures below will not be considered. This protest procedure constitutes the sole administrative remedy available to Bidders.

Protests must be received within five (5) days after issuance of the notice of intent to award the Contract (Refer to Section 1.6). All protests must be in writing, signed by the protesting party or an authorized agent and submitted to the Issuing Officer listed in Section 1.3. The protest must state all facts and arguments on which the protesting party is basing the protest. General assertions of error that lack factual support or argument are invalid. Reservations of any right to file additional protests or assertions of error are invalid.

1.37. News Release Prohibition

Bidders will not issue news releases or make statements to the news media pertaining to this RFP, Proposal, proposed Contract or the work to be performed without the prior written approval of the Lottery.

1.38. Headings

The headings used in this RFP are for convenience only and shall not affect the interpretation of any of the terms and conditions thereof.

PART 2 – TERMS AND CONDITIONS

2.0. Introduction

This section sets forth the terms and conditions that apply to this procurement and that by virtue of incorporation will become part of the Contract executed pursuant to this RFP. The basic contractual terms for this procurement are those of Lottery standard contracts. The Successful Bidder will be expected to sign a Contract based on the terms and conditions of this section. By submission of a Proposal, the Bidder agrees to these terms and conditions contained in this section.

The parties agree as follows:

2.1. Contract Elements

The Contract between the Lottery and the Contractor includes:

- This RFP, including all appendices
- Clarifications and addenda to this RFP
- The Proposal
- Amendments to the Proposal and any Proposal clarifications.

In the event of a conflict in language between any of the above-mentioned documents, the provisions and requirements set forth or referenced in the RFP and its addenda shall govern.

In the event of a conflict in language between any of the above-mentioned documents and the Contract, the provisions and requirements set forth or referenced in the Contract and its amendments shall govern. In the event that an issue is not addressed in the Contract, no conflict in language shall be deemed to occur. The failure of a party to insist upon strict adherence to any term of a Contract resulting from this RFP shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

2.2. Amendments to the Contract

Any Contract provision resulting from this RFP may not be modified, amended, altered, changed, renewed, varied, waived or augmented, except in writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing and signed by the other party. Lottery shall have the right, in its sole discretion, and upon written notice to the Contractor, to change the terms of this agreement when necessary by Federal or State law.

2.3. Term of Contract

The Contract resulting from this RFP will be in effect for four (4) years from the Contract effective date. The Contract Term may run a shorter period, as determined by the Lottery, due to causes such as Contract termination, non-appropriation of funds, force majeure, or loss of statutory authority by the Lottery.

The Lottery reserves the right to renew the Contract at its sole option up to a maximum of four (4) renewals of one (1) year each, provided that any such option to renew is exercised by the Lottery at least ninety (90) days prior to the end of the initial period, or any renewal thereof, or at a time mutually agreed upon by both parties. The Lottery may opt to award more than one (1) renewal at a time, and may negotiate the terms of the renewal.

2.4. Emergency Extension

The Lottery reserves the right to extend this Contract, or any renewal thereof, at the rates and upon the terms and conditions then in effect on seven (7) days' notice for one (1) or more thirty (30) day periods if a different contractor is chosen for a subsequent contract and the subsequent contractor's application is not prepared to meet the requirements of the Lottery.

The Lottery reserves this right until the subsequent application is operational. To meet this requirement, the Contractor for this Contract must maintain the Application in a state of readiness through the date of Conversion to the next generation Application and for thirty (30) calendar days thereafter.

Exercising these rights shall not be construed as obligating the Lottery to repeat the procurement process for any subsequent contract or conferring any right or expectation for the Contractor to continue operating the Application after the expiration of any such emergency extension period.

2.5. Duties of Contractor

Contractor must perform the services and provide the deliverables described in Part 3 – Vendor Services Requirements – **Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in part 3 – Vendor Services Requirements.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b)

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

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

2.6. Performance Guarantee

Contractor must at all times have financial resources sufficient, in the opinion of the Lottery, to ensure performance of the Contract and must provide proof upon request. The Lottery may require a performance bond (as specified in Part 3 - Vendor Services Requirements) if, in the opinion of the Lottery, it will ensure performance of the Contract.

2.7. Insurance Requirements

Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the Lottery 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 Lottery; 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.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit	Contractor must have their policy endorsed to add "the State of

<p>\$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations</p> <p><u>Deductible Maximum:</u> \$50,000 Each Occurrence</p>	<p>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.</p>
<p>Workers' Compensation Insurance</p>	
<p><u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.</p>	<p>Waiver of subrogation, except where waiver is prohibited by law.</p>
<p>Employers Liability Insurance</p>	
<p><u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.</p>	
<p>Privacy and Security Liability (Cyber Liability) Insurance</p>	
<p><u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate</p>	<p>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.</p>
<p>Crime (Fidelity) Insurance</p>	
<p><u>Minimal Limits:</u> \$1,000,000 Employee Theft Per Loss</p>	<p>Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit</p>

	currency, and (2) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as Loss Payees.
Professional Liability (Errors and Omissions) Insurance	
<u>Minimal Limits:</u> \$5,000,000 Each Occurrence \$5,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; 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, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within twenty (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 five (5) business days if any insurance is cancelled; and (d) waive all rights against the Lottery for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not 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 Lottery).

2.8. Independent Contractor

Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the Lottery. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the Lottery, is responsible for the payment of wages,

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

2.9. Subcontracting

Contractor may not delegate any of its obligations under the Contract without the prior written approval of the Lottery. Contractor must notify the Lottery at least 90 calendar days before the proposed delegation, and provide the Lottery any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The Lottery, in its sole discretion, may require the replacement of any subcontractor.

2.10. Staffing

The Lottery's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.

2.11. Background Checks

Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the Lottery and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The Lottery, in its sole discretion, may also perform background checks.

2.12. Assignment

Contractor may not assign this Contract to any other party without the prior approval of the Lottery. Upon notice to Contractor, the Lottery, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the

Lottery determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

2.13. Change of Control

Contractor will notify, at least ninety (90) calendar days before the effective date, the Lottery of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

2.14. Ordering

Contractor is not authorized to begin performance until receipt of authorization as identified in Part 3 - Vendor Services Requirements.

2.15. Acceptance

Contract Activities are subject to inspection and testing by the Lottery within thirty (30) calendar days of the Lottery's receipt of them ("**Lottery Review Period**"), unless otherwise provided in Part 3 - Vendor Services Requirements. If the Contract Activities are not fully accepted by the Lottery, the Lottery will notify Contractor by the end of the Lottery Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the Lottery finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 2.19, Termination for Cause.

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

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

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

2.16. Terms of Payment

Invoices must conform to the requirements communicated from time-to-time by the Lottery. All undisputed amounts are payable within forty-five (45) days of the Lottery's receipt. Contractor may only charge for Contract Activities performed as specified in Part 3 - Vendor Services Requirements. Invoices must include an itemized statement of all charges. The Lottery is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the Lottery's exclusive use. Notwithstanding the foregoing, all prices 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 Lottery under this Contract.

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

The Lottery will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the Lottery at www.michigan.gov/cpexpress to receive electronic fund transfer payments. If Contractor does not register, the Lottery is not liable for failure to provide payment.

Without prejudice to any other right or remedy it may have, the Lottery 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 Lottery to Contractor under this Contract.

2.17. Liquidated Damages

Liquidated damages, if applicable, will be assessed as described in Appendix A.

2.18. Stop Work Order

The Lottery may suspend any or all activities under the Contract at any time. The Lottery will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the Lottery will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The Lottery will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

2.19. Termination for Cause

The Lottery may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the Lottery: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the Lottery to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the Lottery terminates this Contract under this Section, the Lottery will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 2.20, Termination for Convenience.

The Lottery will only pay for amounts due to Contractor for Contract Activities accepted by the Lottery on or before the date of termination, subject to the Lottery's right to set off any amounts owed by the Contractor for the Lottery's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the Lottery in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the Lottery incurs to procure the Contract Activities from other sources.

2.20. Termination for Convenience

The Lottery may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the

Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 2.21, Transition Responsibilities. If the Lottery terminates this Contract for convenience, the Lottery will pay all reasonable costs, for Lottery approved Transition Responsibilities.

2.21. Transition Responsibilities

Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the Lottery (not to exceed ninety (90) calendar days), provide all reasonable transition assistance requested by the Lottery, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the Lottery or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the Lottery or the Lottery's designee; (c) taking all necessary and appropriate steps, or such other action as the Lottery may direct, to preserve, maintain, protect, or return to the Lottery all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the Lottery; (d) transferring title in and delivering to the Lottery, at the Lottery's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the Lottery and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

2.22. General Indemnification

Contractor must defend, indemnify and hold harmless the State of Michigan, its departments, bureaus, divisions, agencies, offices, commissions, directors, officers, employees, officials, contractors, agents, and affiliates, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party by Contractor; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to negligence whether for action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts negligent acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

At its own expense, the Lottery is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the Lottery deems necessary. Contractor will not, without the Lottery's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any Lottery employee, official, or law may be involved or challenged, the Lottery may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the Lottery, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the Lottery may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

2.23. Infringement Remedies

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

2.24. Limitation of Liability

In no event shall either Party be liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

2.25. Disclosure of Litigation, or Other Proceeding

Contractor must notify the State within fourteen (14) calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal

Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

2.26. Lottery Data

- A. Ownership. The Lottery's data ("**Lottery Data**," which will be treated by Contractor as Confidential Information) includes: (a) the Lottery's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. Lottery Data is and will remain the sole and exclusive property of the Lottery and all right, title, and interest in the same is reserved by the Lottery. This Section survives the termination of this Contract.
- B. Contractor Use of Lottery Data. Contractor is provided a limited license to Lottery Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display Lottery Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain Lottery 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 Lottery Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available Lottery Data for Contractor's own purposes or for the benefit of anyone other than the Lottery without the Lottery's prior written consent. This Section survives the termination of this Contract.
- C. Extraction of Lottery Data. Contractor must, within five (5) business days of the Lottery's request, provide the Lottery, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the Lottery Data in the format specified by the Lottery.

- D. Backup and Recovery of Lottery Data. Unless otherwise specified in Part 3 - Vendor Services Requirements, Contractor is responsible for maintaining a backup of Lottery Data and for an orderly and timely recovery of such data. Unless otherwise described in Part 3 - Vendor Services Requirements, Contractor must maintain a contemporaneous backup of Lottery Data that can be recovered within two (2) hours at any point in time.
- E. Loss of Data. In the event of any error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Lottery 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 Lottery Data, Contractor must, as applicable: (a) notify the Lottery as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the Lottery 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 Lottery; (c) in the case of PII or PHI, at the Lottery's sole election, (i) 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 5 calendar days of the occurrence; or (ii) reimburse the Lottery 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) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the Lottery for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the Lottery in connection with the occurrence; (g) be responsible for recreating lost Lottery Data in the manner and on the schedule set by the Lottery without charge to the Lottery; and, (h) provide to the Lottery 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, 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. This Section survives the termination of this Contract.

2.27. Non-Disclosure of Confidential Information

The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- A. Meaning of Confidential Information. For the purposes of this Contract, the term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, Lottery Data is deemed to be Confidential Information.
- B. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the Lottery's Confidential Information in confidence. At the Lottery's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- C. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without

limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

- D. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the Lottery, at the sole election of the Lottery, the immediate termination, without liability to the Lottery, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- E. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return Lottery Data to the Lottery following the timeframe and procedure described further in this Contract. Should Contractor or the Lottery determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within five (5) calendar days from the date of termination to the other party.

2.28. Data Privacy and Information Security

- A. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the Lottery Data; (b) protect against any anticipated threats or hazards to the security or integrity of the Lottery Data; (c) protect against unauthorized disclosure, access to, or use of the Lottery Data; (d) ensure the proper disposal of Lottery Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the Lottery, and Contractor must at all times comply with all applicable Lottery IT policies and standards, which are available to Contractor upon request.

- B. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the Lottery.
- C. Right of Audit by the Lottery. Without limiting any other audit rights of the Lottery, the Lottery has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the Lottery, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the Lottery, Contractor agrees to complete, within forty-five (45) calendar days of receipt, an audit questionnaire provided by the Lottery regarding Contractor's data privacy and information security program.
- D. Audit Findings. Contractor must implement any required safeguards as identified by the Lottery or by any audit of Contractor's data privacy and information security program.
- E. Lottery's Right to Termination for Deficiencies. The Lottery reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the Lottery determines that Contractor fails or has failed to meet its obligations under this Section.

2.29. Records Maintenance, Inspection, Examination, and Audit

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

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

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

2.30. Warranties and Representations

Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the Lottery or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the Lottery of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the Lottery to terminate this Contract under Section 2.19, Termination for Cause.

2.31. Conflicts and Ethics

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

2.32. Compliance with Laws

Contractor must comply with all federal, state and local laws, rules and regulations.

2.33. Nondiscrimination

Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, 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, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.

2.34. Unfair Labor Practice

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

2.35. Governing Law

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

2.36. Non-Exclusivity

Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the Lottery or its agencies from acquiring similar, equal, or like Contract Activities from other sources.

2.37. Force Majeure

Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the Lottery may immediately contract with a third party.

2.38. Dispute Resolution

The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within fifteen (15) business days. The parties will continue

performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the Lottery's right to terminate the Contract.

2.39. Media Releases

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

2.40. Website Incorporation

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

2.41. Order of Precedence

In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Part 3 - Vendor Services Requirements; (d) any other exhibits; and (e) the Contract.

2.42. Severability

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

2.43. Non-Waiver

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

2.44. Survival

The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

2.45. Ownership of Materials and Application Code

Ownership of all data, documentary material, and operating reports originated and prepared exclusively for the Lottery pursuant to any Contract resulting from this RFP shall belong exclusively to the Lottery. Upon request by the Lottery, Contractor shall be required to provide to the Lottery or its agent any such data, documentary material, and/or operating reports within a commercially reasonable timeframe. Ownership of all App code prepared exclusively for the Lottery pursuant to any Contract resulting from this RFP shall belong exclusively to the Lottery. Upon request by the Lottery, Contractor shall be required to provide to the Lottery or its agent any such App code within a commercially reasonable timeframe.

2.46. Entire Contract and Modification

This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a “**Contract Change Notice**”).

2.47. Notice

Notice must be given to Lottery Program Manager via email or by courier or mail to 101 E. Hillsdale, Lansing, MI 48909. Any notice to a party must be in writing and will be considered received when: (a) verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by electronic receipt or electronic log if sent by facsimile or email.

PART 3 – Vendor Services Requirements

3.0 Introduction

This RFP/SOW contains a Minimum Bidder Qualification, which requires that a Bidder submitting a proposal must be able to display some degree of relevant previous experience and an understanding of the complexity of the Lottery system. In addition, the Bidder must demonstrate their ability to address the growing demands of the Lottery's online business.

Proposal must include a response to all paragraphs in identical order to Part 3.

The Contractor must provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work that will include but is not limited to items set forth below:

3.1 Requirement 1 - Downloadable Application Requirements

The Mobile App must be configured to display and function per the requirements provided by the Lottery.

- A. Execution - The Contractor must provide services and tools to plan, build, implement, monitor, and measure a fully functional ecommerce Mobile App for iOS and Android mobile phone. The Contractor must be able to execute via an agile development process that allows the Lottery to make ongoing updates to Apps based on real-time feedback.
- B. Content – The Contractor must produce a downloadable Mobile App that includes, but is not limited to the following content:
 - i. Home Screen – The Mobile App must contain a home screen layer that allows the user to personalize content provided by the Lottery.
 - ii. Walkthroughs/Interstitials – The Contractor must build help layers within the App, which may include, but are not limited to the following:
 - a. Video and/or click-through screens that will appear when a user first downloads the App and when new functionality is added that will provide a user an overview of how to use/interact with the new content.
 - b. Help content that can easily be accessed from every screen within the App.
 - iii. iLottery System & Content– The Lottery's mobile online gaming content must be integrated natively into the downloadable Application. The

Contractor must be able to support a stand-alone integration with one or more vendor partners that Lottery selects.

- a. The Contractor must work with the Lottery's vendor partner(s) to ensure that all iLottery functionality is maintained with the downloadable Application.
 - b. Winning Numbers – The downloadable Application must contain past and current winning numbers information for Lottery games.
 - c. Jackpot Amounts - The downloadable Application must contain current jackpot amounts for Lottery games, which are updated on a rolling basis.
 - d. Contractor must display current winning numbers content in near real-time to the front-end user.
- iv. Persistent Navigation – The downloadable Application must contain a persistent navigation. All content within the persistent navigation will be determined during the Development Phase of the App.
 - v. Additional Content – The Lottery may request additional content not specifically outlined in this RFP. All additional content will be agreed upon prior to implementation.
- C. Functionality - The Contractor must provide the following functionality to support the downloadable Application.
- i. Push Notifications Integration - The Contractor must integrate with the Lottery's push notification provider to serve push notifications through the downloadable Application.
 - ii. Account Management – The Downloadable Application must be configured to allow a user to create user settings and perform account management activities.
 - iii. Login Solution – The Contractor must work the Lottery's vendor partner to create an integrated login solution that allows a user to maintain their login while moving throughout the App and store their previously logged-in state when the user closes the App. The login solution must contain, at a minimum, the following functionality:
 - a. The ability to save a user's session and/or previous state to create a customized experience.
 - b. The ability to store a user's customizations within the App.
 - c. A session keep alive to create an integrated login solution that allows a user to maintain their login session while navigating from the downloadable Application to wrapped web based content within the App.
 - iv. Versatile Framework

- a. An App framework that meets the Lottery's requirements and has the ability to be built upon as described in section 3.1.B. Optional Services.

D. Non-functional Requirements - The contractor must provide the following non-functional requirements

- i. The downloadable Application will be built to an optimal download size.
- ii. Storage space will be considered in build.
- iii. Network download speed and data plans will be considered in build.
- iv. The downloadable Application will be designed with support for multiple network protocols, which may include but not be limited to WiFi, HSPA, HSPA+, LTE, UMTS, eHRPD, and EVDO A.
- v. The downloadable Application will be built with interruption, notification and multi-tasking considerations.
- vi. The downloadable Application will be designed with screen size and resolution considerations including but not limited to text adjustments, layouts, and portrait and landscape modes.
- vii. The downloadable Application will be designed with consideration of operating system version compatibility.
- viii. The mobile App must comply with the ADA, the State of Michigan compliance standards outlined on the State of Michigan website and any changes thereto.

E. Creative Development – The Contractor must collaborate with Lottery to develop the user interface, including infrastructure, imagery, iconography, interactive elements, animations, and color schemes of the Downloadable Applications based on the Lottery's provided requirements documents and requests, and present to the Lottery's Project Manager for approval. The Tasks include, but are not limited to:

- i. Developing conceptual design and layouts in the form of wireframes and interactive prototypes.
- ii. The Contractor must provide the Lottery, at a minimum, two review periods per creative delivery with a minimum of five business days for conducting each review.
- iii. The Contractor must apply Lottery feedback from review periods and updating the conceptual designs as requested.
- iv. Lottery must provide written approval for all final designs before the Contractor can move into any build phase.
- v. The mobile App must comply with the ADA, the State of Michigan compliance standards outlined on the State of Michigan website and any changes thereto.

- vi. Integrating elements that have been provided by the Lottery team and/or Lottery vendor partners.
 - vii. The Contractor must allow for resources to provide standalone creative elements, if requested by the Lottery.
- F. Reporting and Event Tracking – The Contractor must have the ability to integrate with the Lottery’s existing reporting and analytics programs, and future programs as directed by Lottery
- i. The Contractor is responsible for configuring and implementing (or coordinating implementation where impractical) all reporting mechanisms and validating proper functionality prior to downloadable Application launch.
 - ii. All data related to activities procured through Contractor will be the intellectual property of Lottery.
 - iii. The Contractor must provide designated partners as authorized by Lottery direct access to all reporting systems that house said data.
 - iv. The Contractor will be required to install, maintain and update tracking and reporting mechanisms as required to measure effectiveness. Tracking and reporting mechanisms could include but not be limited to ForeSee Results, Flurry Analytics, App Figures, and Player Alternate Reference.
- G. The Contractor agrees that the downloadable Application code produced under the terms of this Contract will be owned by the Lottery.

3.2 Requirement 2 – Mobile App Add-on Requirements

The Contractor must plan, build, implement, monitor, and measure “Add-ons” for the Application as requested. The updates and content within each of the Add-ons may be implemented as one project or separate projects dependent on the direction provided by the Lottery Project Manager. The content of each add-on is subject to change based upon the combination of player feedback and cross-functional team analyses both by the Michigan Lottery team, external vendor partners, and The Contractor and are subject to the same requirements as were outlined in this Contract for the initial Application project.

- A. Play History Dashboard – The Contractor must work with the Lottery’s existing vendor partners to integrate data to develop a dashboard. This will require, at a minimum, building, executing and maintaining the following components:
 - i. Online play history
 - ii. Deposit history
 - iii. Win history
 - iv. Responsible Gaming awareness
- B. Third Party Advertising Support – The Contractor must provide a pop up with the ability to advertise for third parties.

- i. Contractor must state all the options to add additional ways to serve third party advertising in future iterations that Contractor has or will make available.
- C. Loyalty Phase – The Contractor must work with the Lottery’s existing vendor partners to integrate the Michigan Lottery loyalty program (“Players Club”) into the downloadable App, in addition to developing new components as requested by the Lottery. This Phase will require, at minimum, building, executing, and maintaining the following components:
 - i. Integration of the Michigan Lottery loyalty program to distribute rewards.
 - ii. A solution for collecting and verifying winning/non-winning Lottery tickets and awarding Reward Points. This solution will need to include, but not be limited to, the following functionality:
 - 1. Ability to manually enter tickets.
 - 2. Ability to scan all types of Lottery tickets using the mobile device’s camera.
 - 3. Ability to collect Rewards from iLottery game play.
 - 4. Ability to determine if a ticket is a winning ticket and provide messaging with those details.
 - iii. A customizable Player Dashboard to create personalization within the App.
 - iv. Changes to the App’s current UI (User Interface) and content to accommodate this update.
- D. Winner Awareness Details Phase – The Contractor must work with the Lottery’s existing vendor partners to integrate winning numbers and Lottery winner information into the downloadable App, in addition to developing new components as requested by the Lottery. This Phase will require, but not be limited to, building, executing, and maintaining the following components:
 - i. Current and Past Winning Numbers
 - a. Ability to pull in current and past winning numbers information through a data feed provided by a Lottery vendor partner and display the information within the app.
 - ii. Individual Game Information Pages
 - iii. Number Tools
 - iv. iLottery and Retail Lottery Winner Information
 - a. Ability to pull in winner information through a data feed provided by a Lottery vendor partner and display the information within the App.
 - v. Retail Finder
 - a. The ability to take location information to locate Lottery retailers nearby.
 - b. The ability to identify what games are sold at the retailers to filter result based on the provided inputs.
 - vi. News
 - a. The ability to pull in posts from the Lottery’s online news blog.
 - vii. Additional functionality as outlined by the Lottery.

viii. Changes to the App's current UI and content to accommodate this update.

3.3 Requirement 3 – Club Keno Solution Requirements

- A. Club Keno Phase: The Contractor will be required to plan, build, implement, monitor, and measure new content and functionality to support the Lottery's Club Keno product Apps (to include both downloadable and web based solutions), in addition to leveraging existing content as needed. The Contractor must work with the Lottery's existing vendor partners to support this development. This Phase will require, at minimum, building, executing, and maintaining the following components:
- i. Club Keno Drawing Animations
 - ii. Ticket Entry:
 - a. Solutions for inputting Club Keno ticket information, which include, but are not limited to the following:
 1. Ability to manually enter tickets.
 2. Ability to scan all types of Lottery tickets using the mobile device's camera for easy entry.
 - b. The ability to use the ticket information that has been input by the user to execute the following:
 1. Past Club Keno Drawings
 2. Quick Results
 - iii. Changes to the Application's current UI and content to accommodate this update.

3.4 Optional Services

This Contract may be modified to implement other digital product development and marketing related services. The Contractor may be required to provide or procure services at Lottery's option (Optional Services). Optional Services may be requested, as needed during the Contract. Optional Services will be priced per project.

The Optional Services are subject to the same requirements as outlined in this Contract for the initial Application project. The Contractor must have the capability to provide the following services when requested by the Lottery Program Manager that include but may not be limited to:

- A. Remote Ticket Validation: The Contractor will be required to provide a solution to allow users to validate tickets online. This will include but not be limited to:
- i. Providing ID Management Services
 - a. The ability to manage accounts ("Guest Accounts") that have not completed full Know Your Customer ("KYC") age/identity validation. These accounts will only have the ability to validate tickets and receive winnings accrued through a direct deposit process or check issuance.

- b. The ability to manage KYC-verified accounts (“Verified Accounts”), which have gone through a full age/identity verification process and can be used to play games online.
 - c. The ability to migrate player data collected through existing player data management services into this ID Management Service.
 - ii. Providing UI design and development
 - a. The Contractor must provide a registration, login, and player portal for Accounts.
 - 1. Additional pages and infrastructure may be requested on an as needed basis.
 - iii. Data Collection
 - a. The ability to integrate with existing Lottery vendor APIs (Application Programming Interface) to capture and store player information.
 - b. The ability to import and export player data into existing Lottery player database system.
- B. *CMS Integration Phase*: The Contractor must provide a content management system (“CMS”) solution that gives Lottery the ability to make content updates (e.g. copy, images, layout) to Apps through a self-administered web-accessible tool.
- C. *Research* - The Contractor must perform qualitative and quantitative research studies of market segments, models and consumer decisions and choices, to increase marketing opportunities and effectiveness. This market research may include the use of surveys, focus groups, observational research, and other tools as approved to help determine market segments, models, and factors that drive consumer decisions.
- D. *Responsive Website Application* – The Contractor must plan, develop, construct, launch, and maintain a new Michigan Lottery website. The website will be built in responsive design, incorporate a Content Management System (“CMS”) that can be utilized by the Lottery, and integrate with the Lottery’s existing vendor partners. All website code will be owned by the Lottery.
- E. *Promotion Development* – The Contractor must plan, develop, construct, and launch promotion Apps.
- F. *DNS and Hosting* - Contractor will be required to procure any domain names and manage domain name system (“DNS”) associated with the deployment of Portals. Hosting must be provided by Contractor when necessary.
- G. This Contract may be modified upon written agreement of the parties to implement other digital product development and marketing related services.

3.5 Application Project Management and Development Services

- A. *Development and Channel Mix* - The Contractor will develop Applications with the broadest distribution possible across all digital channels in order to maximize revenues and player satisfaction. Bidders must describe the Channel Mix that will be supported for the initial launch along with a roadmap that includes release dates for future Channel Mix introductions that are not included at launch but part of the Proposal. Contractor must provide a solution that is customized and optimized graphically for each channel while ensuring that all essential features and functionality remain common across all Channel Mix.

Lottery requires that Channel Mix includes both iOS and Android mobile phone deployments within the first four months of the Contract. Additional Channel Mix for Bidders to consider proposing may include, but are not limited to, tablet computing devices.

All recommendations for Channel Mix should also specify the development framework for each deliverable listed under requirements, such as Native, HTML 5 or Hybrid at the time of project scoping. For example, if Bidder is proposing a downloadable mobile App then specify if Apple Operating System, Android and/or others are supported.

Contractor will be required to submit any downloadable mobile App software through the Lottery's established developer accounts when requested by Lottery. This includes tablet Apps if included in the Bidder's Proposal. This is intended to standardize the brand / developer name as "Michigan Lottery" for all Mobile Apps and other Apps.

- B. *Development, Maintenance and Hosting* - Contractor must provide an application for deployment within each channel that is optimized for best practices within each channel while still maintaining common features and functionality across entire channel mix. Contractor must commit to a specified number of monthly maintenance hours sufficient to cover all standard maintenance tasks. Standard maintenance tasks include, but are not limited to:
- i. Monitoring App marketplace requirements, functionality updates to support newly released software and hardware, quarterly device optimization updates.
 - ii. Monitor and address App performance.
 - iii. Troubleshooting and resolving functional and user experience based bugs posted in the bug tracking system and/or provided by the Lottery's Program Manager.
 - iv. Address integration issues that may occur with the Lottery's vendor partners.
 - v. Ensure all reporting tools and data feeds are performing
 - vi. Additional ongoing maintenance including but not limited to the implementation of new pages, content, feeds and etc.

C. *Quality Assurance (“QA”) and User Acceptance Testing (“UAT”)* – The Contractor must provide staff and tools for an in-state quality assurance support for the Lottery’s acceptance testing. Requirements for testing include, but are not limited to the following:

- i. All supported devices as defined and agreed upon at project kick off by the Contractor and the Lottery must be obtained by the Contractor to use during the QA and UAT processes.
- ii. The Contractor must utilize use cases provided by the Lottery and the Lottery’s vendor partners during all QA and UAT testing.
- iii. The Contractor must provide a bug tracking system for Lottery and Lottery’s vendor partners to submit and track functional and user experience issues. This tracking system will need to apply to both the live and UAT environments.
- iv. The Contractor must build Lottery UAT review periods into the project timelines for both the initial Downloadable Application build and subsequent App releases covered under this Contract to submit bugs and additional updates.

D. *Portal Implementation Services* - Contractor must provide end-to-end services necessary to deploy portals. This includes developing all graphical user interfaces (“GUI’s”) and functionality necessary to expose portions of the Application to players. Contractor will be required to wrap iLottery Games within downloadable Applications. As directed by Lottery, Contractor will be required to update Applications with new content and functionality throughout the Term of the Contract. Applications will be required to have compliance with certain browser types, browser versions, and plug-in controls (especially the latest and most popular versions) as directed by Lottery. The Contractor must comply with the State’s required security patching and version upgrades. Contractor will be required to integrate with any third-party providers (e.g. loyalty website Vendor) as necessary to deliver a unified user experience to players. The Contractor must provide all tools and services necessary to package and release completed Applications into the market.

E. *Subcontract Services* - During the course of this Contract, situations may arise where the Contractor may not possess the expertise necessary to effectively carry out a project. The Lottery expects that, and in those instances the Contractor will propose, or the Contractor and the Lottery will jointly identify, subcontractors as needed to creatively develop and oversee production of certain special programs or projects.

In most instances, the Contractor will maintain a managerial role and retain direct oversight and responsibility for the project subcontracted. Subcontracting assistance may include but not limited to proposal requests, contract reviews, pass and through contract services. In other instances, the Lottery will engage directly with the subcontractor and in such instances the Contractor is not alleviated of any responsibilities unless expressly indicated by an authorized

Lottery representative. Subcontract Services will be provided as pass through costs.

F. *Project Management* - The Contractor must provide consultations and meetings with the Lottery team to establish project objectives, to review industry best practices and the Lottery's internal research, and to determine goals for the development and execution of the Applications. The initial Planning must occur before the project build begins. Contractor must provide centralized project management services for all implementation projects, taking the lead role in organizing all parties involved through a defined process. Bidder should describe its end-to-end process for project management specific to Portal implementations, while providing explicit details on the following:

- i. Describe a critical path development schedule providing sufficient Lottery approval time frames from initial presentation of creative through the production and delivery of product.
- ii. Describe what types of documentation are utilized to manage the implementation process. Be specific as to which documents are used for client review and/or approval versus internal Contractor use only. Documents may include but not be limited to App specifications, business requirements, and integration points with Lottery's vendor partners.
- iii. Describe processes for updating and maintaining documentation.
- iv. Describe the order, or sequence of events, of the typical Application implementation. If applicable, be specific by Channel Mix regarding how the process may differ (e.g. Tablet App vs. Mobile App).
- v. Describe what tools, if any, are utilized to collaborate effectively with Lottery and/or third-party stakeholders involved in the development process.
- vi. If possible, provide samples of project management documentation used for Mobile App implementation projects.
- vii. Describe the change management process for implementations that affect existing Portal functionality.
- viii. Describe relevant experience managing projects
 - a. The Contractor must list relevant experience with the State of Michigan and/or Lottery specific experience.
 - b. The Contractor must describe at least three (3) relevant experiences from the last five (5) years supporting the ability to successfully deliver and manage a contract of similar size and scope for the work described in this RFP.

G. *Meetings* - The Contractor must attend the following meetings:

- i. In-person Kick-Off Meeting within 14 calendar days of the Effective Contract Date.

- ii. Although there will be continuous liaison with the Contractor team, the Contractor must meet weekly at a minimum, with the Lottery Program Manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise.
 - iii. The Contractor must meet with Lottery upon request within 2 business days of contact to initiate services, requests, review materials, review progress, discuss problems, obtain advice and counsel, etc.
 - iv. The State may request other meetings, as it deems appropriate. The Contractor must meet in-person/on-site when deemed necessary by the Lottery Program Manager. The Contractor must conduct meetings with subcontractors independently as directed by the Lottery Program Manager.
- H. *Transition* - As a one-time project upon award, the Contractor must review the existing mobile application and performance reports in order to provide recommendations to optimize the mobile experience.

PART 4 – APPLICATION SYSTEM PRICING

4.0 Introduction

This section describes the manner in which Bidders will submit pricing for the Lottery's consideration.

4.1 Separately Sealed Price Proposal

The Bidder is required to provide pricing in a separately sealed envelope marked Volume II, Price Proposal. Refer to Section 1.14 for Price Proposal format.

4.2 Form of the Price Submission

The Bidder must submit pricing per the Price Quotation Sheet below, assuming a four (4) year Contract base period for the pricing. The Price Quotation Sheet requires:

- A. Pricing for Requirement 1 - Downloadable Application Requirements as described in Section 3.1 and includes Application Project Management Services described in Section 3.5.
- B. Pricing for Requirement 2 – Mobile Application Add-on Requirements as described in Section 3.2 and includes Application Project Management Services described in Section 3.5.
- C. Pricing for Requirement 3 – Club Keno Solution Requirements as described in section 3.3 and includes Application Project Management Services described in Section 3.5.
- D. Annual pricing and allocated hours for Section 3.5.B
- E. Blended Hourly Rate for Optional Services – Propose a blended hourly rate for development of Optional Services. This rate should exclude rates for any third party services such as ID Management Services and a CMS solution that will be provided at pass through cost.
- F. Proposed Pricing Discount Options – Any proposed changes or additions to Part 3 for which Contractor will offer reduced pricing.

Lottery is no way obligated to acquire the Optional Services detailed in Section 3.4. If the Lottery should order Optional Services as described in Section 3.4, the details will be negotiated with the Contractor.

Response Note: Among the Offered Options, any item for which there is no additional fee can be shown as No Charge (N/C). To Be Determined (TBD) pricing is permitted only for Offered Options.

APPLICATION PRICE QUOTATION SHEET

I. Base Requirement Pricing

Bidders are required to quote the Baseline flat pricing for the initial build of Requirement 1 as described in Section 3.1 and Application Project Management Services described in Section 3.5.

Separately bidders are required to quote the Baseline flat pricing for the initial build of Requirement 2 as described in Section 3.2 and Application Project Management Services described in Section 3.5.

Separately bidders are required to quote the Baseline flat pricing for the initial build of Requirement 3 as described in Section 3.3 and Application Project Management Services described in Section 3.5.

Response Note: TBD pricing is not allowed and will disqualify the Proposal.

Requirement 1 - Total Charge \$ _____

Requirement 2 - Total Charge \$ _____

Requirement 3 - Total Charge \$ _____

II. Maintenance and Hosting

Bidders are required to submit Maintenance and Hosting pricing for Requirements 1 - 3 over the four (4) year Contract base period.

Monthly charge \$ _____

Number of Monthly Hours Allocated for Maintenance _____

Response Note: TBD pricing is not allowed and will disqualify the Proposal.

III. Optional Services

Bidders are required to submit a blended hourly rate for Optional Services described in Section 3.4 over the four (4) year Contract base period. This rate should **not** include the procurement charges for any third party services such as the ID Management solution as described in Section 3.4.A.i. and the CMS solution as described in Section 3.4.B.

Blended Hourly Rate \$ _____

Response Note: TBD pricing is not allowed and will disqualify the Proposal.

IV. Offered Options

The Bidder shall attach sheets for any Bidder Offered Optional items. Clearly identify the items offered and the terms under which they are offered. Bidders are not required to submit any Offered Options.

V. Pricing Discounts

The Bidder shall attach sheets for any Pricing Discount Options. Pricing Discount Options will include any proposed changes or additions to Part 3 for which Contractor will offer reduced pricing. Clearly identify the options and the terms under which they are offered. Bidders are not required to submit any Pricing Discount Options.

PART 5 – APPLICATION PROPOSAL EVALUATION

5.0 Introduction

This section describes the evaluation process that will be used to determine which Proposal provides the greatest overall benefits to the Lottery at the best possible price. The ability of the Lottery to evaluate a Proposal is dependent upon the completeness and proper submission of the Proposal. The failure of a Bidder to provide information requested by this RFP, to submit according to the required format, or to respond appropriately to a clarification request or demonstration request, may result in rejection of the Proposal or reduction in scoring during the evaluation.

5.1 Evaluation Committee and Lottery Commissioner

The Lottery will to conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. In making this determination, the Lottery will be represented by an Evaluation Committee. The Committee will evaluate each Responsive Proposal that is properly submitted by a Responsible Bidder and develop consensus findings.

The Evaluation Committee will provide its findings to the Lottery Commissioner. The Lottery Commissioner, if in concurrence with the process and its results, will issue a notice of award and begin Contract negotiations. Upon completion of Contract negotiations, the proposed Contract will be submitted to the State Administrative Board for approval. The Contract will not be valid until the State Administrative Board approval has been received.

5.2 Evaluation and Award Process

The evaluation and award process will be comprised of all of the following:

- A. Review of Proposals to assess compliance of submission, including responsiveness to terms, conditions, and requirements
- B. Detailed evaluation of proposed functions, features, services, and references using requirements and criteria defined in this RFP
- C. Proposal clarifications, site visits and demonstrations (as determined necessary by the Evaluation Committee)
- D. Scoring of Technical Proposals
- E. Assessment of Price Proposals
- F. Best and Final Offers (BAFOs) tendered upon Lottery request

- G. Compilation of technical scores and pricing into a summary sheet
- H. Submission of proposed award to the Commissioner
- I. Review by the Lottery Commissioner and posting of a notice of award
- J. Contract negotiations
- K. State Administrative Board approval
- L. Signing of the Contract

5.3 Information from Other Sources

The Lottery reserves the right to obtain, from sources other than the Bidder, information concerning a Bidder, the Bidder's offerings, capabilities, and past performance, that the Lottery deems pertinent to this RFP and to consider such information in evaluating the Proposal. This may include, but is not limited to, the Evaluation Committee engaging consultants and additional experts to better inform the Evaluation Team's findings. References will be checked regarding the Bidder's past experience. The Evaluation Committee will select clients for each Bidder and contact as many references as necessary to support its understanding of the Bidder's past performance and experience.

5.4 Technical Proposal Scoring

Each of the technical (non-price) factors in Part 3 will be graded by the Evaluation Committee based on its best professional judgment, considering all Proposal text, clarifications, and qualified sources of information. The scoring system will provide numerical scores that represent the Committee's assessments of the relative technical merits of the Proposals. The scoring approach will involve grading twenty-eight (28) technical and management criteria, then summing up total scores for these criteria.

5.4.A Criteria and Weights (Available Points)

The weights (available points) for each of the technical evaluation criteria are:

Section	Technical Evaluation Criteria	Points
3.1.A	Downloadable Application Requirements – Execution	20
3.1.B	Downloadable Application Requirements – Content	10
3.1.C	Downloadable Application Requirements - Functionality	10
3.1.D	Downloadable Application Requirements – Non-functional Requirements	10
3.1.E	Downloadable Application Requirements – Creative Development	5

3.1.F	Downloadable Application Requirements – Reporting and Event Tracking	10
3.1.G	Downloadable Application Requirements - downloadable Application code owned by the Lottery	10
3.2.A	Mobile App Add-on Requirements – Play History Dashboard	5
3.2.B	Mobile App Add-on Requirements – Third Party Advertising Support	5
3.2.C	Mobile App Add-on Requirements – Loyalty Phase	10
3.2.D	Mobile App Add-on Requirements – Winner Awareness Details Phase	10
3.3.A	Club Keno Solution Requirements	10
3.4.A	Optional Services – Remote Ticket Validation	10
3.4.B	Optional Services – CMS Integration Phase	5
3.4.C	Optional Services – Research	1
3.4.D	Optional Services – Responsive Website Application	20
3.4.E	Optional Services – Promotion Development	1
3.4.F	Optional Services – DNS and Hosting	1
3.4.G	Optional Services – Contract may be modified	1
3.5.A	Project Management and Development Services – Development and Channel Mix	20
3.5.B	Project Management and Development Services – Development, Maintenance and Hosting	10
3.5.C	Project Management and Development Services – QA and UAT	10
3.5.D	Project Management and Development Services – Portal Implementation Services	5
3.5.E	Project Management and Development Services – Subcontract Services	1
3.5.F	Project Management and Development Services – Project Management	20
3.5.F	Project Management and Development Services – Project Management	20
3.5.G	Project Management and Development Services – Meetings	5
3.5.H	Project Management and Development Services – Transition	5

Total = 250 available points

Although the Proposal response to the individual criteria will be scored using larger and smaller weights, the Bidder is cautioned that every criterion reflects requirements that must be met regardless of a criterion's weight; and that a poor response to a lesser weighted criterion still can have a significant impact on the Bidder's final technical score as compared with other Bidders' scores.

5.4.B Award Scale for Evaluation

Points in this system are "earned" based on the Evaluation Committee's consensus judgment. The Committee will award a percentage of the available points for a criterion using the following scale:

Percent	Proposal Merit
90-100	Proposal was outstanding for this criterion, no significant limitations identified
80-89	Proposal was good for this criterion
70-79	Proposal was fair for this criterion
60-69	Proposal was poor for this criterion, with several serious flaws and concerns
Less than 60	Proposal was found to be so severely flawed for this criterion that the entire Proposal may be rejected

All twenty-eight (28) scores will be combined for the Proposal's total technical score.

5.4.C Minimum Qualifying Score

A **total** technical score below two hundred (200) of available two hundred fifty (250) points will render the Proposal ineligible for further consideration.

5.5 Price Evaluation

Price evaluation will occur after technical scoring, and will involve only Proposals that remain acceptable based on:

- A. Determination of Bidder as responsible
- B. Determination of Bidder as responsive – meeting Proposal submission requirements and compliance with mandatory technical requirements
- C. Achieving a total technical score of at least eighty (80) percent of available points

Acceptable proposals receiving two hundred (200) or more technical evaluation points will have their pricing evaluated and considered for award.

The State may utilize all proposals, including pricing information, without regard to a proposal's technical score to determine fair market value, when comparing and negotiating prices. The State is not obligated to accept the lowest price proposal.

5.6 Best and Final Process

The Evaluation Committee at its sole discretion may, but is not required to, request a Best and Final Offer for Price Proposal (BAFO) from each Bidder. If the Evaluation Committee requests BAFOs, it will publicly disclose all Price Proposals from Bidders that are deemed responsible, responsive, and have a technical score above the minimum required. The Committee will then notify the affected Bidders of the deadline for submitting a BAFO.

Bidders shall submit their BAFO to the Issuing Officer in the same form and format as the original Price Proposal. If a Bidder does not submit a BAFO within the required timeframe, Lottery will consider that Bidder's original Price Proposal as the Bidder's BAFO. Bidders shall not mark either their Price Proposal or BAFO as "Confidential."

After the deadline for BAFO submission, the Evaluation Committee shall rank the Proposals from best value to least value. Best value is not limited to lowest price and the Lottery is under no obligation to make an award to the lowest priced Proposal.

5.7 Notice of Award and Contract Signing

The final ranking and the findings of the Evaluation Committee will then be presented to the Lottery Commissioner, for the Commissioner's consideration. The Lottery Commissioner, if in concurrence with the process and its results, will issue a notice of award and begin Contract negotiations with the preferred Bidder.

Contract negotiations are not intended to result in transformational changes to terms and conditions, offered services, products, or pricing as defined by the RFP and the awarded Proposal, but may address Options, Option delivery schedules, and other delivery variations for the benefit of the Lottery.

Should the Lottery be unable to reach agreement with the preferred Bidder, the Lottery shall issue another notice of award and then undertake negotiations with the second most preferred Bidder, and so on. This process shall continue at the sole option of the Lottery until a Contract is reached or all Proposals are rejected.

APPENDIX A: SCHEDULE OF SERVICE LEVELS AND LIQUIDATED DAMAGES

The Contract Activities represent significant potential promotional value and revenue for the Lottery. Delivery of all Contract Activities in a timely manner is essential. Because the lost promotional value and revenue resulting from delay is impossible to know or calculate, the parties agree that liquidated damages are appropriate. All monetary values referenced are in US dollars. Liquidated Damages begin after grace periods noted.

A.1 Installation

Milestone 1 – The Contractor shall meet the readiness for Lottery Acceptance Testing milestone thirty (30) days prior to the Contract-agreed production start-up or application submission date. The Lottery may impose Liquidated Damages of one thousand dollars (\$1,000) for each day of delay.

Milestone 2 – The Contractor shall meet the Lottery Acceptance Testing milestone five (5) days prior to the Contract-agreed production start-up date. The Lottery may impose Liquidated Damages of one thousand dollars (\$1,000) for each day of delay, if such delay is caused by unresolved errors and issues encountered in the Lottery Acceptance Testing.

Milestone 3 – The Contractor shall meet the Scheduled Implementation milestone beginning with the Contract-agreed production start-up date. The Lottery may impose Liquidated Damages of two thousand dollars (\$2,000) for each day of delay.

Milestone 4 – The Contractor shall deliver all Deliverables in accordance with the delivery schedule, shall meet all requirements set forth in the Contract and shall resolve Lottery Acceptance Testing problems for upgrades and changes to the Applications prior to and after start-up. The Lottery may impose Liquidated Damages of five hundred dollars (\$500) for each day of delay for each Deliverable that the Contractor fails to deliver in accordance with the delivery schedule or for each day of delay for requirements set forth in the Contract. After start-up, the Lottery may impose the above mentioned Liquidated Damages amount for each day of delay that the Contractor does not resolve a Lottery Acceptance Testing problem pursuant for upgrades and changes to the Application for each defined project schedule.

A.2 Software Release Schedule Adherence

The Contractor will ensure that modification batches to the Applications meets the annual frequency as specified in the Contract. If Contractor fails to meet the annual frequency then Lottery may impose Liquidated Damages of five thousand dollars (\$5,000) per incident.

A.3 Application Down

The Contractor will ensure that the Application is not “Down” for more than three (3) minutes during the operational hours on any day. The System is Down if any portion of the Application cannot be accessed. The Lottery may impose Liquidated Damages in an amount of five hundred dollars (\$500) for each one (1) minute of System Downtime, or fraction thereof, which is greater than three (3) minutes in duration during on any day. The total time during which the Application is Down during the day will be calculated as the sum of a 24 hour period when the Application is Down. For example, three (3) ten minute long instances of Down time in one (1) twenty four (24) hour period constitutes thirty (30) minutes of daily down time. To address chronic problems, in the event that two (2) Downtime events of any length have already occurred in a Business Week, the grace period of three (3) minutes shall be rescinded, and Liquidated Damages shall begin immediately with any subsequent outage in that Business Week.

A.4 Application Degraded Performance

The Contractor will ensure that the Application does not evidence degraded performance for more than one (1) hour during the operational hours on any day. The Application will be considered degraded if any of the following conditions are true:

- Any prescribed performance criteria described in Section 3 is not being upheld.
- Player access to, or the Application is incapable of meeting the throughput specifications set forth in the Contract
- The Application API to access the vendor systems to support winning numbers, Players Club data, online gaming and transactions, experiences any intermittent outages

Contractor will provide the appropriate network bandwidth to connect the Application to consumer accessible networks (e.g. mobile network, internet, etc.). On a regular basis, Contractor shall monitor the bandwidth for capacity utilization. Contractor will take corrective action to accommodate the additional traffic to meet all performance commitments required in this RFP.

If any of Contractor’s server processes including but not limited to routers, CPU, disk space, Random Access Memory or the network interface card continually reach ninety percent (90%) capacity for more than twenty (20) minutes, then Contractor will take

immediate corrective action with respect to those processes and equipment under Contractor's control. For equipment and software outside of Contractor's control, Contractor will contact Lottery within sixty (60) minutes to take the necessary corrective action. For the purposes herein, "control" means the ability to direct or influence the related operations, directly or indirectly, by virtue of contract, ownership of voting shares, or otherwise.

The Lottery may impose Liquidated Damages in the amount of five hundred dollars (\$500) for each hour of degraded time, or fraction thereof, which is greater than one (1) hour in duration during the operational period on any day. The total time during which the System is degraded during the day will be calculated as the sum of all time during a twenty four (24) hour period when the Applications are operating at a "degraded performance level." To address chronic problems, in the event that two (2) degraded performance events of more than one (1) hour in length have already occurred in a Business Week, the grace period of one (1) hour shall be rescinded, and Liquidated Damages shall begin immediately with any subsequent degraded performance event in that Business Week.

A.5 Timely and Accurate Tracking and Reports

The Contractor shall produce and deliver timely, sufficient, and accurate tracking and reports within the time frames specified by the Lottery as set forth in the Contract. The Lottery may impose Liquidated Damages of one hundred dollars (\$100) per day, or fraction thereof, for each late, insufficient, or inaccurate tracking and reports, until such tracking or report is provided, made sufficient or corrected (as the case may be).

A.6 Accurate Rendering of Data / Files

The Contractor shall process and render output Files accurately in all material respects. Rendering of processed Files may take shape in the form of an email, SMS message, web page display, or other communications initiated from Contractor-provided technology and services. The Lottery may impose Liquidated Damages of one thousand dollars (\$1,000) per File for any output File that is not processed and rendered in an accurate manner.

A.7 Failure to Produce an Application Change

The Contractor shall modify or add software to the Application to produce reports, screen displays, inquiries, or new content as may be specified in the Contract with written approval by the Lottery of a set of change specifications (unless an extension is authorized in writing by the Lottery or a schedule is otherwise established following written request of the Lottery for changes). The Contractor shall deploy any such modified or additional software within a one-hundred and twenty (120) day time period. The Lottery

may impose Liquidated Damages of one hundred dollars (\$100) per day, or fraction thereof, that the modified or additional software is not installed.

A.8 Unauthorized Software/Hardware Modifications

The Contractor shall not modify any software or hardware without the prior written consent of the Lottery and the Contractor shall design Configuration Management practices to obviate this possible problem. "Modification" does not include replacement of an Application component with an essentially similar working component in the event of necessary maintenance. If the Contractor modifies any software or hardware without the prior written approval of the Lottery, the Lottery may issue a written order that the modification be removed and the Application be restored to its previous operating state at the Contractor's expense. Further, the Lottery may impose Liquidated Damages of five thousand dollars (\$5,000) per violation in addition to any other damages that may occur as a result of such unauthorized modification.

A.9 Unauthorized Access or Compromise

The Contractor shall preclude personnel not authorized by the Lottery from accessing, modifying, or otherwise interfering with Application data or software. The Lottery may impose Liquidated Damages of ten thousand dollars (\$10,000) per Person per Incident in addition to any other damages that may occur as a result of such unauthorized access or compromise. An "Incident" is each act of access, modification, or interference with Application data or software by an unauthorized Person. An Incident must be reported to the Michigan Lottery Commissioner or designated staff within one (1) hours of discovery of occurrence.

A.10 Application Failure to Report Incidents

The Contractor shall immediately report all significant incidents related to the operation of the Application, either personally or by telephone within one (1) hour of the discovery of the incident, followed by a notice addressed to the Lottery's Contract Manager (and designees) within twenty-four (24) hours of the incident. The Contractor shall send all written reports and notifications by email. At a minimum, the Contractor shall provide a written report for each of the following types of events:

- A. Major communications failures
- B. Significant operator errors
- C. Emergency software or hardware changes
- D. Security violations

E. Other conditions as defined by a memorandum of understanding

F. Any situation which may cause the general public to become alarmed and/or which may damage the integrity or public image of the Lottery.

If the Contractor fails to report any incidents as required, the Lottery may impose Liquidated Damages of one hundred dollars (\$100) per day or fraction thereof, until an incident is correctly reported.

A.11 Failure to Comply

The Contractor shall comply with all commitments contained in the RFP, the Proposal, and the Contract, and all clarifications and amendments to these documents. The Contractor shall provide all products, services, data, and documents as obligated under the RFP, the Proposal, and the Contract. To the extent not specified elsewhere in this Appendix, if the Contractor fails to provide an obligated product, service, data, or document, where not otherwise addressed by other Liquidated Damage provisions in this Appendix, the Lottery may impose Liquidated Damages of five hundred dollars (\$500) per day or per incident (at the Lottery's discretion) until the condition is rectified.

A.12 Application Inter-site Communications Outages

The Contractor shall ensure that the inter-site connections are not lost or operating at a degraded level of performance. Connection points include the Applications, (e.g., primary and backup data centers and any other communication point(s) that are required to support Application functions. An outage occurs if a connection is lost due to the failure of the Contractor to correctly carry out established duties in supporting or administering the network, or by failure of a Contractor-specified protectively redundant network element to support a failover. In the event that a Contractor-specified protectively redundant network element to support a failover is not functional or in the event that a Contractor-provided WAN connection is lost, the Lottery may impose Liquidated Damages according to the following schedule: Five hundred dollars (\$500) for each minute of network outage, or fraction thereof, per connection. Total time of network outage each day shall be calculated as each minute during a twenty four (24) hour period that a WAN connection is Down after a thirty (30) minute grace period. If two (2) Downtime events of any length occur in a Business Week, the grace period of thirty (30) minutes shall be rescinded, and Liquidated Damages shall begin immediately with any subsequent outage in that Business Week.

A.13 Failure to Comply with Required Standards or to Remedy Audit Recommendations

Audit Findings – The Contractor shall correct or address, to the Lottery’s satisfaction, all recommendations made to the Contractor as a result of an Application audit. If audit recommendations are not corrected, or addressed to the Lottery’s satisfaction, within sixty (60) calendar days of notification, unless specifically exempted by the Commissioner, the Lottery may impose Liquidated Damages of five thousand dollars (\$5,000) at the end of the initial sixty (60) day period and an additional five thousand dollars (\$5,000) for each subsequent thirty (30) day period or any portion thereof, for which the Contractor audit recommendation has not been corrected or addressed to the Lottery’s satisfaction.

A.14 Failure to Provide Software Testing and Quality Software

The Contractor shall provide the Lottery with quality-tested software. If untested software is turned over for Lottery Acceptance Testing or the software does not meet the specification standards established by the Lottery, the Lottery may impose Liquidated Damages of five thousand dollars (\$5,000) for the first violation (return or retraction of the software) and ten thousand dollars (\$10,000) for each subsequent violation.

A.15 Failure to Provide New Employee Documentation and Obtain Security Clearance Prior to Employment

The Contractor shall provide the Lottery with all required employee documentation for completion of background and security checks prior to employment on the Contract. If an employee is placed in service on the Contract before the employee has been approved by the Lottery, the Lottery may impose Liquidated Damages of two hundred dollars (\$200) for each violation.

A.16 Application Downtime

The Contractor will ensure that all Applications are publicly available to users twenty-four (24) hours a day, seven (7) days a week (a week, for the purposes of calculating liquated damages in this Portal Downtime section, shall be deemed to commence at 12am Eastern Time on Sunday and extend for seven (7) days), with the exception of planned periods of maintenance authorized by Lottery (“Scheduled Maintenance”); provided that there will be no period of interruption in public accessibility to the Applications (“Downtime” or “Down”) that exceeds forty-four (44) cumulative minutes over a rolling thirty (30) day period ninety-nine point nine percent (99.9%) availability), excluding Scheduled Maintenance. Downtime is measured as any one (1) minute period during which Contractor processes no queries from would-be users of the Application. Downtime covers all Unscheduled Maintenance as well as any scheduled outage that cannot be

performed during the agreed upon Scheduled Maintenance window. In the instance of Downtime beyond the forty-four (44) minutes over a rolling thirty (30) day period, Contractor shall maintain a record detailing the total amount of Downtime and shall report an accurate record to Lottery.

Unless agreed upon otherwise in writing between Lottery and Contractor, Scheduled Maintenance may be scheduled and performed by Contractor on a Lottery business day, that precedes another Lottery Business Day, between the hours of 2am to 6am Eastern Time. If any Scheduled Maintenance by Contractor will render the Applications unavailable, Contractor shall provide not less than two (2) Business Days prior written notice (including email) to Lottery of the time during which the Applications shall be not available due to Scheduled Maintenance.

Unscheduled Maintenance shall be performed by Contractor to address critical security and network issues on an emergency basis provided that Contractor provides prior written notice (including e-mail) to Customer as soon as commercially practicable under the circumstances.

Lottery shall be entitled to defer any Scheduled Maintenance or Unscheduled Maintenance to a subsequent Schedule Maintenance window provided that any adverse effects to the service and products relating to such deferral shall be the sole responsibility of Lottery and, provided further, that Lottery shall not be entitled to defer maintenance which is required to be immediately applied to other Contractor customers and suppliers in order to maintain the security and/or integrity of the applicable Contractor data center and applications.

If an Application experiences Downtime for more than forty-four (44) minutes per rolling thirty (30) day period, the Lottery may assess damages in an amount equal to the greater of forty-one dollars and fifty cents (\$41.50) per minute of Downtime. For purposes of this section, the following term has the following meaning:

“Applicable Period” means the period of time which the applicable Application is Down expressed as a time, in minutes, of operating day and a day of the week for the beginning and the ending of the Downtime period.

A.17 Application Security Breach

The Contractor shall comply with all applicable Michigan Compiled Laws (“MCL”) and Federal laws such as the breach notification laws contained in the ID Theft Protection Act with respect to an exposure of non-public personal information (“PI”).

In the event that there is a data security breach of non-public PI (as such breach is identified in the ID Theft Protection Act), the Contractor shall pay any fines associated

with such act for each incident in which the Contractor knowingly fails to provide notice of such breach in accordance with the breach notification requirements set forth in the ID Theft Protection Act.

For reference, and subject to the provisions of the ID Theft Protection Act, the Contractor shall provide breach notification notice without unreasonable delay, and the Contractor shall make such notification by way of:

- a. An email sent to each Michigan Lottery player affected, and
- b. A postage paid letter, in a sealed envelope, sent to each Michigan Lottery account holder affected

Such notice shall be written in a clear and conspicuous manner and contain the following content:

- Description of the security breach in general terms
- Description of the type of personal information that is subject of the unauthorized access or use
- Description of credit and identity monitoring services that will be offered
- If applicable, general description what the Contractor has done to protect the data from further security breaches
- Include a telephone number where a notice recipient may obtain assistance or additional information
- A reminder to notice recipients of the need to remain vigilant for incidents of fraud and identity theft.

Any legal, copywriting, design, printing, postage or other cost associated with the production and delivery of such notices shall be incurred by the Contractor.

APPENDIX B – SECURITY FORMS

Bidders are required to complete all security forms posted in association with this RFP as separate files available for download at www.milotteryconnect.com

Each Bidder must complete and submit the following forms:

1. “REQUEST FOR BACKGROUND INFORMATION” form.
2. An “AUTHORIZATION TO RELEASE BACKGROUND INFORMATION” form must be completed for each of the following:
 - i) The Bidder.
 - ii) Owners with at least a 5% interest in the Bidder.
 - iii) Business entities with at least 5% interest in the Bidder (if applicable).
 - iv) Officers of the Bidder.

All Bidders must submit original, notarized forms together with disclosure requirements described in Section 1.29 in a separately sealed envelope addressed to “Lottery Security Director” as described in Section 1.14.

NOTE: If applicable, Bidder may provide the international equivalent to any fields on the forms.

Appendix C - GENERAL PROPOSAL REQUIREMENTS

Contractors must provide a detailed response to each question. Attach any supplemental information and appropriately reference within your response.

	Bidder Response
1. Company Contact Information.	
Sole contact during the RFP process. Include the name, title, and contact information (address, e-mail and phone number).	
Sole contact authorized to receive and sign any resulting Contract.	
2. Company Background Information.	
Legal business name and address.	
What State is your business incorporated in?	
Phone number.	
Website address.	
Number of years in business.	
Legal business name of any applicable parent company and address.	
Has there been a recent change in the organizational structure (e.g., management team) or a change of control (merger or acquisition)? If so, why and how has it affected the company?	
History of company and if growth has been organic, through mergers and acquisitions, or both?	
Has your company had any contract terminated for contractor default in the last 3 years? If yes, explain when and the reasons for the termination.	
3. Gross Annual Sales	
Contractor must identify the gross annual sales for the last year.	
If the award of any resulting contract will increase your gross revenue by more than 25% from the last year's sales, explain how you will scale up to manage this increase.	
4. Strategic Relationships.	
Explain any partnerships and strategic relationships you currently have or have used that would bring significant value to the State, and how that relationship will bring value to the State.	
5. Principal Place of Business.	
The Contractor must identify the location (city, state and zip code) that would have primary responsibility for this account if awarded a contract.	
6. Standard Contract	
The Contractor must affirm that it agrees with the Contract Terms as described in Part 2, or if it does not agree, identify the specific exceptions to the Contract Terms. Exceptions must be listed here and Contractor must provide a redline version as an attachment, but contract terms will not be negotiated during the Q&A period.	

