



STATE OF MICHIGAN PROCUREMENT
 Department Technology, Management and Budget
 Central Procurement Services
 320 S Walnut Street Lansing, MI 48933
 P.O. Box 30026, Lansing, MI 48909

CONTRACT CHANGE NOTICE

Change Notice Number **10**
 to
 Contract Number **MA180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary NC 27513
	Missi Poynter
	919-455-3770
	missi.poynter@sas.com
	CV0059747

STATE	Program Manager	Various	Various
	Contract Administrator	Angela Wright	DTMB
		517-899-4646	
		WrightA33@michigan.gov	

CONTRACT SUMMARY				
Education Value-Added Assessment System (EVAAS)				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
March 31, 2018	March 30, 2019	5 - 1 Year	March 30, 2026	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-Card ☐ Direct Voucher (PRC) ☐ Other			☐ Yes ☒ No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	1 Year	☐		March 30, 2027
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$12,900,000.00	\$0.00	\$12,900,000.00		

DESCRIPTION
Please note the Program Manager or Contract Administrator may have changed, and are reflected on this Change Notice. Effective March 30, 2026, the State exercises an option year for purposes of keeping the contract vehicle open for optional future use. No scope or funding is added to the contract at this time. The parties agree to the following: All State Data (as defined in Section 5 of the Contract) will continue to be treated as Confidential Information and will be taken offline, encrypted, and maintained in accordance with the terms of the Contract as amended. Per contractor, agency, and DTMB Procurement approval.

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
MDE	Joe Priest	517-241-1886	PriestJ4@michigan.gov
DTMB	Kimberly Crawford	517-243-1483	CrawfordK5@michigan.gov



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget
320 S. Walnut Street 2nd Floor Lansing, MI 48933
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **9**

to

Contract Number **MA180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary NC 27513
	Dylan Wernholm
	248-881-9986
	Dylan.Wernholm@sas.com
	CV0059747

STATE	Program Manager	Various	Various
	Contract Administrator	Jarrod Barron	DTMB
		517-249-0406	
		BarronJ1@michigan.gov	

CONTRACT SUMMARY				
Education Value-Added Assessment System (EVAAS)				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
March 31, 2018	March 30, 2019	5 - 12 Months	March 30, 2025	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-Card ☐ Direct Voucher (PRC) ☐ Other			☐ Yes ☒ No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	12 Months	☐		March 30, 2026
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$12,900,000.00	\$0.00	\$12,900,000.00		
DESCRIPTION				
Effective 2/6/2025, the State exercises an option year for purposes of keeping the contract vehicle open for optional future use. No scope or funding is added to the contract at this time. Per contractor, agency, and DTMB Procurement approval.				
Internal State Note: Remaining Ad Board funds after this CN: \$249,999.99				

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
MDE	Joe Priest	517-241-1886	PriestJ4@michigan.gov
DTMB	Kimberly Crawford	517-243-1483	CrawfordK5@michigan.gov



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

CONTRACT CHANGE NOTICE

Change Notice Number **8**
to
Contract Number **180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary, NC 27513
	Missi Poynter
	919-455-3770
	missi.poynter@sas.com
	CV0059747

STATE	Program Manager	Various	MDE
	Contract Administrator	Jarrod Barron	DTMB
		(517) 249-0406 barronj1@michigan.gov	

CONTRACT SUMMARY							
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)							
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE				
March 31, 2018	March 30, 2019	5 - 1 Year	March 30, 2024				
PAYMENT TERMS		DELIVERY TIMEFRAME					
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING				
☐ P-Card	☐ PRC	☐ Other	☐ Yes	☒ No			
MINIMUM DELIVERY REQUIREMENTS							
DESCRIPTION OF CHANGE NOTICE							
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE			
☐		☒	1 year	March 30, 2025			
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE					
\$11,000,000.00	\$1,900,000.00	\$12,900,000.00					
DESCRIPTION							
Effective 2/26/2024, the parties extend the contract to 3/30/2025, add option years through 3/30/2034, update legal and security provisions per the attached documentation, and add \$1,900,000.00 for the services detailed in the attached statement of work. All other terms, conditions, specifications, and pricing remain the same. Per contractor, agency, DTMB Central Procurement and State Administrative Board approval on 9/28/2023.							
Remaining Ad Board funds after this contract change notice: \$349,999.99							

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
MDE	Joe Priest	517-241-1886	PriestJ4@michigan.gov
DTMB	Kimberly Crawford	517-243-1483	CrawfordK5@michigan.gov

CONTRACT TERMS REVISIONS

The purpose of this Change Notice is to extend the existing Contract #180000000572, and update applicable contract terms and conditions, security language, and other language as required.

Now, therefore, the parties agree to incorporate the following changes to the Contract:

1) The following definitions are incorporated into this Contract –

“**PAT**” means a document or product accessibility template, including any Information Technology Industry Council Voluntary Product Accessibility Template or VPAT®, that specifies how information and software products, such as websites, applications, software and associated content, conform to WCAG 2.1 Level A.

“**WCAG 2.1 Level AA**” means level AA of the World Wide Web Consortium Web Content Accessibility Guidelines version 2.1.

2) The second paragraph of page one of the agreement is deleted and replaced with the following: “This Contract may be renewed for up to ten (10) one (1) year periods beyond March 30, 2024 (potentially through March 30, 2034). Renewal must be accomplished by mutual agreement of the parties.”

3) Section 3 is hereby deleted and replaced in its entirety with the following –

License Grant. Contractor grants the State a limited, nontransferable, nonexclusive, royalty-free license to (i) use the Software System to access the Results, (ii) receive the benefits of the Software System, via the Results, used by Contractor to produce the Results, and (iii) use any Results delivered to the State in connection in furtherance of the Educational Purpose. The state may use and copy the Results in connection with work involving third parties in furtherance of the Educational Purpose. Contractor will only release the Reports to Authorized Users designated in writing by Customer. The license granted under subsection (i) above shall terminate one year after Contractor has initially made the Results on the Software System, unless otherwise extended by Customer’s purchase of additional Services. The licenses granted under subsections (ii) and (iii) above are perpetual.

Contractor owns the “Software System” to generate reports, including all underlying calculations and algorithms to evaluate data, documentation, related materials, derivatives and all intellectual property rights therein (collectively, the “Contractor Materials”). State does not acquire any right, title, or interest in or to

the Contractor Materials. State shall not copy, modify, enhance, reverse engineer, or make any addition to the Contractor Materials. Notwithstanding anything in this Contract to the contrary, Contractor shall retain all right, title, and interest in and to all Contractor Materials which shall not be considered “Services.”

4) Section 5.4 is hereby deleted and replaced in its entirety with the following –

Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than seventy-two (72) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) perform or take any other actions required to comply with applicable law as a result of the occurrence; (d) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney’s fees associated with such investigation and resolution; and (e) without limiting Contractor’s obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all third-party claims, including reasonable attorneys’ fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that, after reasonable investigation, is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must notify the State, as soon as practicable but no later than five (5) business days of becoming aware of such occurrence, and proceed, as applicable, with steps (b) through (e), above. This Section survives termination or expiration of this Contract.

5) Section 6.10 is hereby deleted and replaced in its entirety with the following –

6.10 Availability and Support Service Level Credits. Contractor acknowledges and agrees that any credits assessed as a result of the Service Level Warranty specified in Section 13: (a) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from not meeting the Service Level Warranty, which would be impossible or very difficult to accurately estimate; and (b) may, at the State’s option, be credited or set off against any Fees or other

charges payable to Contractor under this Contract or be payable to the State upon demand. Credits may not exceed the total amount of Fees that would be payable for the relevant service period in which the credits are assessed.

6) Section 10(c) is hereby deleted and replaced in its entirety with the following –

Contractor's Limitation of Liability. (i) IN NO EVENT WILL CONTRACTOR'S AGGREGATE LIABILITY TO THE STATE UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ALL CLAIMS RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED FIVE MILLION DOLLARS (\$5,000,000). (ii) Exception: Contractor's Limitation of Liability shall not apply to Contractor's obligations with respect to damages arising from Contractor's recklessness, bad faith, or intentional misconduct. (iii) Exception: Contractor's Limitation of Liability shall not apply to Contractor's indemnification obligations set forth in Section 9.1(b). (iv) Solely with respect to a breach of Contractor's obligations with respect to the loss of State Data contemplated by Section 5.4, Contractor's aggregate liability to the State, regardless of the form of action, whether in contract, tort, negligence, strict liability, or by statute or otherwise, for all claims shall not exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000).

7) Section 18.11 is hereby deleted and replaced in its entirety with the following –

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

8) Section 17 is hereby deleted and replaced in its entirety with the following –
Accessibility Requirements.

(a) All Software Systems provided by Contractor under this Contract, including associated content and documentation, must be benchmarked against WCAG 2.1 Level AA. Contractor must provide a description of conformance with WCAG 2.1 Level AA specifications by providing a completed PAT for each product provided under the Contract. At a minimum, Contractor must comply with the WCAG 2.1

Level A conformance claims it made to the State regarding the level of conformance provided in any PAT. Contractor and State agree to a plan to reach WCAG 2.1 Level AA conformance and to remediate identified barriers to accessibility to provide a comparable level of access to the data. As a preliminary matter, the plan is to take steps to improve accessibility to the Restricted Site prior to the next report release and then to prioritize the accessibility of the analytic reports made available to the public through the EVAAS website application prior to the next report release. Analytic reports available through the Restricted Site are a secondary priority. The anticipated timeline of the plan is:

- 1) for the 2022 – 2023 Reporting Year Restricted Site Release targeted in December 2023 Contractor will remove reports that were already nearing the end of their life, including Decision Dashboard, Projection Summaries, Student Search, School Value Added Summary, School Diagnostic Summary, School Perf Diagnostic Summary, and School Search, update Custom Student Reports to suppress pie graphic, and add accessibility statement around requesting data and/ or alternate means to request data;
- 2) for the 2022 – 2023 Reporting Year Public Site Release in March 2024 provide the State with a PAT showing the public site is WCAG 2.1A compliant while striving for AA compliance for most items, converting Scatterplot, and adding an accessibility statement around requesting data and/ or alternate means to request data;
- 3) for the 2023 – 2024 Reporting Year Restricted Site Release a PAT showing the site is WCAG 2.1A compliant while striving for AA compliance for most items, including a simplified reports menu, value added, teacher reports, diagnostics, student reporting and scatterplots;
- 4) for the 2023 – 2024 Reporting Year March 2025 Public Site Release a PAT showing the Public Site is WCAG 2.1AA compliant; and
- 5). For the 2024 – 2025 Reporting Year Restricted Site Release a PAT showing the Restricted Site is WCAG 2.1AA compliant.

If the State receives a complaint regarding the accessibility, or conducts an assessment on the accessibility and identifies barriers, of the Software System Contractor will work within the plan and with the State to address the complaints or assessment and provide a comparable level of access. Throughout the term of the Contract, Contractor will:

- (i) maintain compliance with the level of conformance provided in its PAT, including the level of conformance provided in each PAT;
- (ii) comply with the plan and timeline set forth in paragraph (a) above;
- (iii) ensure that no Maintenance Release, New Version, update or patch, when properly installed in accordance with this Contract, will have any adverse effect on the conformance of Contractor's Software System to the PAT;

(iv) ;

(v) upon the State's written request, provide evidence of compliance with this Section by delivering to the State Contractor's most current PAT for each product provided under the Contract; and

(vi)

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

(c) Warranty. Contractor warrants that all conformance claims made by Contractor pursuant to this Contract, including all information provided in any PAT Contractor provides to the State, are true and correct. If the State determines that the information in the PAT is inconsistent with what is actually provided to the State, Contractor will at its sole cost and expense, promptly remediate its Software System to align with Contractor's stated PAT. If Contractor is unable to remediate to align with its stated PAT, the State may terminate this Contract for cause.

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

(e) Failure to comply with the requirements in this **Section [601]** shall constitute a material breach of this Contract.

9) Section 18.15 is hereby deleted and replaced in its entirety with the following –

Entire Agreement. This Contract, including all Statements of Work and other Schedules and Exhibits, constitutes the sole and entire agreement of the parties to this Contract with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms of this Contract and those of any Schedule, Exhibit or other document, the following order of precedence governs: (a) first, this Contract, excluding its Exhibits

and Schedules; (b) second, Schedule B – Data Security Requirements; and (c) the remaining Exhibits and Schedules to this Contract. NO TERMS ON CONTRACTORS INVOICES, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE SERVICES, OR DOCUMENTATION HEREUNDER WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF SUCH SERVICE OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

10) Schedule B is hereby deleted and replaced with the Schedule B – Data Security Requirements as appended to this Change Notice.

SCHEDULE B – DATA SECURITY REQUIREMENTS

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

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

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

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

“Hosting Provider” means any Permitted Subcontractor that is providing the Hosted Services under this Contract. As used in Schedule B, staff augmentation for support services does not constitute subcontracting.

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

“PCI” means the Payment Card Industry.

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

“SSAE” means Statement on Standards for Attestation Engagements.

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

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

3. Contractor Responsibilities. Beginning in 2024, SAS will work to move the Hosted Services to an environment that complies with the standards set forth in this Schedule B. SAS will complete the transition in milestones in accordance with the timeline detailed in the Statement of Work. If this date is not met, the parties will agree to consider a Contract Change Notice. 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) protects the security and confidentiality of the State Data;
- (b) protect against any anticipated threats or hazards to the security or integrity of the State Data;

- (c) protect against unauthorized disclosure, access to, or use of the State Data;
- (d) ensure the proper disposal, in accordance with the Contract, of any State Data in Contractor's or its subcontractor's possession; and
- (e) ensure that all Contractor Personnel comply with the foregoing.

The State has established Information Technology (IT) PSPs to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times remain materially consistent with all applicable public and non-public State IT policies and standards, of which the publicly available ones are at <https://www.michigan.gov/dtmb/policies/it-policies>.

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

4. Acceptable Use Standard. To the extent that Contractor has access to the State's IT environment, Contractor must comply with the State's Acceptable Use Standard, see <https://www.michigan.gov/dtmb/-/media/Project/Websites/dtmb/Law-and-Policies/IT-Policy/13400013002-Acceptable-Use-of-Information-Technology-Standard.pdf>. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Standard before accessing State systems or Data. The State reserves the right to terminate Contractor's and/or subcontractor(s) or any Contractor Personnel's access to State systems if the State determines a violation has occurred.

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

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

5.2 or Hosted Services provided by the Contractor, maintain either a third-party FISMA assessment report or an annual SSAE 18 SOC 2 Type II audit based on NIST Special Publication 800-53 MOD Controls;

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

5.4 maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State Data that complies with the requirements of the State's data security policies as set forth in this Contract, and

must, at a minimum, remain compliant with FISMA and NIST Special Publication 800-53 MOD Controls;

5.5 throughout the Term, Contractor must not provide Hardware or Services from the list of excluded parties in the [System for Award Management \(SAM\)](#) for entities excluded from receiving federal government awards for "covered telecommunications equipment or services";

5.6 provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, encryption, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of State Data and the nature of such State Data, consistent with industry practice and applicable standards (including, compliance with FISMA, NIST, SSA, HIPAA, and FERPA requirements as applicable);

5.7 take all reasonable measures to:

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

(b) prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Services; (ii) keep State data segregated from access by other Contractor customers or third-party users; and (iii) unauthorized access to any of the State Data;

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

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

5.10 ensure the Hosted Services implements NIST compliant multi-factor authentication for Contractor privileged/administrative access.

5.11 Contractor must permanently sanitize or destroy the State's information, including State Data, from all media both digital and nondigital including backups using National Security Agency ("NSA") and/or National Institute of Standards and Technology ("NIST") (NIST Guide for Media Sanitization 800-88) data sanitization methods or as otherwise instructed by the State. Contractor must sanitize information system media, both digital and non-digital, prior to disposal, release out of its control, or release for reuse as specified above.

6. Security Accreditation Process. Throughout the Term, Contractor will assist the State, at no additional cost, with its **Security Accreditation Process**, which includes the development, completion and on-going maintenance of a system security plan (SSP) for the new environment referenced in Section 3 above that will be deployed beginning in 2024 that will be managed in the State's automated governance, risk and compliance (GRC) platform by the State. This accreditation process requires Contractor to submit evidence, upon request from the State, in order to validate Contractor's security

controls within two weeks of the State's request or as mutually agreed. On an annual basis, or as otherwise required by the State such as for significant changes, re-assessment of the system's controls will be required to receive and maintain authority to operate (ATO). All identified risks from the SSP will be remediated through a Plan of Action and Milestones (POAM) process with remediation time frames and required evidence based on the risk level of the identified risk. For all findings associated with the Contractor's solution, at no additional cost, Contractor will be required to create or assist with the creation of State approved POAMs, perform related remediation activities, and provide evidence of compliance. The State will make any decisions on acceptable risk, Contractor may request risk acceptance, supported by compensating controls, however only the State may formally accept risk. Failure to comply with this section will be deemed a material breach of the Contract. For the current environment, Contractor will continue to provide third-party audit documentation to the State as updated and contractor will remediate mutually agreed upon vulnerabilities identified by the State until it no longer hosts department data.

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

8. Security Audits.

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

8.2 Without limiting any other audit rights of the State, the State has the right, upon request to review Contractor's data privacy and information security program prior to the commencement of Services and from time to time during the term of this Contract. The State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. If the State chooses to perform an on-site audit, Contractor will, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least thirty (30) days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits. Contractor agrees to commit up to 40 hours toward any such audit. Any effort beyond 40 hours would require a contract change notice.

8.3 During the Term, Contractor will, when requested by the State, provide a copy of Contractor's and Hosting Provider's currently available NIST 800-53 MOD System Security Plan(s) or

SOC 2 Type 2 report(s) to the State within two weeks of the State's request. The System Security Plan and SSAE audit reports will be recognized as Contractor's Confidential Information.

8.4 With respect to State Data, Contractor must implement any required safeguards as set forth in the Contract or a mutually agreeable amendment.

8.5 RESERVED.

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

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

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

(a) Contractor will provide a letter of attestation that it has dynamically scanned a deployed version of the Software using an industry standard application scanning tool. These scans and assessments i) must be completed quarterly and for each major release; and ii) scans must be completed in a non-production environment with verifiable matching source code and supporting infrastructure configurations or the actual production environment.

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

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

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

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

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

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

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

10. Infrastructure Scanning.

10.1 For Hosted Services, Contractor must ensure the infrastructure and applications are scanned using an industry standard scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least monthly and provide the scan's assessments to the State, upon request Contractor will ensure the remediation of issues identified in the scan according to the remediation time requirements documented in the State's PSPs.

Contractor will remediate identified vulnerabilities as soon as possible when updates are made available but will not exceed the time frames below. Vulnerabilities can be remediated in a number of different ways: applying security patches when available, as well as implementing configuration changes, or other risk mitigation options. Patch remediation time frames apply as soon as a patch has been made available by the vendor.

Criticals (CVSS 9 -10)	Public facing systems & infrastructure only	within 15 days
Criticals (CVSS 9 -10)	All other O/S & software	within 15 days
Highs (CVSS 7.0 - 8.9)	O/S and Infrastructure	within 30 days
Highs (CVSS 7.0 - 8.9)	All other application software	within 60 days
Moderates (CVS 4.0 - 6.9)	O/S and Infrastructure	within 60 days
Moderates (CVS 4.0 - 6.9)	All other application software	within 90 days
All other (CVS 0.0 – 3.9)	O/S and Infrastructure only	within 90 days

If Contractor is unable to remediate identified vulnerabilities within the above timeframes, Contractor will provide a plan to the State of such vulnerabilities and the anticipated timeframe by which each will be remediated. Such timeframes will be as close to the above timeframes as possible. Contractor may apply mitigating controls to reduce the risk of an identified vulnerability. Contractor will track the identified vulnerabilities and update the State on progress until remediated. Nothing in this section shall diminish or impact any other rights the State has under this Contract.

If requested by the State, the contractor must provide the State with a vulnerability assessment summary, which includes number of vulnerabilities by severity and monthly age, from the most recent scan.

11. Nonexclusive Remedy for Security Breach.

11.1 Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup,

business continuity or other applicable policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.

**Statement of Work
Attachment to Change Notice 8**

The following shall be added as a new Schedule D to the Contract:

Contract period Six:

The following additional services will be provided for the period October 1, 2023, through September 30, 2024 "Contract Services Period".

A. Web-Based Reporting Training, and Research & Development

Contractor will provide the following services:

Web-based reporting that includes as specified below, where sufficient data are available:

- a. Growth Metrics, which reflectively identify strengths and opportunities for improvement, grade to grade and subject to subject, for districts and schools.
- b. Diagnostic Reports, which look beyond individual growth estimates to uncover levels of effectiveness with different types of learners.
- c. Individual Student Projections, which proactively predict student success probabilities at numerous academic milestones.
- d. Custom Interactive Scatterplots, which allow users to visualize the impact of various growth metrics and the students who are served.
- e. Access lists of students to assist with educational planning, which aggregate student information as needed to assist with educational planning.
- f. SAS will provide teacher value-added reports for all opt-in districts based on state assessments in grades 4-8 and interim/benchmark assessments, such as NWEA MAP, where adequate data exists.

The web-based reporting has the ability to include the following services:

- g. SAS shall continue the standard enrollment update from MDE, which allows for student projections to appear at students' enrolled school rather than their last tested school. Prior to the state enrollment update, SAS will receive enrollment updates from LEAs through the Datahub for districts that have opted in and submitted their enrollment data.
- h. SAS shall continue to maintain ongoing services in hosting, security, documentation, and operations management for the web application.
- i. Utilize existing assessments and any future assessments that are suitable for measuring student growth.
- j. Report student growth measures at the district, school, teacher, and subgroup levels.
- k. Recognize the growth of tested students, including those who may have missing assessment data.
- l. Include all available prior standardized assessment data that meet inclusion criteria across grades, subjects, and state and local assessments.
- m. Allow student growth results to be disaggregated.
- n. Provide individual student projections showing the probability of a student reaching specific performance levels on future assessments.
- o. Have a "help/contact us" ticketing system built into the value-added reporting platform.
- p. The model must include role-based permissions that allow educators to access information about the performance of the students within their immediate responsibility in accordance with applicable privacy laws.
- q. By March 31, 2024, the department shall work with the center to make data publicly available on an external website that provides student growth metrics provided by the value-added reporting platform at the district and school level by grade and subject.

Training allotment (Exact offerings TBD):

The vendor shall provide statewide training for educators to understand the reporting that details the impact to student learning and growth.

Offerings are tailored to each audience and will be mutually agreed upon by the parties. Contractor will not be required to refund any money for training services that are not utilized by the State prior to the end of the Phase Four Services Period.

Research and Development:

SAS provide up to 25 days of service hours for the State which will be directed towards activities to support the EVAAS services described in this Change Notice. Activities will be mutually agreed upon by the parties; Contractor will not be required to refund any money for Research and Development hours not utilized by the State during the Services Period. Upon request by the State, Contractor will provide a summary of Research and Development hours utilized during the Services Period. SAS will not be required to deliver hours beyond those specified herein.

B. Implementation of New Hosted Services Environment

Beginning in 2024, SAS will also work to move the Hosted Services to an environment that complies with the standards set forth in the restated Schedule B. SAS will complete the transition in milestones in accordance with the following timeline:

- SAS will complete the transition to the new environment to receive data from MDE by October 1, 2024.
- SAS will complete the transition of the web application reporting with the delivery of the 2023-24 school year's (FY25) deliverables ("FY 2025 Deliverables").

For the existing environment, Contractor will:

- maintain an acceptable level of risk in the current environment until it no longer hosts department data.
- continue to provide third-party audit documentation to the State as updated and will remediate vulnerabilities identified by the State until it no longer hosts department data.

For the new environment, Contractor will:

- provide evidence of meeting controls identified by the State. Evidence may be in the form of third-party documentation, provided the documentation addresses the necessary controls, such evidence to be provided prior to delivery of the FY 2025 Deliverables.

Cost and Invoicing:

The total fees for this Statement of Work are \$1,900,000.00. On or after February 13, 2024, Contractor may invoice the State \$1,900,000.00 after the State formally accepts all reporting deliverables detailed herein.



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

CONTRACT CHANGE NOTICE

Change Notice Number 7
to
Contract Number 180000000572

CONTRACTOR	SAS INSTITUTE INC	STATE	Program Manager	Various	MDE
	100 SAS Campus Drive				
	Cary, NC 27513				
	Missi Poynter	Contract Administrator	Jarrod Barron	DTMB	
	919-455-3770			(517) 249-0406	
	missi.poynter@sas.com			barronj1@michigan.gov	
	CV0059747				

CONTRACT SUMMARY							
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)							
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS		EXPIRATION DATE BEFORE			
March 31, 2018	March 30, 2019	5 - 1 Year		March 30, 2024			
PAYMENT TERMS		DELIVERY TIMEFRAME					
ALTERNATE PAYMENT OPTIONS				EXTENDED PURCHASING			
☐ P-Card	☐ PRC	☐ Other		☐ Yes ☒ No			
MINIMUM DELIVERY REQUIREMENTS							
DESCRIPTION OF CHANGE NOTICE							
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE			
☐		☐		March 30, 2024			
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE					
\$9,000,000.00	\$2,000,000.00	\$11,000,000.00					
DESCRIPTION							
Effective 10/11/2022, the parties add \$2,000,000 for ongoing services through 9/30/2023 per the attached documentation. All other terms, conditions, specifications, and pricing remain the same. Per contractor, agency, DTMB Central Procurement and State Administrative Board approval on 10/11/2022.							

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
MDE	Joe Priest	517-241-1886	PriestJ4@michigan.gov
DTMB	Kimberly Crawford	517-243-1483	CrawfordK5@michigan.gov

Attachment to Change Notice 7

The following shall be added as a new Schedule D to the Contract:

Fiscal Year 2023 (FY23) Contract Services Period:

The following additional services will be provided for this contract extension term. The period of performance for this statement of work is the effective date of this Change Notice and ending September 30, 2023 (FY23 Contract Services Period).

Deliverable	Pricing	Projected Timeline
Web-based reporting that includes as specified below, where sufficient data are available: a. Growth Metrics, which reflectively identify strengths and opportunities for improvement, grade to grade and subject to subject, for districts and schools b. Diagnostic Reports, which look beyond individual growth estimates to uncover levels of effectiveness with different types of learners c. Individual Student Projections, which proactively predict student success probabilities at numerous academic milestones. d. Custom Interactive Scatterplots, which allow users to visualize the impact of various growth metrics and the students who are served. e. College Readiness Dashboards and Customized Reports, which aggregate student information as needed to assist with educational planning The web-based reporting also includes the following services: f. SAS will provide teacher value-added reports for all opt-in districts based on state assessments in grades 4-8 and interim/benchmark assessments, such as NWEA MAP, where adequate data exists. g. SAS shall continue the standard enrollment update from MDE, which allows for student projections to appear at students' enrolled school rather than their last tested school. Prior to the state enrollment update, SAS will receive enrollment updates from LEAs through the Datahub for districts that have opted in and submitted their enrollment data. h. SAS shall continue to maintain ongoing services in hosting, security, documentation, and operations management for the web application. i. Recognize the growth of tested students, including those who may have missing assessment data. j. Include all available prior standardized assessment data that meet inclusion criteria across grades, subjects, and state and local assessments. k. Have a "help/contact us" ticketing system built into the value-added reporting platform.	\$1,853,125	Ongoing through FY23 Contract Services Period

l. The model must include role based permissions that allow educators to access information about the performance of the students in accordance with MDE policy. m. By March 31, 2023, the department shall work with the center to make data publicly available on an external website that provides student growth metrics provided by the value-added reporting platform at the district and school level by grade and subject.		
Training allotment (Exact offerings TBD): The vendor shall provide statewide training for educators to understand the reporting that details the impact to student learning and growth. Offerings are tailored to each audience and will be mutually agreed upon by the parties. Contractor will not be required to refund any money for training services that are not utilized by the State prior to the end of the FY23 Contract Services Period.	\$100,000	Ongoing through FY23 Contract Services Period
Research and Development: SAS provide up to 25 days of service hours for the State which will be directed towards activities to support the EVAAS services described in this Change Notice. Activities will be mutually agreed upon by the parties; Contractor will not be required to refund any money for Research and Development hours not utilized by the State during the Phase Four Services Period. Upon request by the State, Contractor will provide a summary of Research and Development hours utilized during the FY23 Contract Services Period SAS will not be required to deliver hours beyond those specified herein.	\$46,875	Ongoing through FY23 Contract Services Period

The total FY23 Contract Services Period fees are Two Million Dollars (\$2,000,000.00). Contractor will submit invoices as follows:

- On December 1, 2022, Contractor will email two invoices totaling \$2,000,000.00 to Kim Crawford at crawfordk5@michigan.gov. These invoices will be for awareness of the payment schedule; no action will be required by the State at this time.
- On or after January 15, 2023, Contractor will resend the first invoice to the State for the first payment in the amount of \$1,000,000.00 to dtmb-accounts-payable@michigan.gov. The State will pay this invoice within 45 days of receipt unless disputed pursuant to the Contract Terms.
- On or after April 15, 2023, Contractor will resend the second invoice to the State for the second payment in the amount of \$1,000,000.00 to dtmb-accounts-payable@michigan.gov. The State will pay this invoice within 45 days of receipt unless disputed pursuant to the Contract Terms.



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **6**
to
Contract Number **180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary, NC 27513
	Steve Sachs
	517-992-1781
	Steve.Sachs@sas.com
	CV0059747

STATE	Program Manager	Various	MDE
	Contract Administrator	Jarrod Barron	DTMB
		(517) 249-0406 barronj1@michigan.gov	

CONTRACT SUMMARY							
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)							
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE				
March 31, 2018	March 30, 2019	5 - 1 Year	September 30, 2021				
PAYMENT TERMS		DELIVERY TIMEFRAME					
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING				
☐ P-Card	☐ PRC	☐ Other	☐ Yes ☒ No				
MINIMUM DELIVERY REQUIREMENTS							
DESCRIPTION OF CHANGE NOTICE							
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE			
☒	2 years, 6 months	☐		March 30, 2024			
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE					
\$7,000,000.00	\$2,000,000.00	\$9,000,000.00					
DESCRIPTION							
Effective 9/7/2021, the parties exercise the remaining options through 3/30/2024 and add \$2,000,000 for ongoing services through 9/30/2022. All other terms, conditions, specifications, and pricing remain the same. Payments will be: \$1,000,000 within 180 days of contract execution and \$1,000,000 by 9/30/2022. Per contractor, agency, DTMB Central Procurement and State Administrative Board approval on 9/7/2021.							

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
MDE	Joe Priest	517-241-1886	PriestJ4@michigan.gov
DTMB	Kimberly Crawford	517-243-1483	CrawfordK5@michigan.gov



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
 Department of Technology, Management, and Budget
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
 P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **5**
 to
 Contract Number **180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary, NC 27513
	Jennifer Eisner
	517-348-5767
	jennifer.eisner@sas.com
	CV0059747

STATE	Program Manager	Various	
	Contract Administrator	Jarrod Barron	DTMB
		(517) 249-0406	barronj1@michigan.gov

CONTRACT SUMMARY				
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
March 31, 2018	March 31, 2018	5 - 1 Year	July 30, 2021	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-Card ☐ PRC ☐ Other			☐ Yes ☒ No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	2 months	☐		September 30, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$5,000,000.00	\$2,000,000.00	\$7,000,000.00		
DESCRIPTION				
Effective 12/8/2020, the parties add \$2,000,000.00 for the FY 2021 services detailed in the attached documentation. The parties exercise two additional option months to coterminate the services with the current fiscal year-end. The new expiration date is 9/30/2021. All other terms, conditions, specifications, and pricing remain the same. Per contractor, agency, DTMB Central Procurement and State Administrative Board approval on 12/8/2020.				

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
MDE	Brian LLoyd	517-241-7053	LloydB@michigan.gov
DTMB	Kimberly Crawford	517-243-1483	CrawfordK5@michigan.gov

Attachment to Change Notice 5

The following shall be added as a new Schedule D to the Contract:

Fourth contract period:

The following additional services will be provided for this contract extension term. The period of performance for the fourth contract period is the effective date of this Change Notice and ending September 30, 2021 "Contract Services Period".

Deliverable	Pricing	Projected Timeline
Web-based reporting that includes as specified below, where sufficient data are available: a. Growth Metrics, which reflectively identify strengths and opportunities for improvement, grade to grade and subject to subject, for districts and schools b. Diagnostic Reports, which look beyond individual growth estimates to uncover levels of effectiveness with different types of learners c. Individual Student Projections, which proactively predict student success probabilities at numerous academic milestones. d. Custom Interactive Scatterplots, which allow users to visualize the impact of various growth metrics and the students who are served. e. College Readiness Dashboards and Customized Reports, which aggregate student information as needed to assist with educational planning The web-based reporting also includes the following services: f. SAS will develop teacher value-added reports based on state assessments from the 2017-18 and 2018-19 school years for districts that had not previously provided their student-teacher linkages for 2017-18 and/or 2018-19, and will continue to provide teacher value-added reports based on state assessments from the 2017-18 and 2018-19 school years for districts that have already previously provided their student-teacher linkages for 2017-18 and/or 2018-19. g. SAS will provide teacher value-added reports for all opt-in districts based on interim/benchmark assessments, such as NWEA MAP, where adequate data exists, from the 2017-18, 2018-19, and 2019-20 school years. h. SAS shall continue the standard enrollment update from MDE, which allows for student projections to appear at students' enrolled school rather than their last tested school. Prior to the state enrollment update, SAS will receive enrollment updates from LEAs through the DataHub for	\$1,853,125	Ongoing through Fourth Contract Services Period

districts that have opted in and submitted their enrollment data. i. SAS shall continue to maintain ongoing services in hosting, security, documentation, and operations management for the web application. j. SAS shall also provide answers to questions submitted by users of the web application. k. SAS shall update Michigan's web application to include a new design of district and value-added reports, which is more interactive and customizable for authorized users.		
Training allotment (Exact offerings TBD): Training can be conducted with MDE staff, district admins, school admins, and/or teachers. Offerings are tailored to each audience and will be mutually agreed upon by the parties. Contractor will not be required to refund any money for training services that are not utilized by the State prior to the end of the Phase Four Services Period.	\$100,000	Ongoing through Fourth Contract Services Period
Research and Development: SAS provide up to 25 days of service hours for the State which will be directed towards activities to support the EVAAS services described in this Change Notice. Activities will be mutually agreed upon by the parties; Contractor will not be required to refund any money for Research and Development hours not utilized by the State during the Phase Four Services Period. Upon request by the State, Contractor will provide a summary of Research and Development hours utilized during the Phase Four Services Period. SAS will not be required to deliver hours beyond those specified herein.	\$46,875	Ongoing through Fourth Contract Services Period

The total fees for the are Two Million Dollars (\$2,000,000.00) ("Phase Four Fees"). Contractor shall invoice the Fourth Contract Period Fees to the State upon execution of this Change Notice and this invoice shall be submitted to the MDE and CEPI Program Managers for review and verification of project status. Payment of the Fourth Contract Period Fees shall be payable per the following schedule:

- (i) One Million Dollars (\$1,000,000.00), within 180 days of contract execution.
- (ii) One Million Dollars (\$1,000,000.00) on or before September 30, 2021.



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
 Department of Technology, Management, and Budget
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
 P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **4**
 to
 Contract Number **180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary, NC 27513
	Jennifer Eisner
	517-348-5767
	jennifer.eisner@sas.com
	CV0059747

STATE	Program Manager	Various	
	Contract Administrator	Jarrod Barron	DTMB
		(517) 249-0406	
		barronj1@michigan.gov	

CONTRACT SUMMARY				
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
March 31, 2018	March 31, 2018	5 - 1 Year	July 30, 2020	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-Card ☐ PRC ☐ Other			☐ Yes ☒ No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	1 Year	☐		July 30, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$5,000,000.00	\$0.00	\$5,000,000.00		
DESCRIPTION				
Effective 7/29/2020, the parties exercise a one year option. The MDE Program Manager is changed to Brian Lloyd (contact info below). All other terms, conditions, specifications, and pricing remain the same. Per contractor, agency and DTMB Procurement approval.				

**Program Managers
for
Multi-Agency and Statewide Contracts**

AGENCY	NAME	PHONE	EMAIL
MDE	Brian LLoyd	517-241-7053	LloydB@michigan.gov
DTMB	Kimberly Crawford	517-243-1483	CrawfordK5@michigan.gov



STATE OF MICHIGAN
CENTRAL PROCUREMENT SERVICES
Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **3**
to
Contract Number **180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary, NC 27513
	Jennifer Eisner
	919-531-0260
	jennifer.eisner@sas.com
	CV0059747

STATE	Program Manager	Rebekah Brewer	MDE
		517-241-3384	
		BrewerR6@michigan.gov	
	Contract Administrator	Jordan Sherlock	DTMB
		517-243-5556	
		sherlockj@michigan.gov	

CONTRACT SUMMARY				
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
March 31, 2018	March 31, 2018	5 - 1 Year	March 30, 2020	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-Card ☐ PRC ☐ Other			☐ Yes ☒ No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	4 Months	☐		July 30, 2020
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$5,000,000.00	\$0.00	\$5,000,000.00		
DESCRIPTION				
Effective 3/30/2020, this contract is exercising 4 months of the second option year. During that time this contract will be utilized at zero cost to the State. The revised expiration date is 7/30/2020. Please note that the Program Manager has been updated to Rebekah Brewer.				
All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.				



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **2**

to

Contract Number **171180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary, NC 27513
	Jennifer Eisner
	919-531-0260
	jennifer.eisner@sas.com
	CV0059747

STATE	Program Manager	Brian Lloyd	MDE
		517-241-7053	
		lloyd@michigan.gov	
	Contract Administrator	Marcy Sims	DTMB
		(517) 275-1132	
		sims4@michigan.gov	

CONTRACT SUMMARY				
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
March 31, 2018	March 30, 2019	5 - 1 Year	March 30, 2019	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS		EXTENDED PURCHASING		
☐ P-Card ☐ Direct Voucher (DV) ☐ Other		☐ Yes ☒ No		
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	1 year	☐		March 30, 2020
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,500,000.00	\$2,500,000.00	\$5,000,000.00		
DESCRIPTION				
Effective 9/30/2018, this Contract is exercising the first of five available option years and is increased by \$2,500,000.00 per the attached documentation. The revised contract expiration date is 3/30/2020. All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Procurement, and State Administrative Board approval.				

Attachment to Change Notice 2

The following shall be added as a new Schedule D to the Contract:

Phase Two Services:

The following additional services will be provided using assessment data from the 2017-18 school year and 2018-19 school year. The period of performance for Phase Two is the effective date of this Change Notice and ending March 30, 2020 ("Phase Two Services Period").

Deliverable	Pricing	Projected Timeline
District, school, and teacher growth reporting and student projections reporting using assessment data from the 2017-2018 school year for grades K-8.	\$726,000	December 31, 2018
District, school, and teacher growth reporting and student projections reporting using assessment data from the 2018-2019 school year for grades K-8.	\$726,000	December 31, 2019
District and school growth reporting and student projections reporting using assessment data from 2017- 2018 school year for grades 9, 10, and 11. Note, teacher growth reporting is not included for grades 9,10, and 11.	\$331,000	December 31, 2018
District and school growth reporting and student projections reporting using assessment data from 2018- 2019 school year for grades 9, 10, and 11. Note, teacher growth reporting is not included for grades 9,10, and 11.	\$331,000	December 31, 2019
Export Feature: This is an interface which will enable users to select variables of interest to export, as well as provide options for formatting the exported file.	\$196,000	Ongoing through Phase Two Services Period
Training allotment (Exact offerings TBD): Training can be conducted with MDE staff, district admins, school admins, and/or teachers. Offerings are tailored to each audience and will be mutually agreed upon by the parties. Contractor will not be required to refund any money for training services that are not utilized by the State prior to the end of the Phase Two Services Period.	\$100,000	Ongoing through Phase Two Services Period
Research and Development: SAS provide up to 384 hours of service hours for the State which will be directed towards activities to support the EVAAS services	\$90,000	Ongoing through Phase Two Services Period

described in this Change Notice. Activities will be mutually agreed upon by the parties; Contractor will not be required to refund any money for Research and Development hours not utilized by the State during the Phase Two Services Period. Upon request by the State, Contractor will provide a summary of Research and Development hours utilized during the Phase Two Services Period. SAS will not be required to deliver hours beyond those specified herein.		
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The total fees for the Phase Two Services are Two Million Five Hundred Thousand Dollars (\$2,500,000.00) ("Phase Two Fees"). Contractor shall invoice the Phase Two Fees to the State upon execution of this Change Notice and this invoice shall be submitted to the MDE Program Manager for review and verification of project status. Payment of the Phase Two Fees shall be payable per the following schedule:

- (i) Two Million Five Hundred Thousand Dollars (\$2,500,000.00), on or before September 30, 2019, (representing fees for the 2017-18, and 2018-19 district, school, and teacher value-added, student projections, export, research and development, and training).



STATE OF MICHIGAN
ENTERPRISE PROCUREMENT
Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **1**
to
Contract Number **171180000000572**

CONTRACTOR	SAS INSTITUTE INC
	100 SAS Campus Drive
	Cary, NC 27513
	Jennifer Eisner
	919-531-0260
	jennifer.eisner@sas.com
	CV0059747

STATE	Program Manager	Brian Lloyd MA Ed.S.	MDE
		517-241-7053	
		lloydb@michigan.gov	
	Contract Administrator	Marcy Sims	DTMB
		(517) 275-1132	
		sims4@michigan.gov	

CONTRACT SUMMARY				
EDUCATION VALUE-ADDED ASSESSMENT SYSTEM (EVAAS)				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
March 31, 2018	March 31, 2018	5 - 1 Year	March 30, 2019	
PAYMENT TERMS		DELIVERY TIMEFRAME		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-Card ☐ Direct Voucher (DV) ☐ Other			☐ Yes ☒ No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		March 30, 2019
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,500,000.00	\$0.00	\$2,500,000.00		
DESCRIPTION				
Effective with mutual signature the Program Manager for this contract has been changed to Brian Lloyd MA, Ed.S (MDE). The Buyer has also been changed to Marcy Sims. All other terms and conditions remain the same.				

Program Managers for Multi-Agency and Statewide Contracts			
AGENCY	NAME	PHONE	EMAIL



STATE OF MICHIGAN
ENTERPRISE PROCUREMENT
 Department of Technology, Management & Budget
 525 West Allegan, Lansing, MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. MA 171-180000000572
 between
 THE STATE OF MICHIGAN
 and

CONTRACTOR	SAS Institute, Inc.
	100 SAS Campus Drive
	Cary, NC 27513
	Steve Sachs
	919-531-4231
	Steve.sachs@sas.com
	CV0059747

STATE	Program Manager	Jared Robinson	MDE
		517-241-4356	
		Robinsonj33@michigan.gov	
	Contract Administrator	Mike Breen	DTMB
		517-249-0428	
		Breenm@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION:			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
3/31/2018	3/30/2019	5 – 1 year options	3/30/2019
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION		\$2,500,000.00	
FOR THE CONTRACTOR: _____ Company Name _____ Authorized Agent Signature _____ Authorized Agent (Print or Type) _____ Date		FOR THE STATE: _____ Signature _____ Name & Title _____ Agency _____ Date	



STATE OF MICHIGAN

Education Value-Added Assessment System (EVAAS) Contract Terms

This Contract (this “**Contract**”) is agreed to between the State of Michigan (the “**State**”) and SAS Institute Inc. (“**Contractor**”), a North Carolina corporation. This Contract is effective on March 31, 2018 (“**Effective Date**”), and unless earlier terminated, will expire on March 30, 2019 (the “**Term**”).

This Contract may be renewed for up to five (5) additional one (1) year periods. Renewal must be by written notice from the State and will automatically extend the Term of this Contract.

1. Definitions.

“**Action**” has the meaning set forth in **Section 9.1**.

“**Authorized Users**” means all Persons authorized by the State to access and use the Results in connection with this Contract in furtherance of the Educational Purpose. Access to the EVAAS Interface will be controlled by authorizations provided by the State.

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

“**Confidential Information**” has the meaning set forth in **Section 7.1**.

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

“**Contract Administrator**” is the individual appointed by each party to administer the terms of this Contract. Each party’s Contract Administrator will be identified on Contract cover page.

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

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

“**Contractor SPOC**” has the meaning set forth in **Section 2.4**.

“**Educational Purpose**” refers to purposes directly related to learning, teaching, training, research and development that are part of the instructional and curriculum development functions performed by an educator or through a school district within the State of Michigan.

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

“**Force Majeure Event**” has the meaning set forth in **Section 15**.

“Hosted Services” means the hosting, management and operation of the Software System used by Contractor, including but not limited to the computing hardware, ancillary equipment, firmware, data, and related resources.

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

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

“Loss” means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers. “Losses” has a correlative meaning.

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

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

“Results” has the meaning set forth in **Section 2.1(c)**.

“Representatives” means a party’s employees, officers, directors, consultants, legal advisors and, with respect to Contractor, Contractor’s Subcontractors.

“Services” has the meaning set forth in **Section 2.1**.

“Software System” means Contractor’s EVAAS software, and any third-party or other software, that Contractor determines is necessary for it to use in order to perform the Services and deliver the Results.

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

“State Data” has the meaning set forth in **Section 5.1**.

“**State SPOC**” has the meaning set forth in **Section 2.6**.

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

“**Statement of Work**” means the statement of work attached as **Schedule A** to this Contract.

“**Subcontractor**” means any entity that performs any Services under this Contract and otherwise has the meaning set forth in **Section 2.3(a)**.

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

2. Services.

2.1 Services. Throughout the Term and at all times in connection with its actual or required performance under this Contract, Contractor will, in accordance with all terms and conditions set forth in this Contract and as more specifically described in the Statement of Work, provide to the State the following EVAAS services (“**Services**”):

- (a) use the Software System to deliver the Services as described in the Statement of Work;
- (b) the implementing and maintaining of the security requirements set forth in **Schedule B** to this Contract;
- (c) the analysis, computation, and reporting on the State’s educational information through use of EVAAS modeling as set forth in the Statement of Work which is the output of the Services performed by Contractor (collectively, the “**Results**”);
- (d) provide the State and Authorized Users with the services as outlined in MCL 388.1695b, to the extent such Services are expressly set forth on the Statement of Work; and
- (e) such other services as may be specified in the Statement of Work.

Nothing in this Contract, including any attachments hereto, will be construed to allow the State or any Authorized Users to access any SAS Institute Inc. software. Any license to Contractor software or any rights to use Contractor software within a hosted environment must be procured pursuant to a separate agreement between the parties.

2.2 Compliance with Laws. Contractor must comply with all applicable Laws as they concern this Contract, including by securing and maintaining all required and appropriate visas, work permits, business licenses and other documentation and clearances necessary for performance of the Services. Both parties shall act in accordance with all applicable laws, rules, and regulations in the performance of its obligations under this Contract.

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

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

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

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

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

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

- (i) the identity of such Subcontractor and the location of all its data centers, if any, that will be used in Processing any State Data, which information Contractor shall promptly disclose to the State in writing; and
- (ii) a written confidentiality and restricted use agreement, giving the State rights at least equal to those set forth in **Section 4** (State Data), **Section 7** (Confidentiality), **Section 8** (Security) and containing the Subcontractor’s acknowledgment of, and agreement to, the provisions of **Section 2.4** (Contractor Personnel), a fully-executed copy of which agreement Contractor will promptly provide to the State upon the State’s request.

2.4 Contractor SPOC. Contractor will appoint a Contractor employee to serve as a single point of contact with respect to the Services (the “**Contractor SPOC**”);

2.5 Management and Payment of Contractor Personnel.

(a) Contractor is solely responsible for the payment of Contractor Personnel, including all fees, expenses and compensation to, by or on behalf of any Contractor Personnel and, if applicable, the withholding of income taxes and payment and withholding of social security and other payroll taxes, unemployment insurance, workers’ compensation insurance payments and disability benefits.

(b) Contractor will ensure that no Person who has been convicted of a felony or any misdemeanor involving, in any way, theft, fraud, or bribery provides any Services or has access to any State Data, State Systems or State facilities. On a case-by-case basis, the State may request that Contractor initiate a background check on any Contractor Personnel before they may have access to State Data, State Systems or State facilities in order to deliver the Services. Any request for a background check shall be initiated by the State and must be reasonably related to the type of work requested. The scope of the background check is at the discretion of the State and the results shall be used solely to determine the eligibility of Contractor Personnel to work with State Data,

State Systems or in State facilities. If provided to the State, results of background checks will be promptly returned to Contractor, and will be treated as Confidential Information. All investigations will include a Michigan State Police Background check (ICHAT) and may include a National Crime Information Center (NCIC) Finger Print check. Contractor will present attestation of satisfactory completion of such tests. Contractor is responsible for all costs and expenses associated with such background checks. The parties acknowledge and agree that Contractor has performed pre-employment drug and criminal background screening on all of its employees performing Services hereunder in accordance with Contractor's human resources policy and that such pre-screening may be deemed to satisfy the requirements set forth in this paragraph; provided, however, that the State will take into account the scope of previous background checks prior to requesting additional background checks. Such checks performed by Contractor include the following: SSN verification; address history; local, state, federal, and international crime history; national criminal index; sex offender search; and prohibited party searches.

2.6 State SPOC. The State will appoint and, in its reasonable discretion, replace, a State employee to serve as the single point of contact with respect to the Services (the "**State SPOC**" or Program Manager on Contract cover page).

3. License Grant. Contractor grants the State a limited, nontransferable, nonexclusive, royalty-free license to (i) use the EVAAS Interface to access the Results, (ii) receive the benefits of the Software System, via the Results, used by Contractor to produce the Results, and (iii) use any Results delivered to the State in connection in furtherance of the Educational Purpose. The state may use and copy the Results in connection with work involving third parties in furtherance of the Educational Purpose. Contractor will only release the Reports to Authorized Users designated in writing by Customer. The license granted under subsection (i) above shall terminate one year after Contractor has initially made the Results on the EVAAS Interface, unless otherwise extended by Customer's purchase of additional Services. The licenses granted under subsections (ii) and (iii) above are perpetual.

Contractor owns the "Software System" to generate reports, including all underlying calculations and algorithms to evaluate data, documentation, related materials, derivatives and all intellectual property rights therein (collectively, the "Contractor Materials"). State does not acquire any right, title, or interest in or to the Contractor Materials. State shall not copy, modify, enhance, reverse engineer, or make any addition to the Contractor Materials. Notwithstanding anything in this Contract to the contrary, Contractor shall retain all right, title, and interest in and to all Contractor Materials which shall not be considered "Services."

4. Termination, Expiration and Transition.

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

(a) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (i) endangers the value, integrity, or security of State Systems, State Data, or the State's facilities or personnel; (ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; or (iii) breaches any of its material duties or obligations under this Contract. Any reference to specific

breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

(b) If the State terminates this Contract under this **Section 4.1**, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of this Contract, the termination will be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 4.2**.

(c) In the event Contractor is terminated by the State for cause, Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination representing fees for Services previously paid but not yet delivered by Contractor prior to such date. Further, Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Services from other sources.

(d) Except in the event of non-appropriation or negative appropriation, Contractor may terminate this Contract if there the State fails to render payment in accordance with the terms of Section 6, below, provided such failure is not cured within thirty (30) days of the State's receipt of written notice from Contractor.

4.2 Termination for Convenience. The State may immediately terminate this Contract in whole or in part, without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance immediately, or (b) continue to perform in accordance with **Section 4.3**. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

4.3 Transition Responsibilities. Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days; the "**Transition Period**"), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract to continue without interruption or adverse effect, and to facilitate the orderly transfer of the Services to the State or its designees. Such transition assistance may include but is not limited to: (a) continuing to perform the Services at the established Statement of Work rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Services to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all State Data; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, the "**Transition Responsibilities**"). The Term of this Contract is automatically extended through the end of the Transition Period. For the avoidance of doubt, nothing herein shall require Contractor to provide any software code, detailed coding analyses, or otherwise be required to maintain the EVAAS Interface beyond the Term.

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

(a) Contractor will be obligated to perform all Transition Responsibilities specified in **Section 4.3**.

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

(c) Contractor will (i) return to the State all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the State's Confidential Information; (ii) permanently delete and render irrecoverable using, at a minimum, the standards outlined in NIST 800-88, the State's Confidential Information from its computer systems after taking all necessary and appropriate steps, or such other action as the State may reasonably direct, to preserve, maintain, protect, or return to the State all State Data as set forth in Section 4.3; and (iii) certify in writing to the State that it has complied with the requirements of this **Section 4.4(c)**, in each case to the extent such materials are not required by Contractor for Transition Responsibilities, if any.

(d) Notwithstanding any provisions of this Contract or any Statement of Work to the contrary, upon the State's termination of this Contract or any Statement of Work for cause pursuant to **Section 4.1**, the State will have the right and option to continue to access and use the Services under each applicable Statement of Work, in whole and in part, for a period not to exceed one hundred and eighty (180) days from the effective date of such termination pursuant to the terms and conditions of this Contract and each applicable Statement of Work and at a reduced rate of fifty (50%) off the applicable Fees set forth in each such Statement of Work.

4.5 Survival. The rights, obligations and conditions set forth in this **Section 4.5** and **Section 1** (Definitions), **Section 4.3** (Effect of Termination; Data Retention), **Section 5** (State Data), **Section 7** (Confidentiality), **Section 8** (Security), **Section 9.1** (Indemnification), **Section 10** (Limitations of Liability), **Section 11** (Representations and Warranties), **Section 14** (Insurance) and **Section 16** (Effect of Contractor Bankruptcy) and **Section 18** (General Provisions), and any right, obligation or condition that, by its express terms or nature and context is intended to survive the termination or expiration of this Contract, survives any such termination or expiration hereof.

5. State Data.

5.1 Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes any data collected, used, processed, stored, or generated by the State in connection with the Services, including but not limited to (i) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Services, including, without limitation, any information that identifies an individual, such as an individual's student identifier, social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, or an individual's name in combination with any other of the elements here listed. State Data also includes any data purchased, licensed or leased from a third party by Customer may be provided to Contractor under this Contract. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This **Section 5.1** survives termination or expiration of this Contract.

5.2 Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Results and Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This **Section 5.2** survives termination or expiration of this Contract.

5.3 Discovery. Contractor shall immediately notify the State upon receipt of any requests which in any way might reasonably require access to State Data. Contractor shall notify the State Project Manager by the fastest means available and also in writing. In no event shall Contractor provide such notification more than seventy-two (72) hours after Contractor receives the request. Contractor shall not respond to subpoenas, service of process, Freedom of Information Act (FOIA) requests, and other legal requests related to the State without first notifying the State and obtaining the State's prior approval of Contractor's proposed responses. Contractor agrees to provide its completed responses to the State with adequate time for State review, revision and approval.

5.4 Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than seventy-two (72) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) perform or take any other actions required to comply with applicable law as a result of the occurrence; (d) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; and (e) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all third-party claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that, after reasonable investigation, is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must notify the State, as soon as practicable but no later than five (5) business days of becoming aware of such occurrence, and proceed, as applicable, with steps (b) through (e), above. This **Section Error! Reference source not found.** survives termination or expiration of this Contract.

5.5 The State will be responsible for: (a) providing or otherwise making available to Contractor, in a mutually agreed upon format, all State Data required to perform the Services; (b) providing Contractor all data sources and information regarding business rules necessary for provision of the Services; and (c) making available and maintaining an appropriate and mutually agreed upon communications link for Contractor to provide the Services and deliver the Results. "Business rules" refers to those policy decisions or other factors determined by the State which may impact the analysis conducted by Contractor. Failure by the State to make available State Data within the mutually agreed upon format and timeframe may result in a delay in SAS' provision of the Services. The State will not knowingly introduce any viruses into the Software System through the State Data or otherwise.

5.6 Prior to transmitting any State Data, the State will complete and submit to Contractor any applicable data classification form(s) as provided by Contractor to the State. Customer will not make available to SAS (a) any credit or debit card numbers, personal identification numbers (PIN), passwords or other electronic identification numbers, or information a person uses for payment or to access personal or financial information; (b) any patient, medical or other protected health information that is subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or any similar national or state laws, rules or regulations which are materially similar to HIPAA; (c) any Personal Data concerning residents of the European Union that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, or that concerns an individual's health or sex life; or (d) any classified data or technical data controlled by the International Traffic in Arms Regulations (collectively, "**Sensitive Information**"). If any such Sensitive Information is sent to Contractor, Contractor will have no liability whatsoever for any loss of or damage to such Sensitive Information associated with any deletion activities undertaken by Contractor.

5.7 SAS reserves the right to disengage and take State Data offline in the event of any emergency situation or any threat or perceived threat to the Software System related to the State Data. SAS will not be responsible for any delay in providing the Services or delivering the Results attributable to State Data or to any such disengagement.

5.8 Upon the earlier of (a) completion of the Services and delivery of the Results to the State or (b) termination of the Agreement, Contractor will promptly take all necessary steps, or such other action as the State may direct, to return to the State all State Data and delete or otherwise render inaccessible all copies of the State Data, except to the extent otherwise required by applicable law.

5.9 **Protection of Personal Data** With respect to any information relating to an identified or identifiable natural person ("Personal Data") that: (a) is included in State Data; or (b) otherwise relates to individuals and is received by Contractor from the State in connection with the performance of the Services, Contractor acts as a data processor and the State is the data controller. Contractor agrees that with respect to the processing of such Personal Data, Contractor will: (i) act only upon the State's instructions as set forth in this Contract, and use such Personal Data only for the purpose of providing the Services and delivering the Results; (ii) implement and maintain reasonable technical and organizational security measures that are designed to protect such Personal Data against unauthorized access, use, alteration, destruction or disclosure; and (iii) comply with the security requirements set forth in Schedule B. The State will be responsible for

providing any required notices and obtaining any required consents for the collection, use, processing, transfer and disclosure of Personal Data in connection with the Services.

6. Fees and Expenses.

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

The Fees for the Phase One Services are Two Million Five Hundred Thousand Dollars (\$2,500,000) ("Initial Fees"). Contractor shall invoice the State the Initial Fees upon execution of this Contract. The State shall pay the Initial Fees on or before August 1, 2018.

The Initial Fees includes up to One Hundred Thousand Dollars (\$100,000) of EVAAS training services ("Training Services Fee"). During the initial Term of the Contract, the parties shall mutually agree upon the scope, time, and location of such training. Related travel expenses for EVAAS training described in this paragraph shall be deducted from the Training Services Fee. Contractor shall not be required to deliver training services which exceed the Training Services Fee. Contractor shall not be required to refund any money for training services that are not utilized by the State prior to the end of the initial Term.

The Initial Fee applies regardless of the number of tests students take, provided the data is obtained from the State either longitudinally merged or with each student having a unique numeric identifier consistent over years so that the longitudinal merging can be easily completed. After Contractor completes analysis of a specific set of data, if the State subsequently submits additional data requiring a new analysis, then an additional fee may be applied for the new analysis, and an applicable amendment to this Contract may be required.

6.2 Fees for additional Services during the Term and any Option Years, if applicable. Contractor's Fees are fixed during the initial period of the Term solely with respect to the Phase One Services described on the Statement of Work included at Attachment A as of the effective date of this Contract. The parties may subsequently choose to add additional EVAAS services and results to be generated pursuant to the terms of this Contract at any point during the initial Term or during any Option Year exercised by the parties. In the event the parties wish to add additional Services to this Contract, the parties shall enter into an amendment to this Contract which outlines the scope of additional work to be performed and additional fees which may be charged to the State for such work.

No increase in Fees or delivery of additional EVAAS services are effective unless made in compliance with the provisions of this **Section 6.2**.

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

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

The State shall not be required to pay any such taxes for so long as a valid tax exemption certificate is on file with the Contractor.

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

- (a) clearly identify the Contract and purchase order number to which it relates, in such manner as is required by the State;
- (b) list each Fee item separately;
- (c) include sufficient detail for each line item to enable the State to satisfy its accounting and charge-back requirements;
- (d) for Fees determined on a time and materials basis, report details regarding the number of hours performed during the billing period, the skill or labor category for such Contractor Personnel and the applicable hourly billing rates;
- (e) include such other information as may be required by the State as set forth in the Statement of Work; and
- (f) Itemized invoices must be submitted to DTMB-Accounts-Payable@michigan.gov.

6.6 Payment Terms. Invoices are due and payable by the State, in accordance with the State's standard payment procedures as specified in 1984 Public Act no. 279, MCL 17.51, *et seq.*, within forty-five (45) calendar days after receipt, provided the State determines that the invoice was properly rendered. The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment.

6.7 State Audits of Contractor.

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

(b) The State may take copies and abstracts of materials audited. The State will pay the cost of such audits unless an audit reveals an overbilling or over-reporting of five percent (5%) or

more, in which case Contractor shall reimburse the State for the reasonable cost of the audit. Contractor must immediately upon written notice from the State pay the State the amount of any overpayment revealed by the audit, together with any reimbursement payable pursuant to the preceding sentence.

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

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

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

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

6.10 Availability and Support Service Level Credits. Contractor acknowledges and agrees that any credits assessed as a result of the Service Level Warranty specified in Section 12: (a) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from not meeting the Service Level Warranty, which would be impossible or very difficult to accurately estimate; and (b) may, at the State's option, be credited or set off against any Fees or other charges payable to Contractor under this Contract or be payable to the State upon demand. Credits may not exceed the total amount of Fees that would be payable for the relevant service period in which the credits are assessed.

6.11 Right of Set-off. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

7. Confidentiality.

7.1 Meaning of Confidential Information. The term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; (c) should reasonably be recognized as confidential information of the disclosing party; or (d) constitutes State Data, as defined in **Section 5.1**. The term “Confidential Information” does not include any information or documentation that was or is: (a) in the possession of the State and subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). Notwithstanding the above, in all cases and for all matters, State Data is deemed to be Confidential Information.

7.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to the Contractor’s subcontractor is permissible where: (a) the subcontractor is a Permitted Subcontractor; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Permitted Subcontractor’s responsibilities; and (c) Contractor obligates the Permitted Subcontractor in a written contract to maintain the State’s Confidential Information in confidence. At the State’s request, any of the Contractor’s Representatives may be required to execute a separate agreement to be bound by the provisions of this **Section 7.2**.

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

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

7.5 Surrender of Confidential Information upon Termination. Upon termination or expiration of this Contract or a Statement of Work, in whole or in part, each party must, within forty-five (45) days from the date of termination, destroy 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. The parties acknowledge and agree that destruction shall be deemed complete when Contractor has deleted and rendered irrecoverable all data received from the State hereunder.

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

8.1 Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Services and on an annual basis during the term of this Contract. During the providing of Services, upon thirty days advance notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to make reasonable efforts to complete, within forty-five (45) calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.

8.2 Audit Findings. With respect to State Data, and as mutually agreed upon by the parties, Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.

8.3 State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or the Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this **Section**.

9. Indemnification.

9.1 General Indemnification. Contractor must defend, indemnify and hold harmless the State, and the State's agencies, departments, officers, directors, employees, agents, and contractors from and against all Losses arising out of or resulting from any third party claim, suit, action or proceeding (each, an "**Action**") that does or is alleged to arise out of or result from (a) Contractor's negligence or more culpable act or omission (including recklessness or willful misconduct) in connection with the performance or nonperformance of any Services or other activity actually or required to be performed by or on behalf of Contractor (including, in the case of Contractor, any Contractor Personnel); or (b) any infringement, misappropriation, or other violation of any Intellectual Property Right or other right of any Third Party.

9.2 Indemnification Procedure. The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial

ability to carry out these obligations. The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own expense, if the State deems necessary. Contractor will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. Any litigation activity on behalf of the State or any of its subdivisions, under this **Section 9**, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

10. Limitations of Liability and Disclaimer of Damages.

(a) Disclaimer of Damages. EXCEPT WITH RESPECT TO A BREACH OF EITHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY WILL BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS AND LOST BUSINESS OPPORTUNITIES.

(b) The State's Limitation of Liability. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED \$2.5 MILLION DOLLARS.

(c) Contractor's Limitation of Liability. (i) IN NO EVENT WILL CONTRACTOR'S AGGREGATE LIABILITY TO THE STATE UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ALL CLAIMS RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED FIVE MILLION DOLLARS (\$5,000,000). (ii) Exception: Contractor's Limitation of Liability shall not apply to Contractor's obligations with respect to damages arising from Contractor's recklessness, bad faith, or intentional misconduct. (iii) Solely with respect to a breach of Contractor's obligations with respect to the loss of State Data contemplated by Section 5.4, Contractor's aggregate liability to the State, regardless of the form of action, whether in contract, tort, negligence, strict liability, or by statute or otherwise, for all claims shall not exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000).

11. Contractor Representations and Warranties.

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

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

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

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

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

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

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

11.2 Software and Service Warranties. Contractor further represents and warrants to the State that:

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

(b) there is no settled, pending or, to Contractor's knowledge as of the Effective Date, threatened Action, and it has not received any written, oral or other notice of any Action (including in the form of any offer to obtain a license) which would have a material effect on Contractor's ability to deliver the Services: (i) alleging that any access to or use of the Services or Software System does or would infringe, misappropriate or otherwise violate any Intellectual Property Right of any third party; (ii) challenging Contractor's ownership of, or right to use or license, any software or other materials used or required to be used in connection with the performance or receipt of the Services, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to perform the Services or its other obligations under this Contract, and it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any such litigation, claim or proceeding;

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

(d) the Results and Services will in all material respects conform to and perform in accordance with the specifications and all requirements of this Contract;

(e) the Contractor Hosted Systems used to deliver the Services are and will remain free of harmful code; Contractor will perform all Services in a timely, professional and workmanlike manner, using personnel with the requisite skill, experience and qualifications;

(f) During the term of this Contract, any audit rights contained in any third-party software license agreement or end user license agreement for third-party software incorporated in or otherwise used in conjunction with the Services, will apply solely to Contractor's (or its subcontractors) facilities and systems that host the Services (including any disaster recovery site), and regardless of anything to the contrary contained in any third-party software license agreement or end user license agreement, third-party software providers will have no audit rights whatsoever against State systems or networks; and

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

The sole remedies for Contractor's breach the above shall be termination of this Contract and the indemnification obligations set forth in this Contract.

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

11.4 **Disclaimer of Actions Caused by, or Under the Control of, Third Parties**. Contractor exercises no control over the flow of information to or from the Software System outside of Contractor's firewalls and security systems, Contractor's network, or other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt connections to the Internet or portions of such connections. Although at all times during the Term Contractor will use commercially reasonable efforts to take all actions it deems appropriate to remedy and avoid such events, Contractor cannot guarantee that such events will not occur. **ACCORDINGLY, CONTRACTOR DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO ALL SUCH EVENTS AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE CONTRACT, ANY OTHER ACTIONS OR INACTIONS CAUSED BY OR UNDER THE CONTROL OF A THIRD PARTY.**

12. State Representations.

12.1 The State represents that it has the right to use the State Data, and has obtained from the applicable provider of State Data the right for Contractor to use the State Data as contemplated by this Contract.

13. Service Level Warranty. Contractor warrants that the EVAAS Interface will experience no more than thirty five (35) hours of downtime per calendar month (the "**User Interface Maximum Monthly**

Downtime") which has been calculated based on a ninety-five percent (95%) up-time level for the EVAAS Interface ("**Service Level Warranty**") subject to certain exclusions. For the avoidance of doubt, User Interface Maximum Monthly Downtime does not include any planned outages relating to the EVAAS Interface, of which the State shall receive advance notice. The Service Level Warranty will not commence until the EVAAS Interface has been released for the State's use.

SAS will monitor EVAAS Interface availability and will determine downtime. Contractor will provide the State with one (1) Service Credit for any calendar month in which the User Interface Maximum Monthly Downtime is exceeded, provided the State requests each such Service Credit within seven (7) days of the end of such calendar month. The State's failure to request a Service Credit within this timeframe will result in forfeiture of the Service Credit for that month. Contractor will reduce the immediately succeeding invoice under the Contractor by an amount equal to any Service Credit Contractor provides, unless the Service Credit is due in the final period of the Term, in which case Contractor will refund to the State the amount available as a Service Credit.

"Service Credit" means an amount equal to 0.5% of the Fee paid by the State for the current annual period up to a maximum of One Thousand Dollars United States dollars (\$1000.00USD). The State may terminate the Contract for cause and without penalty in the event the State receives a total of four (4) Service Credits during any annual period and SAS has exceeded the User Interface Maximum Monthly Downtime in any subsequent calendar month during such annual period, provided the State notifies SAS of its intention to terminate within five (5) days of the end of such subsequent calendar month.

The foregoing states the State's sole and exclusive remedy for any noncompliance by Contractor with the Service Level Warranty.

14. Insurance.

14.1 Required Coverage.

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

Insurance Type	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10

\$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	11 85, or both CG 2010 07 04 and CG 2037 07 0.
Umbrella or Excess Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds.
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Privacy and Security Liability (Cyber Liability) Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate	Contractor's policy must cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.

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

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

(d) Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) with the exception of Privacy and Security Liability

Insurance, waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

14.2 Non-waiver. This **Section 14** is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

15. Force Majeure. Neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached this Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by reasons beyond its control, including but not limited to: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a “**Force Majeure Event**”), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

16. Effect of Contractor Bankruptcy. All rights and licenses granted by Contractor under this Contract are and shall be deemed to be rights and licenses to “intellectual property,” and the subject matter of this agreement, including the Services, is and shall be deemed to be “embodiments” of “intellectual property” for purposes of and as such terms are used in and interpreted under section 365(n) of the United States Bankruptcy Code (the “**Code**”) (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory Statement of Works). Without limiting the generality of the foregoing, if Contractor or its estate becomes subject to any bankruptcy or similar proceeding as a debtor, subject to the State’s rights of election, all rights and licenses granted to the State under this Contract will continue subject to the respective terms and conditions of this Contract, and, unless otherwise provided in the Code or any other applicable bankruptcy, insolvency, and similar laws, will not be affected, even by Contractor’s rejection of this Contract.

17. ADA Compliance. The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. Contractor will provide the currently available voluntary product accessibility template (VPAT) for EVAAS services to the State, as it relates to the level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Contractor’s sole obligation with respect to demonstrating accessibility compliance under this Section will be delivery of the aforementioned VPAT.

18. General Provisions.

18.1 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Contract is to be construed as creating any agency,

partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party has authority to contract for or bind the other party in any manner whatsoever.

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

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

If to Contractor:

SAS Institute Inc.

SAS Campus Drive

Cary, NC 27518

E-mail: steve.sachs@sas.com

Attention: Steve Sachs

In case of legal notices, with a copy to:

SAS Institute Inc.

SAS Campus Drive

Cary, NC 27518

Attention: General Counsel

If to the State:

525 West Allegan, Lansing, MI 48933

E-mail:

Attention:

Title:

Notices sent in accordance with this **Section 18.3** will be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail (with

confirmation of transmission), if sent during normal business hours of the recipient, and on the next business day, if sent after normal business hours of the recipient; or (d) on the fifth (5th) day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

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

18.5 Assignment. Contractor may not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Contract, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the State's prior written consent. The State has the right to terminate this Contract in its entirety or any Services or Statements of Work hereunder, pursuant to **Section 4.2**, if Contractor delegates or otherwise transfers any of its obligations or performance hereunder, whether voluntarily, involuntarily, by operation of law or otherwise, and no such delegation or other transfer will relieve Contractor of any of such obligations or performance. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Contractor (regardless of whether Contractor is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Contract for which the State's prior written consent is required. Any purported assignment, delegation, or transfer in violation of this **Section 18.5** is void.

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

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

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

18.9 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 a state or federal court in Michigan. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of

personal jurisdiction or forum non conveniens. Contractor must appoint agents in Michigan to receive service of process

18.10 Equitable Relief. Each party to this Contract acknowledges and agrees that (a) a breach or threatened breach by such party of any of its obligations under this Contract may give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto is, in addition to any and all other rights and remedies that may be available to such party at law, at equity or otherwise in respect of such breach, entitled to seek equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each party to this Contract agrees that such party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this **Section 18.10**.

18.11 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.

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

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

Schedule A Statement of Work for Phase One Services

Schedule B Data Security Requirements

Schedule C Pricing Schedule

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

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

Schedule A
Model Value-Added Growth and Projection Analytics System
Statement of Work
for
PHASE ONE SERVICES

1. BACKGROUND

The Michigan Department of Education (MDE) is responsible for the implementation of Michigan's educator evaluation laws, including MCL 380.1249 and MCL 380.1249b, governing teacher and administrator evaluations respectively. These laws require the use of student growth and achievement data based on state and local assessments in the determination of an annual year-end evaluation rating. The year-end evaluation ratings have high-stakes implications for teachers, as the ability to progress to and renew certain teaching certificates is determined by these ratings.

Michigan must ensure that its student growth measures, including value-added models, are of the highest quality, follow current best practice and research, align to statewide assessment programs, and provide usable information for educators, schools, and districts. MDE and Contractor are responsible for ensuring that all tasks and activities carried out as part of the Contract, comply with all state and federal legislation, regulations, and policies regarding student privacy, educator evaluations, and student growth measures in Michigan which may be applicable to MDE or Contractor.

In order to assist Michigan with its goals and obligations set forth above, Contractor will produce reports through longitudinal merging and warehousing of all student achievement data provided by the State. Reports will show analyses of student achievement data for potential summative and formative use from test data. Contractor performs multivariate, longitudinal analyses using multiple subjects and grades for each student, as available. Contractor will also prepare reports that displays student growth measures for the district, its schools and teachers. Contractor may prepare reports for diagnostic use that estimate student growth for a particular achievement group of students.

2. PURPOSE

The awarded Contract is for a model value-added growth and projection analytics system for implementation and to incorporate that model into its reporting requirements under the Every Student Succeeds Act, Public Law 114-95.

The model value-added growth and projection analytics system must do all the following:

- Utilize existing state assessments and any future state assessments that are suitable for measuring student growth.
- Report student growth measures at the district, school, teacher, and subgroup levels.
- Recognize the growth of tested students, including those who may have missing assessment data.
- Include all available prior standardized assessment data that meet inclusion criteria across grades, subject, and state and local assessments.
- Allow student growth results to be disaggregated.

- Provide individual student projections showing the probability of a student reaching specific performance levels on future state assessments.
- Have a native roster verification system built into the value-added reporting platform.
- Have a "help/contact us" ticketing system built into the value-added reporting platform.
- Provide internet-based electronic student growth and projection reporting to educators at the school, district, and state levels that includes role-based permissions that allow educators to access information about the performance of the students within their immediate responsibility in accordance with applicable privacy laws.

3. DESCRIPTION OF SERVICES

To assist the State with achieving its purposes set forth in Sections 1 and 2 above, Contractor will perform the following limited EVAAS services:

Services:

- Contractor will provide Results through the EVAAS Interface (defined herein). Authorized Users may access an export function within the EVAAS Interface to download the growth and projection data into a variety of formats mutually agreed upon by the parties.

Results:

- Based upon the State's ability to provide Contractor the available data and the suitability of the data for value-added analysis, Contractor will provide reporting for the following Results:
 - District, school, and teacher growth, as well as student projections based on standardized assessment data from grades K-8.
 - District and school growth reporting as well as student projections for college readiness assessments based on standardized assessment data.
 - To the extent possible based upon available data provided by Customer, Results may also include student projections to Advanced Placement assessments.
- The Results will be reported for up to three academic years at a time, as mutually agreed upon by the parties, through the EVAAS Interface.
- If the State desires to obtain additional results after Contractor provides the Results, the State and Contractor shall amend the Contract to reflect the additional results. Fees for subsequent school years will be based on Contractor's rate at the time of purchase.
- The Results will be available for retrieval by the State for a period of one year from the date Contractor makes the Results available on such online location.

Data Assumptions. The State shall make every effort to deliver the State Data, in a mutually agreed upon format and in a timely manner, required to enable Contractor to perform the Services.

- The State shall provide relevant data for the most recent five (5) academic years; upon mutual agreement of the parties, Contractor will accept additional data beyond the most recent five (5) academic years. Data to be provided, or otherwise made available to Contractor, should include the following criteria, or as otherwise mutually agreed upon by the parties:
 - Prior assessment data which may be available, including K-2 benchmark assessments, state-standardized assessments, and college readiness.

- Student flags, which criteria may include key demographic and socioeconomic attributes, program inclusion, and student subgroup identifiers required under the Every Student Succeeds Act.
- The State bears responsibility for the integrity of the data the State provides Contractor. If Contractor performs an analysis and determines it must be repeated because the State provided inadequate or defective data, then the State agrees to cleanse or correct the data so that Contractor may repeat the analysis. The State may be required to pay for the additional expenses related to the repeated analysis.

Contractor will make the Results available to the State through a user interface (the “**EVAAS Interface**”). Contractor shall, determine the appearance of the Results and the EVAAS Interface. Subject to the limitations contained in the Agreement, Contractor grants the State the right for Authorized Users to access the Software System solely via the EVAAS Interface for the purposes of using and creating Results. The State may use any documentation provided by Contractor solely in support of the State’s authorized use of the System and receipt of the Results. Contractor will perform regular backups of State Data and Results stored within the Software System (“Backups”). Backups will be stored securely for specified periods and will be restored by Contractor in the event of Software System failure, corruption or accidental removal or deletion caused by Contractor.

Except to the extent allowed by law, the State may not use the System nor permit any other party or entity to use the System to develop a commercial offering or product directly or indirectly competing with an offering or product from SAS.

The State will not, and will not permit any Authorized User, through use of the EVAAS Interface or otherwise: (a) to download or attempt to download any SAS software or documentation or any other software; or, except for the State Data and Results, any data, made available by Contractor via the Software System; (b) to use the Software System to engage in any activities or actions that infringe or misappropriate the intellectual property rights of others, including, but not limited to, using third party copyrighted materials without appropriate permission, using third party trademarks without appropriate permission or attribution, or using or distributing third party information protected as trade secret information in violation of a duty of confidentiality; (c) to use the Software System to engage in any activities or actions that would violate the personal privacy rights of others, except as permitted by applicable law; (d) to use the Software System to send or transmit malicious code or harassing, abusive, libelous, or obscene materials or assist in any similar related activities; (e) to use the Software System to intentionally omit, delete, forge, or misrepresent transmission information, including headers, return mailing, and Internet protocol addresses; (f) to use the Software System to engage in any activities or actions intended to misuse or abuse Authorized Users’ passwords or other confidential information or any Contractor or third party property including, without limitation, software, equipment, networks or network devices; (g) to use the Software System for any illegal purpose, in violation of any applicable laws or regulations, or in violation of the rules of any other service provider engaged by or for the benefit of the State; (h) to make any unauthorized use of or interfere with any property of Contractor, a Contractor subcontractor or any Contractor customer; (i) to impair or disrupt any connections to the Software System; (j) to interfere or attempt to interfere in any manner with the functionality or proper working of the Software System; (j) to reverse engineer, disassemble or decompile any part of the Software System; (k) to use any open source software in connection with the Software System in any manner that requires, pursuant to the license applicable to such open source software, that any part of the Software System be disclosed or distributed in source code form, made available free of charge or modifiable without restriction; or (l) to assist or permit any person to engage in any of these activities (collectively “**Prohibited Activities**”). If

Customer becomes aware of any Prohibited Activities, the State will promptly notify SAS and will limit, suspend or terminate a User's access to the System. SAS will have the right, but undertakes no obligation, to monitor the State's and Authorized Users' use of the Software System for compliance with the requirements of this Section. Contractor reserves the right to immediately suspend or terminate access to the System by the State or any Authorized User if Contractor detects or otherwise becomes aware that the State or any Authorized User is or has been engaged in any Prohibited Activities. Contractor will have no liability to the State for any such suspension or termination of access to an Authorized User resulting from any Prohibited Activities.

The State will take reasonable measures inform Authorized Users' employers (and request that such employers inform their Authorized Users), to encourage Authorized Users only to access the EVAAS Interface in a manner which is consistent with the terms and condition of the Contract. Unless otherwise agreed to, the State will have access to the EVAAS Interface and Results for one year upon the release of the Results.

4. SPECIFIC STANDARDS

Acceptable Use Policy

To the extent that Contractor has access to the State's computer system, Contractor must comply with the State's Acceptable Use Policy, a copy of which is included as Exhibit A to this Schedule A. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs. The parties acknowledge and agree that Contractor will not access the State's system under this Contract.

Mobile Responsiveness

The Contractor's solution must be mobile responsive.

5. END-USER OPERATING ENVIRONMENT

SAS' delivery supports authorized users for several web browsers and operating systems. For Windows users, this website is best viewed with the latest version of Internet Explorer, Mozilla Firefox, or Google Chrome. For Mac users, this website is best viewed with the latest version of Safari, Mozilla Firefox, or Google Chrome. The EVAAS Interface continues to support Firefox, Safari, and Chrome on machines running either Windows 7 or later or any version of Mac OS X. The supported versions of Internet Explorer are 11 or later on machines running Windows 7 or later. Browser usage is tracked and reviewed at various points and if application changes are needed then SAS will work with MDE to implement those.

6. RESERVED

7. INTEGRATION

The Contractor must be able to interface with the regional data hub systems using standards based data exchanges.

8. MILESTONES AND DELIVERABLES

The State's proposed milestone schedule and associated deliverables are set forth below. The chart below is provided for planning purposes only and are estimated timeframes subject to change.

Milestone and Deliverables below:

Deliverable	Organization Responsible	Estimated Date
Project Kick-Off	MDE, CEPI, and SAS	Week of April 2, 2018
2016-2017 and prior Assessment Data Submission	MDE	No Later Than April 11, 2018
Data Processing and Integrity Checks	SAS	April - May, 2018
Modeling Discussions & Recommendations	MDE & SAS	April - May, 2018
Business Rules Development	MDE & SAS	April - May, 2018
Data Processing and Integrity Checks	MDE & SAS	April - May, 2018
Analysis	SAS	May-June, 2018
Production of EVAAS Web Reporting Including Results for School Years 2016-2017, 2015-2016, & 2014-2015	SAS	June - July, 2018
Web Reporting Delivery (Districts, Schools, and Student Projections. Teachers may be delivered at the same time or in a second phase.)	SAS	June-July, 2018

The Contractor will provide a project manager (PM) to work with the State's project manager. Contractor's PM will ensure the appropriate Contractor resources are on-boarded for the project and will conduct a kick off meeting with the State's PM and identified State resources to review the project plan and approach, the scheduled tasks and their related timing, and to identify any potential risks or issues related to the project. The Contractor's PM will be responsible for maintaining an MS Project schedule (or approved alternative) identifying tasks, durations, forecasted dates and resources – both Contractor and State - required to meet the timeframes as agreed to by both parties.

The Contractor PM will monitor project implementation progress and report on a weekly basis to the State the following:

- Progress to complete milestones, comparing forecasted completion dates to planned and actual completion dates
- Accomplishments during the reporting period
- Tasks planned for the next reporting period
- Identify any existing issues which are impacting the project and the steps being taken to address those issues
- Identify any new risks and describe progress in mitigating high impact/high probability risks previously identified

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

9. TRAINING SERVICES

Subject to Section 6.1, the Contractor must provide administration and end-user training. The Contractor must provide available training options and include details such as: typical class size, materials to be provided, class duration, on-site or web based. The parties shall mutually agree on the final form and content of training provided hereunder. See also the limitations set forth in the FEES section of the Contract.

10. CONTRACTOR KEY PERSONNEL

Contractor Contract Administrator. Contractor must identify the individual appointed by it to administer the terms of this Contract.

Contractor
Name Steve Sachs Address 100 SAS Campus Drive, Cary, 27513 Phone 919.531.4231 Email steve.sachs@sas.com

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

Contractor
Name Scott Peoples Address 100 SAS Campus Drive, Cary, NC 27513 Phone 919.531.0305 Email scott.peoples@sas.com

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

Contractor
Name John White Address 100 SAS Campus Drive, Cary, NC 27513 Phone 919.531.1508 Email john.white@sas.com

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

Contractor
Name Cathy Smith Address 100 SAS Campus Drive, Cary, NC 27513 Phone 919.531.1351 Email cathy.smith@sas.com

11. STATE RESOURCES/RESPONSIBILITIES

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

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

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

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

12. MEETINGS

At start of the engagement, the Contractor PM must facilitate a Project Kick Off Meeting with the support from the State's PM and the identified State resources to review the approach to accomplishing the project, schedule tasks and identify related timing, and identify any risks or issues related to the planned approach. Contractor must facilitate regular meetings (or more if determined necessary by the parties) to provide updates on progress.

13. ADDITIONAL INFORMATION

The State reserves the right to purchase any additional products or services from the Contractor during the duration of the Contract. Any additional services will be added by amendment to this Contract in accordance with Section 6 of the Contract.

SCHEDULE B
Data Security Requirements

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

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

“**Contractor Systems**” has the meaning set forth in **Section 5** of this Schedule.

“**EVAAS Interface**” means the user interface made available by Contractor to deliver the Results.

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

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

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

3.1 provide the State with Contractor’s SOC 2, Type 2 report prior to Contract execution;

3.2 maintain those security standards set forth in Attachment A to this Schedule B;

3.3 ensure that the Software is securely hosted, supported, administered, and accessed in a data center that resides in the continental United States, and minimally meets Uptime Institute Tier 2 standards (www.uptimeinstitute.com), or its equivalent;

3.4 provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling or Processing of such information that ensure a level of security appropriate to the risks presented by the Processing of the State’s Confidential Information and the nature of such Confidential Information to the extent set forth in this Contract;

3.5 take all reasonable measures to:

(a) secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Services against “hackers” and others who may seek, without authorization, to disrupt, damage, modify, access or otherwise use Contractor Systems or the information found therein; and

(b) prevent unauthorized access to any of the State’s Confidential Information;

3.6 ensure that State Data is encrypted in transit and at rest using AES 256bit or higher encryption for the EVAAS Interface;

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

3.8 ensure the Hosted Services have multi-factor authentication for privileged/administrative access for the EVAAS Interface; and

3.9 as mutually agreed upon by the parties, assist the State, at no additional cost, with development and completion of a system security plan for the EVAAS Interface.

4. Unauthorized Access. Contractor may not access, and shall not permit any access to, State Systems, in whole or in part, whether through Contractor's Systems or otherwise, without the State's express prior written authorization. Such authorization may be revoked by the State in writing at any time in its sole discretion. Any access to State Systems must be solely in accordance with the Contract and this Schedule, and in no case exceed the scope of the State's authorization pursuant to this **Section 4**. All State-authorized connectivity or attempted connectivity to State Systems shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.

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

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

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

6.2 upon the State's request, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least thirty (30) days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may (and subject to agreement by Contractor, which may require the execution of separate paperwork), but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Contractor Systems and their housing facilities and operating environments; and

6.3 if requested by the State, provide a copy of Contractor's FedRAMP System Security Plan, if applicable, or its SOC 2, Type 2 report. The SOC2, Type 2 report or System Security Plan will be recognized as Contractor's Confidential Information.

Attachment A

SAS Security Addendum

Contractor will take reasonable technical and organizational measures, as described in this Addendum, to protect against unauthorized usage of systems and unauthorized access to a State data. The State agrees that the technical and organizational measures specified below are reasonable and adequate for the processing of the State's data described in the Contract.

Security Practices:

- Daily threat assessment subscriptions are utilized to stay up-to-date on security trends.
- Anti-Virus, Anti-Malware, Host-based Intrusion Prevention and Host-based Firewalls are in place on all client machines.
- Anti-Virus is in place for all Windows server machines.
- Client systems are patched monthly for OS patches and critical 3rd party software components.
- Server systems patch schedules vary based on application and environments.
- Anti-virus, Anti-Malware, and Blacklisting is in place for all outbound web requests.
- Laptops utilize full disk encryption.
- Web application testing is performed for new and significantly changed Internet-facing web assets.
- Global network penetration testing is conducted annually.
- Vulnerability scans for Internet-facing assets is performed weekly.
- All network data transfers shall be accomplished using SAS acceptable and supported encrypted protocols.

Network Security

- Firewalls are in place at both ingress and egress points for all SAS Internet connectivity points.
- Network based IDS/IPS systems are utilized at all SAS locations that perform customer hosting or have Internet facing resources.
- Inbound access to SAS is strictly controlled to an as needed basis and all new rules must go through the appropriate change control process.
- Logging and address translation are all accomplished at the firewall.
- Configuration changes are monitored daily.
- Protection from unauthorized access:
 - Firewalls and routers are controlled via access control lists;
 - Servers are configured to record all audit events regarding user access and elevated privileges;
 - Elevated access and authentication logs are reviewed the next business day.

Email security:

- Email ingress and egress is encrypted via opportunistic TLS.
- Spam filtering and Anti-Virus is implemented.

Elevated Logical Access:

- Requires multiple approvals
- System administrator access is limited and conducted through a secure connection.

Physical Security Controls

- Badge readers are deployed for all buildings and located at each entry point to the Data Center.
- Badges must be worn and visible at all times.
- SAS secure environments requires additional badge readers and/or PIN codes.
- Cameras monitor ingress and egress of the Data Center.
- Video images are logged and maintained.
- All visitors, including non-preferred third-party vendors, are required to sign a log sheet upon entering and exiting the Data Center.
- SAS manages an access transaction report that lists all access attempts, successful or unsuccessful, within the Data Center environment and the SAS tape vault.
- Backup power is provided by a combination of Uninterruptable Power Supply (UPS) and diesel generators.
- Fire suppression systems monitor and prevent fire impact.
- Environmental systems monitor and alert to humidity and temperature.
- Multiple Internet providers/gateways are utilized.

Personnel Security Controls

- Standard Background checks are performed on all employees, and additional checks are completed as required by law or contract.
- SAS employees are required to comply with SAS security, access and use policies.
- Security awareness training is completed by all employees.
- SAS' employee termination processes include removing access and obtaining company assets.

Security Incident and Notifications

- SAS has a formal Security Incident and response Team Plan (SIRT) that provides a consistent framework for responding to security incidents and providing proper notice as required by law.

Data Destruction requirements

- When storage media has reached the end of its useful life, SAS decommissioning procedures are designed to prevent data from being recoverable or exposed to unauthorized individuals.
- SAS uses accepted techniques and processes to ensure data safeguarding and sanitization, which may involve encryption, deletion, clearing, overwriting, wiping, purging, degaussing, or destruction, as applicable to the technology and defined in relevant agreements.

SAS EVAAS Detailed Pricing for Michigan

The table below provides the deliverables and pricing for a statewide EVAAS pilot implementation in 2018. The costs are based on the tested student counts provided to SAS by the State of Michigan. Thank you for giving SAS the opportunity to provide this information to you. We look forward to a great partnership with the State of Michigan.

Deliverable	Total
Web-based reporting that includes, where sufficient data are available: a. Growth Metrics, which reflectively identify strengths and opportunities for improvement, grade to grade and subject to subject, for districts and schools b. Diagnostic Reports, which look beyond individual growth estimates to uncover levels of effectiveness with different types of learners c. Individual Student Projections, which proactively predict student success probabilities at numerous academic milestones. d. Custom Interactive Scatterplots, which allow users to visualize the impact of various growth metrics and the students who are served. e. College Readiness Dashboards and Customized Reports, which aggregate student information as needed to assist with educational planning District, school, teacher growth reporting and student projections reporting using assessment data from grades K-8 for up to 818,135 tested students and from grade 11 for up to 114,000 tested students. Note, teacher growth reporting is not included for grade 11. Using Data From K-8: Using Data from Grade 11:	
	\$2,274,415.30
	\$228,000.00
Export feature EVAAS results can be exported by authorized users for independent use and research. This interface enables users to select the variables of interest to export—which districts, schools, grades, subjects, and tests—as well as the format for the exported file.	\$186,427.00
Training allotment The Educator Support Team within EVAAS has experience and expertise in the development and delivery of interactive, in-person professional development sessions that are designed to empower educators to use EVAAS reporting to inform instructional decisions. All training sessions begin with sections intended to build a strong foundation on the fundamentals of EVAAS, including the difference between student growth and student achievement and the two analytical models (the gain model and the predictive model) used to provide the reporting. Training can be conducted with MDE staff, district admins, school admins, and/or teachers. Offerings are tailored to each audience. A training catalog is included in Appendix 3.	\$100,000.00
2017-2018 Total	\$2,788,842.30
Year 1 New Partner Pilot discount (Approx. 10%)	(\$288,842.30)
2017-2018 New Total	\$2,500,000.00