



STATE OF MICHIGAN PROCUREMENT
 Department of Technology, Management, and Budget
 320 S. Walnut St. Lansing, MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 1
 to
 Contract Number 171 24000000169

CONTRACTOR	Custom Insight, LLC
	204 East 2 nd Ave #127
	San Mateo CA 94401 US
	Bill Freund
	650-204-9055
	bill@custominsight.com
	VS0290471

STATE	Program Manager	Colin Murad	DTMB
		517-648-2250	
		MuradC@michigan.gov	
STATE	Contract Administrator	Todd Perry	DTMB
		Phone Number	
		perryt@michigan.gov	

CONTRACT SUMMARY

DESCRIPTION: Employee Engagement Survey for State of Michigan Employees.			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
01/01/2024	12/31/2027	2 – 2 Year	12/31/2027
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			

DESCRIPTION OF CHANGE NOTICE

OPTION		EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$220,000.00	\$0.00	\$220,000.00		

DESCRIPTION: Effective May 30, 2024, Contract Administrator is changed to Todd Perry. Also effective May 30, 2024, new invoicing details are implemented as follows.

- 8.1 Invoice Requirements**
- The contract must deliver to the DTMB the deliverables set forth in this Statement of Work.
- A. **DTMB will generate four payments per survey cycle to the Contractor.**
- 1. First payment: 25% transfer of the total project cost per cycle to be paid upon accurate transfer of the data from previous vendor to the online survey data reporting tool, and submission by SOM of final statewide survey questionnaire to Contractor.**



STATE OF MICHIGAN PROCUREMENT

Department of Technology, Management, Budget

320 South Walnut Street

P.O. Box 30026

Lansing Michigan 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **24000000169**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Custom Insight, LLC
	204 East 2nd Ave # 127
	San Mateo CA 94401-3904
	Bill Freund
	650.204.9055
	bill@custominsight.com
	VS0290471

STATE	Program Manager	Colin Murad	DTMB
		517-648-2250	
	MuradC@michigan.gov		
	Contract Administrator	Jordana Sager	DTMB
517-896-1903			
Sagerj2@michigan.gov			

CONTRACT SUMMARY			
Employee Engagement Survey for State of Michigan Employees:			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 1, 2024	December 31, 2027	2 – 2-year	December 31, 2027
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER. This Contract Agreement is awarded on the basis of the State’s inquiry bearing the solicitation RFP 23000002173. Orders for Delivery will be issued directly by the Departments through the issuance of a Delivery Order (DO).			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$220,000.00

FOR THE CONTRACTOR:

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Name & Title

Agency

Date

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Custom Insight LLC (“**Contractor**”), a California limited liability company. This Contract is effective on January 1, 2024 (“**Effective Date**”), and unless terminated, will expire on December 31, 2027. (the “**Term**”).

This Contract may be renewed for up to two additional two-year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

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

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities unless otherwise specified in a Statement of Work.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (i) comply with all State physical and IT security policies and standards which will be made available upon request; and (j) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

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

- 2. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
See Contract Administrator information shown below.	Bill Freund 204 E. 2nd Street, #127 San Mateo, CA 94401 bill@custominsight.com 650.204.9055

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

State:	Contractor:
Jordana Sager 320 North Walnut Street Lansing MI 48933 Sagerj2@michigan.gov 517-896-1903	Bill Freund 204 E. 2nd Street, #127 San Mateo, CA 94401 bill@custominsight.com 650.204.9055

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

State:	Contractor:
Colin Murad 320 North Walnut Street Lansing MI 48933 MuradC@michigan.gov 517-648-2250	Christine Ipolyi 204 E. 2nd Street, #127 San Mateo, CA 94401 Christine@custominsight.com (650) 585-1954

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in a Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements. See Schedule C**
7. **Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made online by check or credit card at: <https://www.thepayplace.com/mi/dtmb/adminfee>.

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

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

- 8. Extended Purchasing Program.** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal.

Upon written agreement between the State and Contractor, this contract may also be extended to: (a) other states (including governmental subdivisions and authorized entities) and (b) State of Michigan employees.

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 9. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.
- 10. Intellectual Property Rights.** If a Statement of Work requires Contractor to create any intellectual property, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.
- 11. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the

terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.

- 12. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 13. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in a Statement of Work, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- 14. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 15. Change of Control.** Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.
- 16. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
- 17. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in a Statement of Work. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State

Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 24, Termination for Cause.

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

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

18. Reserved.

19. Reserved.

20. Reserved.

21. Invoices and Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities provided as specified in a Statement of Work. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all fees are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If

Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

Excluding federal government charges and terms, Contractor warrants and agrees that each of the fees, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent fees, economic or product term or warranty being offered to any commercial or government customer (including any public educational institution within the State of Michigan) of Contractor. If Contractor enters into any arrangements with another customer of Contractor to provide the products or services, available under this Contract, under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract will be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor will immediately notify the State of such fee and formally memorialize the new pricing in a change notice.

- 22. Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in a Statement of Work. The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under Section 24 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.
- 23. Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
- 24. Termination for Cause.** (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 any facility, data, or personnel; (ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (iii) engages in any conduct that may expose the State to liability; (iv) breaches any of its material duties or obligations

under this Contract; or (v) fails to cure a breach within the time stated by the State in a notice of breach, if in its sole discretion the State has chosen to provide a time to cure. 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, the State will issue a termination notice specifying whether Contractor must: (i) cease performance immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Contract Activities accepted by the State under this Contract or (ii) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 25, Termination for Convenience.

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

25. Termination for Convenience. The State may immediately terminate this Contract in whole or in part without penalty and for any reason or no reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due Contractor for Contract Activities accepted by the State under this Contract, or (b) continue to perform the Contract Activities in accordance with Section 26, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

26. Transition Responsibilities. Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 180 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities,

training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

- 27. Return of State Property.** Upon termination or expiration of this Contract for any reason, Contractor must take all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to the Contractor by any entity, agent, vendor, or employee of the State.
- 28. Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own cost and 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, 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.

The State is constitutionally prohibited from indemnifying Contractor or any third parties.

- 29. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 30. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 31. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 32. Reserved.**
- 33. State Data.**
- a. Ownership.** The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data, user data, and any other data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) protected health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability

and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State.

- b. Contractor Use of State Data.** Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; (c) keep and maintain State Data in the continental United States and (d) not use, sell, rent, transfer, distribute, commercially exploit, 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. Contractor's misuse of State Data may violate state or federal laws, including but not limited to MCL 752.795.
- c. Extraction of State Data.** Contractor must, within 5 business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data.** Unless otherwise specified in a Statement of Work, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in a Statement of Work, Contractor must maintain a contemporaneous backup of State Data that can be recovered within 2 hours at any point in time.
- e. Loss or Compromise of Data.** In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than 24 hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring

services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than 24 months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney’s fees associated with such investigation and resolution; (g) without limiting Contractor’s obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys’ fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor’s representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 33** are to be considered direct damages and not consequential damages.

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

34. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

a. Meaning of Confidential Information. For the purposes of this Contract, the term “**Confidential Information**” means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar

meaning; or, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

- e. **Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.
- f. **Third-Party Requests.** Contractor will immediately notify the State upon receipt of any third-party requests which in any way might reasonably require access to State Data. Contractor will notify the State Program Managers or their designees by the fastest means available and also in writing. Contractor must provide such notification within twenty-four (24) hours from Contractor's receipt of the request. Contractor will not respond to subpoenas, service of process, FOIA requests, and other legal requests related to the State without first notifying the State. Upon request by the State, Contractor must provide to the State, its proposed response to the third-party request with adequate time for the State to review, and, as it deems necessary, to revise the response, object, or take other action.

35. Data Privacy and Information Security.

- a. **Undertaking by Contractor.** Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. **Audit by Contractor.** No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. **Right of Audit by the State.** Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on

an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.

- d. Audit Findings.** Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies.** The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

36. Reserved.

37. Reserved.

38. Records Maintenance, Inspection, Examination, and Audit. Pursuant to MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

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

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

39. Representations and Warranties. Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract;

(f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 24, Termination for Cause.

- 40. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 41. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 42. Reserved.**
- 43. Reserved.**
- 44. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 45. Unfair Labor Practice.** Under MCL 423.324, the State may void this Contract if the name of the Contractor, or the name of a subcontractor, manufacturer, or supplier of the Contractor, subsequently appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 46. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law

principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.

- 47. Non-Exclusivity.** Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 48. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 49. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

 Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 50. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- 51. 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:

Document Title	Document Description
Schedule A	Statement of Work
Schedule B	Pricing

Schedule C	Insurance Requirements
Schedule D	Service Level Agreement for Hybrid Purchases
Schedule E	Data Security Requirements for Hybrid Purchases

- 52. Entire Agreement and Order of Precedence.** This Contract, which includes Statement of Work, and schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Statement of Work; (b) second, Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, 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 THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 53. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 54. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 55. Survival.** Any right, obligation, or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.
- 56. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

SCHEDULE A - STATEMENT OF WORK

CONTRACT ACTIVITIES

Contract No. 240000000169

Employee Engagement Survey for State of Michigan Employees

BACKGROUND

With a demonstrated relationship between performance and engagement, maximizing employee engagement for all staff and leaders has become a key focus in organizations of all sizes and all sectors. This survey has been a key element in attracting and retaining the most capable, diverse, and talented individuals at the State of Michigan (SOM); ensuring an environment that encourages employee engagement of all demographics; linking these measures to organizational outcomes; and ensuring accountability for the long term.

Since 2012, the SOM has conducted seven employee engagement surveys, roughly every 24 months. The most recent survey was completed in late 2022. These surveys involved as many as 47,000 SOM employees. Data is used to assess employee engagement statewide, across all departments, and at the local level for groups of ten or more. The survey questionnaire and demographics were significantly revised for the 2022 survey, resulting in new baselines the SOM will continue to compare and evaluate against moving forward.

SCOPE

The purpose of this Contract is to conduct an employee engagement survey for the SOM. The SOM seeks a Contractor who can develop and deploy a statewide employee engagement survey that measures employee engagement across the SOM, summarizes overall results, and makes recommendations based on the results.

Employee Engagement Survey of All SOM Employees

The Contractor will consult, manage, develop, host, administer, analyze, and report results for SOM biennial employee engagement survey of all SOM employees.

- **Survey Population:** Approximately 47,000 SOM employees.
- **Survey Segmentation:** Up to 25 SOM executive branch government agencies will be represented in this survey.
- **Survey Modality:** The survey is to be web-enabled with each SOM employee receiving the survey invitation via e-mail with a unique survey link to participate.
- **Survey Administration:** The Contractor must administer the survey through their own online administration platform, which will provide options for employees to access the survey via computer, tablet, kiosk, or smartphone.
- **Respondent Anonymity:** The Contractor must ensure all survey responses will be confidential and reported to the State anonymously in aggregate. In

instances where SOM Human Resource determines workplace safety may be at risk, the Contractor will provide respondent identification upon SOM request.

1. Requirements

1.1. General Requirements

A. Survey Questionnaire Design

The 2022 SOM engagement survey questionnaire must be used as the starting point for all future survey questionnaire designs. The 2022 questionnaire (Attachment 1 – Core Questions) contained approximately 50 Likert scale questions as well as 2 multiselect questions and 3 open ended text opportunities. The SOM expects future survey designs to be similar. Contractor must review the 2022 questionnaire and through review, discussion, and consultation with the SOM team make recommendations for improvement, as needed.

Contractor must allow for a small subset of questions (up to 5) specific to each agency on issues specific to that agency.

The survey questionnaire design and content will be finalized within three to five iterations of Contractor and DTMB review and feedback. DTMB will approve the final survey questionnaire.

Contractor will make recommendations for improvement, to enable the State to benefit from the Contractor's research-based framework, designed to build high-performance organizations, and from their benchmarked survey items.

B. Employee Respondent Demographic Data

The Contractor will capture demographics consistent with SOM's previous surveys, including but not limited to department/agency, gender, age, race, employment group, and primary work location.

The Contractor will consult with DTMB to identify if other demographic data would be valuable to collect with this survey. DTMB will approve the final demographics.

Contractor's survey tool will attach the employee's survey results back to the employee's email address to ensure respondents take the survey only once and that their self-selected demographic information is aligned with their survey responses. Contractor's system must allow for multiple sessions that includes restart where one left off.

The Contractor will protect individual respondent anonymity by precluding the breakdown and analysis of group data comprised of less than ten (10) to support respondent anonymity.

C. Branding

The Contractor will ensure DTMB preapproved branding is displayed on survey, dashboard, and all printed reports.

D. Data Security

The Contractor must ensure security/protection of the data throughout all phases of administration, collection, analyses, reporting, and post-survey follow-up. The Contractor is responsible for all aspects of quality control and security - data collection, storage, transmission, and reporting, and for disaster recovery on their site. The Contractor will be required to comply with Schedule E – Data Security Requirements and meet all applicable public and non-public State IT Policies, Standards and Procedures (“PSP”). Non-public State PSPs are available to Contractors under Non-Disclosure Agreement (NDA). As part of this Contract, Contractors is required to sign an NDA before non-public PSPs are distributed.

E. Communication Plan and Templates

1. The Contractor will provide DTMB with a communication plan that includes the following templates for review, edits if needed, and approval:
 - a. Pre-survey announcements
 - b. Invitation/proctor instructions
 - c. Reminders
2. The Contractor will send out communications relating to the fielding of the survey (e.g., invitation and survey reminders) as determined in consultation with SOM team.

F. Segmentation/Survey Coverage

1. Departments/Agencies
The survey must include up to 25 State departments/agencies and up to 2,000 individual hierarchy nodes. Contractor will work with the SOM project team to leverage prior survey hierarchy and make necessary updates. This involves documenting group name changes, movement of groups, group additions, and elimination of groups. The State project team will coordinate points of contact from each agency who will update their respective hierarchies and provide to Contractor for importing into survey tool.
2. Benchmarking
Contractor must provide comparative data for the overall Statewide results and all local level groups with ten or greater respondents. Contractor will include up to three benchmark comparison groups to include other service industries, governmental entities, and high performing organizations. This must be accessible from a web-enabled portal with the ability to download data in readable MS Word, Excel, PPT, and PDF formats.
3. Trending
Contractor must incorporate prior trend data from the 2018, 2020, and 2022 surveys at each node of the survey hierarchy within their results portal. The State will provide Contractor hierarchy trend mapping from 2018, 2020 and 2022 surveys upon award.

G. Respondent Email List

DTMB will provide Contractor with a preliminary SOM employee list with agency and hierarchy assignments based on Contractor's file specifications for testing purposes.

DTMB will also provide Contractor one final SOM employee list with valid e-mail addresses for web survey administration prior to the survey fielding period.

DTMB and Contractor will determine the timeframe when final SOM employee list is to be submitted.

Upon deploying the survey, Contractor must provide DTMB a list of email addresses that were undelivered for DTMB to correct contact information and have survey invitations resent, where possible.

H. Survey IT Checklist and Testing

The Contractor is responsible for delivering a fully tested system that is ready for user acceptance testing by DTMB.

The Contractor must work with the State's information technology staff to enable effective and secure access to and completion of the survey.

The Contractor will work with the State's information technology staff to determine the parameters and nuances of internet firewalls, email spam filters, and internet browser usage throughout the organization.

The Contractor will provide the DTMB and the State's information technology staff with an "IT Checklist" that outlines the steps and actions necessary to successfully deliver the survey to the State's systems.

DTMB will identify department and IT testers to facilitate and assess the understanding, functionality, and survey instructions of the survey web link and questionnaire.

Survey testing, including ADA compliance testing, to be conducted by DTMB. If programming errors are uncovered during testing, the Contractor will make corrections at no additional cost to DTMB. Any issue will necessitate a re-test to the affected area.

I. Survey ADA Compliance, Usability and Testing

The Contractor must coordinate testing and acceptance of the SOM Employee Engagement survey by working with designated State ADA testers to ensure usability on all SOM equipment including but not limited to desktop, laptop, e-readers, tablets, and mobile devices. The Contractor agrees to deploy the survey only after receipt of confirmation that the survey is approved by the State as ADA compliant.

1. All items provided by Contractor under this Contract, including software and associated content and documentation, communications, invites, the survey

- questionnaire itself, and all reports must conform to level AA of the World Wide Web Consortium Web Content Accessibility Guidelines version 2.0 (“WCAG 2.0 Level AA”). Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed product accessibility template (“PAT”) for each product provided under the Contract. At a minimum, Contractor must comply with the WCAG 2.0 Level AA conformance claims it made to the State, including the level of conformance provided in any PAT. Throughout the Term of the Contract, Contractor must:
- a. Maintain compliance with WCAG 2.0 Level AA and meet or exceed the level of conformance provided in its written materials, including the level of conformance provided in each PAT;
 - b. Comply with plans and timelines approved by the State to achieve conformance in the event of any deficiencies;
 - c. 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 to WCAG 2.0 Level AA;
 - d. Promptly respond to and resolve any complaint the State receives regarding accessibility of Contractor’s software;
 - e. Contractor will provide the most current PAT for each product provided under the Contract; and
 - f. Participate in the State of Michigan Digital Standards Review described below.
2. 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 WCAG 2.0 Level AA. Prior to the solution going-live and thereafter for the period the survey is open, 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.
 3. Warranty. Contractor warrants that all WCAG 2.0 Level AA 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 such conformance claims provided by the Contractor represent a higher level of conformance than what is actually provided to the State, Contractor will, at its sole cost and expense, promptly remediate its Software to align with Contractor’s stated WCAG 2.0 Level AA conformance

claims in accordance with plans and timelines that are approved in writing by the State. If Contractor is unable to resolve such issues in a manner acceptable to the State, in addition to all other remedies available to the State, the State may terminate this Contract for cause.

4. 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 foregoing accessibility standards.

1.1.2. Survey Administration

A. Response Rate Monitoring

Survey response rates must be captured in real time. Contractor must actively monitor and report survey response rates to DTMB throughout the survey fielding period. Response rates must be able to be segmented by hierarchy nodes and by agency/department. The Contractor must suggest target communications throughout the survey fielding period, if needed.

B. Help Desk Support

Prior to execution of the survey, Contractor must work with DTMB to establish an issue escalation protocol.

During the survey fielding period, Contractor will be available to DTMB by phone and email to address any needs, issues, or questions.

During the survey fielding period, Contractor will provide help desk support to all respondents via email support box and/or phone number.

During the survey fielding period, respondents can contact the Contractor with questions and the Contractor's team will respond to issues/requests that arise within 24 hours, typically in the same day.

Contractor will work with the State to finalize a list of 'Support Inbox Standards' which will be responses that Contractor's team can utilize when responding to inquiries received through the e-mail support box. For urgent questions received, Contractor will share with the State's team immediately.

1.1.3. Online Survey Data Reporting Tool

The Contractor will provide DTMB and specified agency users with access to an online survey results data reporting tool for additional analysis; breakdown; filtering by department/agency, demographic, or other segmentation collected; and query capabilities of the survey data including access to all quantitative, qualitative (verbatim comments), demographic, and trending data where possible.

- A. **Consultation.** The Contractor will provide consultative support to aid in DTMB and agency interpretation and understanding of the results when needed.

- B. **Preformatted Reports.** The online survey data reporting tool is to provide preformatted standard reports including all high level KPI and survey items to be agreed upon by DTMB for easy viewing, exporting, printing, and sharing offline. All preformatted reports must be exportable in MS Word, Excel, PPT, and PDF formats.
- C. **Custom Reports.** The online survey data reporting tool is to provide the capability to create and export custom ad hoc reports for printing and sharing offline. All custom ad hoc reports must be exportable in MS Excel format.
- D. **Summary Reports.** Exportable high level summary reports that include category and summary data sets predetermined and mutually agreed upon by DTMB (by survey node/hierarchy).
- E. **Comment Reports.** The online survey data reporting tool is to provide verbatim comment reports to all open-ended questions that can be segmented by available survey demographics.
- F. **Analysis.** The reporting tool must be able to produce:
 - 1. **Engagement Score, Champion Score, and Overall Agree Score.**
Contractor will aggregate Likert survey questions, in consultation with the SOM, to produce these KPIs and make available by demographic and hierarchy group, in an easily exportable format.
 - 2. **Employee landscape.** Contractor must work with the State to determine the best method to segment respondents into categories based on the employee's level of engagement. Contractor must also provide at least one metric that measures responses to key engagement items against likelihood of leaving the organization.

All metrics must be available by demographic and hierarchy group, in an easily exportable format.
 - 3. **Demographic Distribution Tables.** Contractor will provide performance scores by demographic and hierarchy groups in an easily exportable format.
 - 4. **Heat Maps.** Contractor will highlight high and low performance scores, displaying systemic and isolated issues by demographic and hierarchy group, in an easily exportable format.
 - 5. **Driver Matrix.** Contractor to provide analysis that will help identify the attributes that are statistically driving overall engagement and turnover by demographic and hierarchy group. This should provide information on immediate opportunities to increase overall employee engagement and retention and be available in an easily exportable format.
- G. **User Access.** The Contractor will provide access to the online survey data reporting tool for up to 1,000 SOM users for the duration of the Contract. Contractor must work with DTMB to set up user profiles that only grant access to data appropriate for each user. SOM will work with agency champions to assign users to profiles which Contractor will then grant in the tool.

H. **Technical Support.** The Contractor will provide DTMB with technical support for the online survey data reporting tool and be available to answer questions regarding usage or issues with the tool during the hours of 8:00 am to 5:00 pm EST for the duration of the Contract.

1. Ability for the Contractor to provide state designated survey champions with technical support for the online survey portal and provide a summary of all activity and resolutions statuses on a predetermined schedule and frequency as mutually agreed upon by DTMB and the Contractor.
2. Ability for the Contractor to provide technical support for the online user of a data portal thru a chatbot feature and provide a summary of all activity and resolutions statuses on a predetermined schedule and frequency as mutually agreed upon by DTMB and the Contractor.

1.1.4. Survey Report Templates

The Contractor will work with DTMB to develop and finalize survey report templates to be used for the overall SOM report and individual SOM department/agency reports.

All graphics and photos used in all report templates must be nonproprietary.

DTMB will approve all final report templates, which must be ADA Compliant.

1.1.5. Data Quality Assurance

The Contractor must provide DTMB with a detailed written explanation of their internal quality assurance review process and methods, including all steps taken to ensure the accuracy, completeness, and integrity of all electronic, online, and printed employee engagement data and reports, including trend data from previous surveys, in its contract.

1.1.6 Reports

The Contractor will protect individual respondent anonymity by precluding the breakdown and analysis of group data comprised of less than ten (10) respondents in all survey reports.

The Contractor must submit to DTMB the following ADA Compliant electronic reports, all of which will include opportunities for DTMB to review and provide feedback to be incorporated:

- A. One overall SOM survey report in a modifiable electronic format (e.g., MS PowerPoint or Word) that is accurate and complete and is consistent with the approved survey report template by a date mutually agreed upon by DTMB and Contractor.
 1. The overall SOM survey report must include the survey objectives, methodology and survey structure, key findings, KPIs, overall results and impressions, KPI and response rate results by state agency and other demographic categories, and results for each Likert scale question.
 2. The overall SOM report must include trending from up to three of the previous employee engagement surveys where applicable.

3. The overall SOM report must include recommendations and leading best practice follow-up actions to continually improve employee engagement.
 4. The overall SOM survey report will be finalized within three to five iterations of Contractor and DTMB review and feedback. DTMB will approve the final report.
- B. One department template (including instructions for populating template with data from the online survey data reporting tool) for agency use. DTMB to approve final department template.
- C. Ability to produce, upon request, individual SOM department/agency survey reports in an editable electronic format that are accurate and complete and consistent with the approved final survey report template, by a date mutually agreed upon by requesting Agency and the Contractor.
1. Each state agency report should have the ability to trend department data for up to three previous surveys, where applicable.

1.2. Transition

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), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to:

- A. Continuing to perform the Contract Activities at the established Contract rates;
- B. Taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee;
- C. Taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State;
- D. The Contractor must provide all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and
- E. Preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "Transition Responsibilities"). This Contract will automatically be extended through the end of the transition period.

1.3. Training

The Contractor must provide training and resources included in this contract, specifically for the online survey data reporting tool that would be made available and accessed by SOM users post-survey.

- A. The Contractor must offer at least two virtual customized trainings specific to the SOMs use of the online survey data reporting tool, which will be recorded for

replay. Trainings should include learning outcomes, audience opportunity for questions, and customized resource materials.

- B. Training audiences will be predetermined, and training dates will be mutually agreed upon by DTMB and the Contractor.
- C. The Contractor must provide documentation and training materials.

IT Policies, Standards and Procedures (PSP)

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

Public IT Policies, Standards and Procedures (PSP):

[DTMB - IT Policies, Standards & Procedures \(michigan.gov\)](http://michigan.gov)

Acceptable Use Policy

To the extent that Contractor has access to the State’s computer system, Contractor must comply with the State’s Acceptable Use Policy, see [1340.00.130.02 Acceptable Use of Information Technology \(michigan.gov\)](http://michigan.gov). All Contractor Personnel will be required, in writing, to agree to the State’s Acceptable Use Policy before accessing the State’s system. The State reserves the right to terminate Contractor’s access to the State’s system if a violation occurs.

SOM Digital Standards

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

Mobile Responsiveness

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

ADA Compliance

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA) and has adopted standards and procedures regarding accessibility requirements for websites and software applications. All websites, applications, software, and associated content and documentation provided by the Contractor as part of the Solution must comply with Level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.

1.4. User Type and Capacity

Type of User	Access Type	Number of Users	Number of Concurrent Users
State Employees	Read Access	~43,000	~43,000

Contractor must be able to meet the expected number of concurrent Users listed above.

1.5. End-User Operating Environment

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

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

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

This information can be found at <https://www.michigan.gov/browserstats>. Please use the most recent calendar quarter to determine browser statistics. Support is required for desktop and mobile and tablet browsers identified with over 2% of site traffic.

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

1.6. Software

The Contractor will provide a Software as a Service (SaaS) application for conducting employee surveys.

The application will consist of:

- a. An administrative interface for managing the survey process and generating reports (e.g., configuring options, defining content, adding survey participants, and generating reports).
- b. An online survey interface where survey participants go to complete the survey.
- c. An online dashboard for viewing results and generating reports.

No third-party products are being proposed as part of the overall Solution.

1.7. Hosting

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

2. Service Requirements

2.1. Timeframes

All Contract Activities must be delivered within the timeframes established in the Statement of Work. The receipt of order date is pursuant to the **Notices** section of the Standard Contract Terms.

2.2. Delivery

Delivery will be expected on all items listed below according to the schedule established in the Statement of Work:

- A. Survey Report.
- B. Project Plan.
- C. Schedule of key milestones.
- D. Introduction Meeting.
- E. Project Kickoff Meeting.
- F. Weekly status meetings.
- G. Presentations
 - 1. Core team
 - 2. Executive
- H. Lesson learned meeting.

3. Acceptance

3.1. Acceptance, Inspection, and Testing

The State will use the following criteria to determine acceptance of the services or deliverables provided under this Contract. Program Manager will be responsible for verifying that the work was performed in the time referenced, met the work or deliverable criteria, and was performed according to the contract specification. Upon work and deliverable approval, the Program Manager will forward the approved invoice to DTMB Accounts Payable for payment.

4. Staffing

4.1. Contractor Representative

The Contractor must appoint individuals specifically assigned to State of Michigan accounts, who will respond to State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the “Contractor Representative”).

The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

4.2. Contract Administrator

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

State:	Contractor:
Jordana Sager	Bill Freund

320 North Walnut Street Lansing MI 48933 Sagerj2@michigan.gov 517-896-1903	204 E. 2nd Street, #127 San Mateo, CA 94401 bill@custominsight.com 650.204.9055
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4.3. Program Manager

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

State:	Contractor:
Colin Murad 320 North Walnut Street Lansing MI 48933 MuradC@michigan.gov 517-648-2250	Christine Ipolyi 204 E. 2nd Street, #127 San Mateo, CA 94401 Christine@custominsight.com (650) 585-1954

4.4. Customer Service Number

The Contractor customer service number for the State is **(650) 585-1954**. The Contractor Representative must be available for calls during the hours of 8:00 am to 5:00 pm EST.

4.5. Technical Support, Repairs and Maintenance

The Contractor must specify its number for the State to contact the Contractor for technical support, repairs, and maintenance. The Contractor must be available for calls and service during the hours of 8:00 am to 5:00 pm EST.

During survey administration, Contractor must notify the Program Manager in writing of any system failures. The Contractor must resolve technical issues within one business day. If the technical issue cannot be resolved within one business day, the Program Manager must be provided updates every four hours until the problem is resolved.

4.6. Work Hours

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

4.7. Key Personnel

The Contractor must appoint a dedicated team of individuals who will be directly responsible for the day-to-day operations of this Contract (“Key Personnel”). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements included in this Statement of Work and respond to State email and telephone inquiries within two business days.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State’s Project Manager, and provide the State with a resume and any other information about the individual

reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under the **Termination for Cause** section of the Standard Contract Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

- A. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$4,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel's removal.
- B. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the \$4,000 credit specified above, Contractor will credit the State \$133.33 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$4,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed \$8,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

1. The Contractor must identify all Key Personnel that will be assigned to this Contract in the table below, which includes the following:
 - a. Name and title of staff that will be designated as Key Personnel.
 - b. Key Personnel years of experience in the current classification.

- c. Identify which of the required key personnel positions they are fulfilling.
- d. Key Personnel's roles and responsibilities, as they relate to this Contract, if the Contractor is successful in being awarded the Contract. Descriptions of roles should be functional and not just by title.
- e. Identify if each Key Personnel is a direct, subcontract, or contract employee.
- f. List each Key Personnel staff member's length of employment or affiliation with the Contractor's organization.
- g. Identify each Key Personnel's percentage of work time devoted to this Contract.
- h. Identify where each Key Personnel staff member will be physically located (city and state) during the Contract performance.

1. Name	2. Years of Experience in Current Classification	3. Role(s) / Responsibilities	4. Direct / Subcontract/ Contract	5. % of Work Time	6. Physical Location	7. Length of Employment
Christine Ipolyi	15	Project Management	Direct	~ 25%	Jacksonville, FL	15 years
Bill Freund	8	Contract Administrator	Direct	~ 10%	San Francisco, CA	8 years

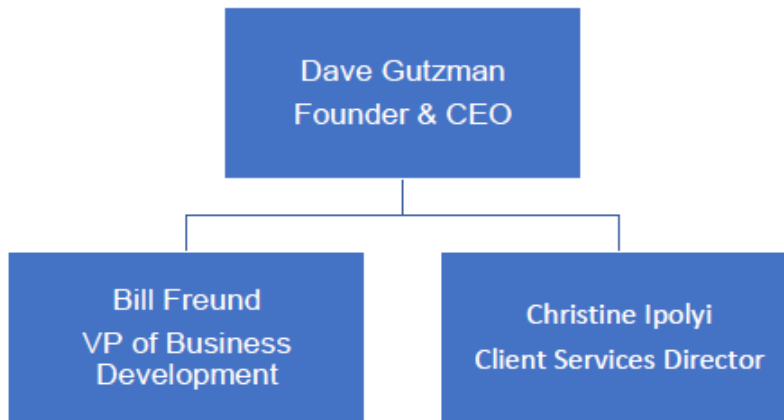
- 2. The Contractor must provide **detailed, chronological resumes** of all proposed Key Personnel, including a description of their work experience relevant to their purposed role as it relates to the Contract.

Qualifications will be measured by education and experience with particular reference to experience on projects similar to that described in the Contract.

4.8. Organizational Chart

The Contractor must provide an overall organizational chart that details staff members by name and title, subcontractors by name and title, and the hierarchical reporting relationship of all staff members and subcontractors that will be performing work as part of this Contract.

CustomInsight Organizational Chart



4.9. Disclosure of Subcontractors

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

- A. The legal business name; address; telephone number; a description of subcontractor’s organization and the services it will provide; and information concerning subcontractor’s ability to provide the Contract Activities.
- B. The relationship of the subcontractor to the Contractor.
- C. Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
- D. A complete description of the Contract Activities that will be performed or provided by the subcontractor.
- E. **Geographically Disadvantaged Business Enterprise Sub-Contractors:** If the Contractors plan to utilize subcontractors to perform more than 20% of the deliverables under this Contract, at least 20% of that subcontracted work must be awarded to Michigan-based Geographically Disadvantaged Business Enterprises (GDBE). Contractor will submit a plan detailing all subcontractors to be used, including the percentage of the work to be done by each. Contractor must inform the State to the name and address of the GDBE, the percentage of the work they will complete, the total amount estimated to be paid to the GDBE, and provide evidence for their qualifications as a GDBE. If the Contractor cannot find GDBE subcontractors to meet this requirement they must provide reasoning and justification to receive an exemption from this requirement from the State. (Existing business relationships will not be an approved reason for this.)

GDBE definition: "Geographically-Disadvantaged Business Enterprise" means a person or entity that satisfies one or more of the following: (i) Is certified as a

HUBZone Small Business Concern by the United States Small Business Administration. (ii) Has a principal place of business located within a Qualified Opportunity Zone within Michigan. (iii) More than half of its employees have a principal residence located within a Qualified Opportunity Zone within Michigan, or both.

Additional information on GDBEs can be found here:

[Michigan Qualified Opportunity Zone \(QOZ\) Map](#)

[Michigan Supplier Community \(MiSC\) Page](#)

Contractor must provide detailed information as requested in the above requirement(s).	
The legal business name, address, telephone number of the subcontractor(s).	N/A
A description of subcontractor’s organization and the services it will provide and information concerning subcontractor’s ability to provide the Contract Activities.	
The relationship of the subcontractor to the Contractor.	
Is the subcontractor a GDBE?	Choose an item.
Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.	
A complete description of the Contract Activities that will be performed or provided by the subcontractor.	
Of the total bid, the price of the subcontractor’s work.	

5. Project Management

5.1. Project Plan

The Contractor must carry out this project under the direction and control of the State DTMB Program Manager, or their designee. Six to nine months prior to the proposed survey launch date, the Contractor must submit the employee engagement project plan to the Program Manager for approval. The project plans must include: (a) the Contractor's organizational chart with names and title of Key Personnel assigned to

each project, which must align with the staffing stated in accepted Contracts; (b) the project breakdown showing sub-projects, tasks, timeline, and resources required.

The project plans must include:

- A. The expected frequency and mechanisms for updates and progress reviews
- B. The process for addressing issues, changes, and decisions.
- C. Identification of the individuals responsible for tasks included within the project plan.
- D. A detailed schedule of all key milestones and actions to be taken during the survey planning, execution and results reporting phases.

5.2. Meetings

The Contractor must plan, schedule, facilitate, and attend the following meetings (either in-person or virtual) with the SOM core project team and any other stakeholders of this Contract.

- A. **Introductory meeting** within at least 2 months of the Contract Effective Date.
- B. **Project kickoff meeting** as mutually agreed up DTMB and the Contractor, at least 9 months prior to the estimated survey launch date.
- C. **Weekly status meetings** with a structured agenda with the SOM core project team intended to identify, monitor, and mitigate project risks. The Contractor will provide a list of decisions that need to be made prior to the status meeting, maintain an issues and decisions log, and share a summary of notes after each meeting.
- D. **SOM core team presentations:**
 - 1. The Contractor will present a virtual, hybrid or in-person presentation of the results and findings of SOM's overall Employee Engagement Survey to the SOM core project team and any other key stakeholders.
- E. **SOM executive leadership presentations:**
 - 1. The Contractor, as requested, will present an overall SOM Employee Engagement Survey results presentation for up to three audiences including but not limited to cabinet members, department survey champions and equity and inclusion officers.
 - 2. The presentation results content will be finalized within three to five iterations of Contractor and the State review and feedback. The State will approve the final presentation.
 - 3. The Contractor will provide the State with an editable electronic copy of the presentation one week prior to the scheduled date.
- F. **Project lesson learned debrief meetings:**
 - 1. At the close of each survey project, the Contractor will host a lesson learned meeting with the SOM core project team and any other stakeholders to evaluate the process used, identify what went well and opportunities for

improvement, and determine if any changes are needed for the next overall employee engagement survey administration to make it more efficient and effective.

G. Other Meetings.

1. The State may request other meetings, as it deems appropriate, to continue discussions, resolve issues, make decisions, and/or keep the overall project on track.

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

6.2. Price Changes

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

7. Ordering

7.1. Authorizing Document

The appropriate authorizing document for the Contract will be a Master Agreement. A Delivery Order (DO) will be created for the contracted services.

8. Invoice and Payment

8.1. Invoice Requirements

The Contractor must deliver to the DTMB the deliverables set forth in this Statement of Work.

A. DTMB will generate two payments per survey cycle to the Contractor.

1. **Mid-point payment:** 50% of the total project cost per cycle to be paid to the Contractor upon closing of the survey.
2. **Final payment:** 50% of the total project cost per cycle to be paid to the Contractor when the final completion of all deliverables has been achieved, including the Project Lessons Learned Debrief Meeting.

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

8.2. Payment Methods

The State will make payment for Contract Activities by Electronic Funds Transfer (EFT).

8.3. Procedure

Invoices must be submitted after the work referenced on the invoices has been completed. All invoices must be sent to DTMB-Accounts-Payable@michigan.gov. Payment will be made once the program manager has approved the invoice. If the program manager has not approved an invoice due to the service listed on the invoice hasn't been performed, the service must be performed.

9. Service-Level Agreement (SLA)

The Contractor must perform all services, work, and provide deliverables in a manner that meets the requirements listed in the service level agreement as part of this Contract.

The State reserves the right to reconsider or amend SLA amounts for split awards should they occur.

The Contactor must communicate to DTMB any extenuating circumstances that may potentially impact or delay the delivery of any Contract deliverables prior to the scheduled delivery date of such deliverables noted in this Contract.

- A. Extenuating circumstances will be reviewed by DTMB before any Service Credits are assessed.
- B. At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the state will be completed within 10 days of notice of assessment.

Service Level Agreements for this Contract will be as follows:

SLA Metric 1 - Timeframes		
Acceptable Standard	Definition and Purpose	Credit Due for Failing to Meet Acceptable Standard
The Contractor must complete and deliver on mutually agreed upon key dates by DTMB and Contractor including but not limited to survey launch and survey close.	Any late or improper completion of the Contract activities by the required timeframes defined in the Acceptable Standard section, and that is	The Contractor will credit the SOM in the amount of \$10,000.00 for each occurrence and an additional \$2,000 per day for each day Contractor fails

	discovered by the SOM will be considered one occurrence.	to remedy the late or improper completion of the Work.
SLA Metric 2 - Response Time		
Acceptable Standard	Definition and Purpose	Credit Due for Failing to Meet Acceptable Standard
The Contractor must respond to all email and telephone inquiries from the DTMB within two business days of receipt.	Any response that exceeds two business days from the SOM's initial telephone or email inquiry will be considered one occurrence.	The Contractor will credit the SOM in the amount of \$100.00 for each day that passes the two-business day response deadline.
SLA Metric 3 - Quality Assurance - Reports		
Acceptable Standard	Definition and Purpose	Credit Due for Failing to Meet Acceptable Standard
All data points and information and content related to the data contained in all final survey reports, including the overall statewide report, agency-specific reports, and any other related report supplements (e.g., demographic reports) must be 100% accurate, complete, and free of errors, mistakes, miscalculations, and omissions, such as but not limited to: Incorrect, inconsistent, or missing data points related to any of the current-year survey data and all prior-year survey trending data if included	Any error, defined in the Acceptable Standard section, and that is discovered by the State of Michigan (SOM) will be considered one occurrence.	The Contractor will credit the SOM in the amount of \$1,000.00 for each occurrence.
All non-data information, content, and messaging contained in all final employee engagement survey reports, including the overall statewide report, agency-specific reports, and other related report supplements (e.g., demographic reports) must be free of formatting errors, mistakes, and omissions. Non-data information, content, and messaging formatting errors, mistakes, and omissions may include but are not limited to:	Any error, defined in the Acceptable Standard section, and that is discovered by the SOM will be considered one occurrence.	The Contractor will credit the SOM in the amount of \$500.00 for each occurrence.

<ol style="list-style-type: none"> 1. Typographical errors (e.g., misspelled words) 2. Grammatical errors (e.g., faulty punctuation, inappropriate or inconsistent verb use) 3. Incomplete sentences, thoughts, or missing words 4. Table of Contents referencing incorrect page numbers or page titles 5. Incorrect, inconsistent, or missing report titles, headers, footers and/or page numbers 6. Inconsistent use of font type or font size when reporting the same information 7. Inconsistent formatting of charts and graphs when reporting the same information 8. Illegible or misplaced chart or graph data labels 9. Illegible or cut-off column headings or data points 		
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SLA Metric 4 - Quality Assurance - Online Survey Data Reporting Tool

Acceptable Standard	Definition and Purpose	Credit Due for Failing to Meet Acceptable Standard
<p>The Contractor must guarantee 100% accuracy of all employee engagement survey data stored in the online survey data reporting tool.</p> <p>All data stored in the online survey data reporting tool must be consistent with and match all data points reflected in the final employee engagement survey electronic reports.</p>	<p>Any error, defined in the Acceptable Standard section, and that is discovered by the SOM will be considered one occurrence.</p>	<p>The Contractor will credit the SOM in the amount of \$1,000.00 for each occurrence.</p>

SLA Metric 5 - Late Reports / Late Presentation Materials

Acceptable Standard	Definition and Purpose	Credit Due for Failing to Meet Acceptable Standard
<p>The Contractor must deliver to DTMB all employee engagement survey reports in an editable electronic format, including the overall statewide report, agency-specific reports, and all other related report supplements (e.g.,</p>	<p>Any report that is delivered past the mutually agreed upon due date will be</p>	<p>The Contractor will credit the SOM in the amount of \$1,000.00 for each day that</p>

<p>demographic reports) by the due date mutually agreed upon by the DTMB and Contractor.</p>	<p>considered one occurrence.</p>	<p>passes the due date.</p>
<p>The Contractor must deliver to DTMB all final presentation materials for executive leadership presentations in an editable electronic format a minimum of one week prior to the scheduled presentation date.</p>	<p>Any presentation material that is delivered past one-week prior to the scheduled presentation date will be considered one occurrence.</p>	<p>The Contractor will credit the SOM in the amount of \$1,000.00 for each day that passes the one-week minimum due date.</p>

SCHEDULE B PRICING

**Employee Engagement Survey for State of Michigan Employees
 Contract No. 240000000169**

Quick payment terms: 1% discount off invoice if paid within 10 days after receipt of invoice.

	Cycle 1		Cycle 2	
Contract Year	Year 1	Year 2	Year 3	Year 4
Pre-Survey Activities	\$70,000	\$0	\$30,000	\$0
Survey Administration	\$15,000	\$0	\$15,000	\$0
Post Survey Activities	\$40,000	\$0	\$40,000	\$0
Additional Activities	\$5,000	\$0	\$5,000	\$0
Contract Price per year	\$130,000	\$0	\$90,000	\$0
Contract Total Cost				\$220,000

SCHEDULE C - INSURANCE REQUIREMENTS

Employee Engagement Survey for State of Michigan Employees Contract No. 24000000169

1. **General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
2. **Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
3. **Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
4. **Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
 - a. Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
 - b. Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract.
5. **Proof of Insurance.**
 - a. Insurance certificates showing evidence of coverage as required herein must be submitted to DTMB-RiskManagement@michigan.gov within 10 days of the contract execution date.
 - b. Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
 - c. Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
 - d. All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
 - e. The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification/authorization, and balance sheets.
 - f. In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to DTMB Enterprise Risk Management no later than 5 business days following such cancellation or nonrenewal.
6. **Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.
7. **Limits of Coverage & Specific Endorsements.**

Required Limits	Additional Requirements
Commercial General Liability Insurance	
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 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 using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.
Automobile Liability Insurance	
If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.	
Workers' Compensation Insurance	
Minimum Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimum Limits: \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	
Professional Liability (Errors and Omissions) Insurance	
Minimum Limits: \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate	

8. Non-Waiver. This Schedule C is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract, including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State.

SCHEDULE D – SERVICE LEVEL AGREEMENT FOR HYBRID PURCHASES

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 Terms and Conditions.

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

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

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

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

“**Contact List**” means a current list of Contractor contacts and telephone numbers set forth in the attached **Schedule D – Attachment 1** to this Schedule to enable the State to escalate its Support Requests, including: (a) the first person to contact; and (b) the persons in successively more qualified or experienced positions to provide the support sought.

“**Corrective Action Plan**” has the meaning set forth in **Section 3.9**.

“**Critical Service Error**” has the meaning set forth in **Section 2.4**.

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

“**High Service Error**” has the meaning set forth in **Section 2.4**.

“**Hosted Services**” means the hosting, management and operation of the Operating Environment, Software, other services (including support and subcontracted services), and related resources for remote electronic access and use by the State and its Authorized Users, including any services and facilities related to disaster recovery obligations.

“**Low Service Error**” has the meaning set forth in **Section 2.4**.

“**Maintenance Release**” means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Contractor may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software.

“**Medium Service Error**” has the meaning set forth in **Section 2.4**.

“**New Version**” means any new version of the Software, including any updated Documentation, that the Contractor may from time to time introduce and market generally as a distinct licensed product, as may be indicated by Contractor's designation of a new version number.

“Operating Environment” means, collectively, the platform, environment and conditions on, in or under which the Software is intended to be installed and operate, as set forth in a Statement of Work, including such structural, functional and other features, conditions and components as hardware, operating software, system architecture, configuration, computing hardware, ancillary equipment, networking, software, firmware, databases, data, and electronic systems (including database management systems).

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

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

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

“Scheduled Downtime” has the meaning set forth in **Section 2.3**.

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

“Service Availability Credits” has the meaning set forth in **Section 2.6(a)**.

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

“Service Level Credits” has the meaning set forth in **Section 3.8**.

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

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

“Software Support Services” has the meaning set forth in **Section 3**.

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

“Support Hours” means 8:00 am to 5:00 pm EST

“Support Request” has the meaning set forth in **Section 3.5**.

“Support Service Level Requirements” has the meaning set forth in **Section 3.4**.

2. Service Availability and Service Availability Credits.

2.1. Availability Requirement. Contractor will make the Hosted Services and Software Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a **“Service Period”**), at least 99.98% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the **“Availability Requirement”**). **“Available”** means the Hosted Services and Software are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. **“Availability”** has a correlative meaning. The Hosted Services and Software are not considered Available in the event of a material performance degradation or

inoperability of the Hosted Services and Software, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows: (Actual Uptime – Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception) ÷ (Scheduled Uptime – Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception) x 100 = Availability.

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

- (a) Failures of the State’s or its Authorized Users’ internet connectivity;
- (b) Scheduled Downtime as set forth in **Section 2.3**.

2.3 Scheduled Downtime. Contractor must notify the State at least twenty-four (24) hours in advance of all scheduled outages of the Hosted Services or Software in whole or in part (“**Scheduled Downtime**”). All such scheduled outages will: (a) last no longer than five (5) hours; (b) be scheduled between the hours of 12:00 a.m. and 5:00 a.m., Eastern Time; and (c) occur no more frequently than once per week; provided that Contractor may request the State to approve extensions of Scheduled Downtime above five (5) hours, and such approval by the State may not be unreasonably withheld or delayed.

2.4 Software Response Time. Software response time, defined as the interval from the time the end user sends a transaction to the time a visual confirmation of transaction completion is received, must be less than two (2) seconds for 98% of all transactions. Unacceptable response times shall be considered to make the Software unavailable and will count against the Availability Requirement.

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

2.6 Remedies for Service Availability Failures.

- (a) If the actual Availability of the Hosted Services and Software is less than the Availability Requirement for any Service Period, such failure will constitute a Service Error for which Contractor will issue to the State the following credits on the fees payable for Hosted Services and Software provided during the Service Period (“**Service Availability Credits**”):

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

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

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

3. Support and Maintenance Services. Contractor will provide IT Environment Service and Software maintenance and support services (collectively, “**Software Support Services**”) in accordance with the provisions of this **Section 3**. The Software Support Services are included in the Services, and Contractor may not assess any additional fees, costs or charges for such Software Support Services.

3.1 Support Service Responsibilities. Contractor will:

- (b) correct all Service Errors in accordance with the Support Service Level Requirements, including by providing defect repair, programming corrections and remedial programming;
- (c) provide unlimited telephone support during **Support Hours**;
- (d) provide unlimited online support 24 hours a day, seven days a week;
- (e) provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and
- (f) respond to and Resolve Support Requests as specified in this **Section**.

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

- (a) proactively monitoring on a twenty-four (24) hour by seven (7) day basis all Hosted Service functions, servers, firewall and other components of Hosted Service security;
- (b) if such monitoring identifies, or Contractor otherwise becomes aware of, any circumstance that is reasonably likely to threaten the Availability of the Hosted Service, taking all necessary and reasonable remedial measures to promptly eliminate such threat and ensure full Availability; and

- (c) if Contractor receives knowledge that the Hosted Service or any Hosted Service function or component is not Available (including by written notice from the State pursuant to the procedures set forth herein):
 - (i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;
 - (ii) If Contractor’s facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section 3.5** and **3.6**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and
 - (iii) Notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

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

- (a) all updates, bug fixes, enhancements, Maintenance Releases, New Versions and other improvements to the Hosted Services and Software, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; provided that Contractor shall consult with the State and is required to receive State approval prior to modifying or upgrading Hosted Services and Software, including Maintenance Releases and New Versions of Software; and
- (b) all such services and repairs as are required to maintain the Hosted Services and Software or are ancillary, necessary or otherwise related to the State’s or its Authorized Users’ access to or use of the Hosted Services and Software, so that the Hosted Services and Software operate properly in accordance with the Contract and this Schedule.

3.4 Support Service Level Requirements. Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section 3.4 (“Support Service Level Requirements”)**, and the Contract.

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

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

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

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

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

Support Request Classification	Service Level Metric (Required Response Time)	Service Level Metric (Required Resolution Time)	Service Level Credits (For Failure to Respond to any Support Request Within the Corresponding Response Time)	Service Level Credits (For Failure to Resolve any Support Request Within the Corresponding Required Resolution Time)
			additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

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

3.8 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Section 3.6 (“Service Level Credits”)** in accordance with payment terms set forth in the Contract.

3.9 Corrective Action Plan. If two or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Contractor does or is required to perform any Hosted Services, Contractor will promptly investigate the root causes of these Service Errors and provide to the

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

4. Data Storage, Backup, Restoration and Disaster Recovery. Contractor must maintain or cause to be maintained backup redundancy and disaster avoidance and recovery procedures designed to safeguard State Data and the State's other Confidential Information, Contractor's Processing capability and the availability of the IT Environment Services and Software, in each case throughout the Term and at all times in connection with its actual or required performance of the Services hereunder. All backed up State Data shall be located in the continental United States. The force majeure provisions of this Contract do not limit Contractor's obligations under this section.

4.2 Data Storage. Contractor will provide sufficient storage capacity to meet the needs of the State at no additional cost.

4.3 Data Backup. Contractor will conduct, or cause to be conducted, daily back-ups of State Data and perform, or cause to be performed, other periodic offline back-ups of State Data on at least a weekly basis and store and retain such back-ups as specified in **Schedule A**. Contractor must, within five (5) Business Days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of State Data in the format specified by the State.

4.4 Data Restoration. If the data restoration is required due to the actions or inactions of the Contractor or its subcontractors, Contractor will promptly notify the State and complete actions required to restore service to normal production operation. If requested, Contractor will restore data from a backup upon written notice from the State. Contractor will restore the data within one (1) Business Day of the State's request. Contractor will provide data restorations at its sole cost and expense.

4.5 Disaster Recovery. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 24 hours, and a Recovery Time Objective (RTO) of 24 hours

(the “**DR Plan**”), and implement such DR Plan in the event of any unplanned interruption of the Hosted Services. Contractor’s current DR Plan, revision history, and any reports or summaries relating to past testing of or pursuant to the DR Plan are included or attached as described in **Schedule A** under **Hosting**. Contractor will actively test, review and update the DR Plan on at least an annual basis using industry best practices as guidance. Contractor will provide the State with copies of all such updates to the Plan within fifteen (15) days of its adoption by Contractor. All updates to the DR Plan are subject to the requirements of this **Section 3**; and provide the State with copies of all reports resulting from any testing of or pursuant to the DR Plan promptly after Contractor’s receipt or preparation. If Contractor fails to reinstate all material Hosted Services and Software within the periods of time set forth in the DR Plan, the State may, in addition to any other remedies available under this Contract, in its sole discretion, immediately terminate this Contract as a non-curable default.

SCHEDULE E – DATA SECURITY REQUIREMENTS FOR HYBRID PURCHASES

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 any or all of the Hosted Services under this Contract.

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

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

“**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.

“**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. Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to:

- (a) ensure the security and confidentiality of the State Data;
- (b) protect against any anticipated threats or hazards to the security or integrity of the State Data;
- (c) protect against unauthorized disclosure, access to, or use of the State Data;
- (d) ensure the proper disposal of any State Data in Contractor's or its subcontractor's possession; and
- (e) ensure that all Contractor Representatives 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 comply with all applicable public and non-public State IT policies and standards, of which the publicly available ones are at [DTMB - IT Policies, Standards & Procedures \(michigan.gov\)](https://www.michigan.gov/DTMB-IT-Policies-Standards-Procedures).

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 Policy. To the extent that Contractor has access to the State's IT environment, Contractor must comply with the State's Acceptable Use Policy, see [1340.00.130.02 Acceptable Use of Information Technology \(michigan.gov\)](https://www.michigan.gov/1340.00.130.02-Acceptable-Use-of-Information-Technology). All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing State systems. 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 Contract Activities, Contractor will:

5.1 If Hosted Services are provided by a Hosting Provider, ensure each Hosting Provider maintains FedRAMP authorization for all Hosted Services environments throughout the Term, and in the event a Hosting Provider is unable to maintain FedRAMP 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 pursuant to **Section 25** of the Contract;

- 5.2** for Hosted Services provided by the Contractor, maintain either a FedRAMP authorization or an annual SSAE 18 SOC 2 Type II audit based on State required NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs.
- 5.3** ensure that the Software and State Data is securely stored, hosted, supported, administered, accessed, developed, 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 (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 using identified controls and minimum values as established in applicable State PSPs;
- 5.5** 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 best industry practice and applicable standards (including, but not limited to, compliance with FISMA, NIST, CMS, IRS, FBI, SSA, HIPAA, FERPA and PCI requirements as applicable);
- 5.6** take all reasonable measures to:
- (a)** secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Contract Activities 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 Contract Activities; (ii) State Data from being commingled with or contaminated by the data of other customers or their users of the Contract Activities; and (iii) unauthorized access to any of the State Data;
- 5.7** ensure that State Data is encrypted in transit and at rest using FIPS validated AES encryption modules and a key size of 128 bits or higher;

5.8 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;

5.9 ensure the Hosted Services implements NIST compliant multi-factor authentication for privileged/administrative and other identified access.

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) using the State's automated governance, risk and compliance (GRC) platform, which 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. 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.

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, disaster recovery 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 to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. 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 five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Hosted Services and their housing facilities and operating environments.
- 8.3** During the Term, Contractor will, when requested by the State, provide a copy of Contractor's and Hosting Provider's FedRAMP 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 identified by the State or by any audit of Contractor's data privacy and information security program.
- 8.5** The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this **Section 8**.

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 as required by 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 must either a) grant the State the right to dynamically scan a deployed version of the Software; or b) in lieu of the State performing the scan, Contractor must dynamically scan a deployed version of the Software using a State approved application scanning tool, and provide the State with a vulnerabilities assessment after Contractor has completed such scan. These scans and assessments i) must be completed and provided to the State quarterly (dates to be provided by the State) 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 all source code initially, for all updated source code, and for all source code for each major release and Contractor must provide the State with a vulnerability assessment after Contractor has completed the required scans.
- 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 a vulnerability assessment 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 approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least monthly and provide the scan's assessments to the State in a format that is specified by the State and used to track the remediation. Contractor will ensure the remediation of issues identified in the scan according to the remediation time requirements documented in the State's PSPs.

11. Nonexclusive Remedy for Security Breach. Any failure of the Contract Activities to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.