



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

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

CONTRACT CHANGE NOTICE

Change Notice Number **4**
to
Contract Number **MA190000001019**

CONTRACTOR	INTELLECTUAL TECHNOLOGY INC
	1945 Camino Vida Roble, Suite O
	Carlsbad CA 92008-6529
	Drew Nicholson
	260-459-8800
	dnicholson@iti4dmv.com
	CV0138422

STATE	Program Manager	Various	Various
STATE	Contract Administrator	Nichole Harrell	DTMB
		517-449-9245	
		Harrelln@michigan.gov	

CONTRACT SUMMARY				
Self-Service Terminal (SST) Kiosks				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
August 1, 2019	July 31, 2024	5 - 12 Months	July 31, 2026	
PAYMENT TERMS		DELIVERY TIMEFRAME		
None.		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
No Minimum Delivery Requirement.				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$39,045,615.60	\$0.00	\$39,045,615.60		

DESCRIPTION

Effective April 29, 2025, the parties agree to add the following language to the Contract:

"Accessibility Requirements.

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, applications, content, and electronic documents. Due to a change in the law, the State is required to comply with specific accessibility standards for websites, applications, content and documents.

Starting 4/24/2026, throughout the Term, all websites, applications, software, content, and electronic documents, including but not limited to mobile applications, text, images, sounds, videos, controls, animations, links, and documents (including files in the following formats: PDF, word processing, presentation, and spreadsheet), created, provided, or made available by the Contractor under this Contract, must comply with WCAG 2.1 Level AA."

Per Contractor, agency, and DTMB Central Procurement Services approval.

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

AGENCY	NAME	PHONE	EMAIL
DTMB	Thomas Kopenhafer	517-636-0283	KopenhaferT@michigan.gov
MDOS	Yvonne Young	517-636-5434	YoungY@michigan.gov
MDOS	Jonathon Khon	517-945-6201	KhonJ@michigan.gov



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

Department of Technology, Management, and Budget

525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **3**

to

Contract Number **MA19000001019**

CONTRACTOR	INTELLECTUAL TECHNOLOGY INC
	1945 Camino Vida Roble, Suite O
	Carlsbad CA 92008-6529
	Drew Nicholson
	260-459-8800
	dnicholson@iti4dmv.com
	CV0138422

STATE	Program Manager	Jonathon Khon	MDOS
		517-945-6201	
		KhonJ@michigan.gov	
STATE	Contract Administrator	Nichole Harrell	DTMB
		517-449-9245	
		harrelln@michigan.gov	

CONTRACT SUMMARY

Self-Service Terminal (SST) Kiosks

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 1, 2019	July 31, 2024	5 - 12 Months	July 31, 2024
PAYMENT TERMS		DELIVERY TIMEFRAME	
None.		N/A	
ALTERNATE PAYMENT OPTIONS		EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (PRC) <input type="checkbox"/> Other		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS			
No Minimum Delivery Requirement.			

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	24 Months	<input type="checkbox"/>		July 31, 2026
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$24,295,000.00	\$14,750,615.60	\$39,045,615.60		

DESCRIPTION

Effective August 1, 2024, the parties agree to the following:

1. Contract value is increased by \$14,750,615.60.
2. The first and second one-year options available on this Contract are hereby exercised. The revised Contract expiration date is July 31, 2026.
3. The Customer Convenience Fee is increased from \$3.95 to \$4.25.
4. The State Contract Administrator is updated from Jeremy Lyon to Nichole Harrell (Harrelln@michigan.gov, 517-449-9245).

All other terms, conditions, specifications, and pricing remain the same. Per Contractor, agency, DTMB Central Procurement and State Administrative Board approval on July 16, 2024.



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

CONTRACT CHANGE NOTICE

Change Notice Number 2
 to
 Contract Number 190000001019

CONTRACTOR	INTELLECTUAL TECHNOLOGY INC
	1945 Camino Vida Roble, Suite O
	Carlsbad, CA 92008-6529
	Drew Nicholson
	260-459-8800
	dnicholson@iti4dmv.com
	CV0138422

STATE	Program Manager	Various	MDOS
	Contract Administrator	Jeremy Lyon (517) 230-2858 lyonj5@michigan.gov	DTMB

CONTRACT SUMMARY

SELF-SERVICE TERMINAL (SST) KIOSKS

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 1, 2019	July 31, 2024	5 - 1 Year	July 31, 2024

PAYMENT TERMS	DELIVERY TIMEFRAME
NONE	

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

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DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		July 31, 2024

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
\$23,700,000.00	\$595,000.00	\$24,295,000.00

DESCRIPTION

Effective 10/26/2021, the parties add 14 machines, which the parties estimate will generate up to \$595,000.00 more value to the vendor from the additional transaction fees paid by the end users over the remaining 34 months of the contract. This is a zero cost contract to the State.

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Central Procurement Services approval, and State Administrative Board approval on 10/26/2021

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

AGENCY	NAME	PHONE	EMAIL
DTMB	Thomas Kopenhafer	517-636-0283	KopenhaferT@michigan.gov
MDOS	Yvonne Young	517-636-5434	YoungY@michigan.gov

**Change Notice #2 to Contract No. 190000001019
Turnkey Self Service Terminal – Kiosks**

This is Change Notice #2 to Contract No. 190000001019 Turnkey Self Service Terminal – Kiosks, which was effective August 1, 2019 (“Contract”) by and between the State of Michigan (“State” or “Payee”) and Intellectual Technology, Inc. (“Contractor”) (State and Contractor collectively referred to as the “Parties”).

WHEREAS, the State and Contractor entered into the Contract to provide a turnkey Self-Service solution to the State;

WHEREAS, the State desires, and Contractor is willing to provide, additional Kiosks throughout the State;

WHEREAS, Schedule C of the Contract required, among other things, for Contractor to collect and provide all payments net of the Kiosk Processing Fees and Credit Card fees to be ACH debited nightly on a two business-day delay by the State from the Contractor’s account (“Transfer”);

WHEREAS, following the execution of the Contract, State and Contractor wish to clarify their relationship related to the Transfer; and

WHEREAS the Parties wish to further clarify security and PCI requirements.

NOW THEREFORE, in consideration of the Parties agreeing to amend the Contract, for and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The following provisions are added to the Contract under Section 27 of Schedule A entitled **MILESTONES AND DELIVERABLES**:

Contractor will provide fourteen (14) additional Kiosks and install such Kiosks at locations mutually agreed upon by both Parties. The State and Contractor agree that it is necessary for the Parties to jointly work to drive the aggregate transactions per kiosk per month (“TKM”) to meet or exceed 1,000, prior to installing additional kiosks beyond the agreed upon fourteen (14) noted herein. Contractor will be responsible for conducting a monthly analysis of TKM and sharing that analysis with the State.

In order to increase awareness, the State and Contractor shall cooperate to update all current public messaging related to the Kiosks to emphasize that the Kiosk models (i) are new models with improved quality and (ii) offer new transaction types.

Contractor will conduct an analysis of previously deployed Kiosks to determine if any Kiosks are candidates to offer cash acceptance functionality. This analysis will be conducted and reviewed with the State within sixty (60) days of the Effective Date of this Change Notice #2.

2. The following provisions are added to the Agreement under Schedule C – PRICING:

Should the transfer of funds described in Section 10 of this Schedule C – Pricing implicate MCL 487.1001 – 487.1047 (“Money Transmission Services Act”), Contractor is an “agent of the Payee,” which has the same meaning provided in MCL 487.1002(b), for the purposes of accepting payments as required under this Contract. For avoidance of doubt, Contractor is not an agent of the State for any other purpose except for the limited applicability of the Money Transmission Services Act. In all other circumstances, Section 21.2 of the Contract Term will apply.

3. The following provisions are added to the Contract under Section 9 of Schedule A entitled **SECURITY**:

The State has the following responsibilities:

- The State will provide access to business and technical documentation as necessary for ITI to complete the tasks identified under this Contract.
 - The State staff is responsible to check IDs of all technicians prior to allowing them access to the SSTs, printers, or related equipment, for SST's installed in State Offices.
 - The State is responsible to inform ITI when State employees are no longer employed that have access to repository accounts.
4. Capitalized terms used but not defined herein shall have the meanings provided in the Contract. Except as expressly set forth in this Change Notice, the terms and conditions of the Contract shall continue unmodified and in full force and effect.



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

CONTRACT CHANGE NOTICE

Change Notice Number 1
 to
 Contract Number 190000001019

CONTRACTOR	INTELLECTUAL TECHNOLOGY INC
	1945 Camino Vida Roble, Suite O
	Carlsbad, CA 92008-6529
	Drew Nicholson
	260-459-8800
	dnicholson@iti4dmv.com
	CV0138422

STATE	Program Manager	Various	MDOS
	Contract Administrator	Christopher Martin	DTMB
		(517) 643-2833	
		martinc20@michigan.gov	

CONTRACT SUMMARY

SELF-SERVICE TERMINAL (SST) KIOSKS			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 1, 2019	July 31, 2024	5 - 1 Year	July 31, 2024
PAYMENT TERMS		DELIVERY TIMEFRAME	
None			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card	<input type="checkbox"/> PRC	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		July 31, 2024
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$19,750,000.00	\$3,950,000.00	\$23,700,000.00		

DESCRIPTION

Effective 8/4/2020, the following amendments are incorporated into this Contract per Schedule C Pricing. This change includes the addition of the following transaction types at \$3.95 per transaction charged to the end user:

- 6.2 Driver License Renewal
- 6.3 State ID Renewal
- 6.4 Driver License Duplicate/Replacement
- 6.5 State ID Duplicate/Replacement

The estimated number for these transactions is 250,000 per year for an added value of \$3,950,000.00 to the contract.

The following transaction types will be added at no cost to the State or the end user:

- 6.9 Voter Registration
- 6.10 Organ Donor Registration

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Central Procurement Services approval, and State Administrative Board approval on 8/4/2020.

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

AGENCY	NAME	PHONE	EMAIL
DTMB	Thomas Kopenhafer	517-636-0283	KopenhaferT@michigan.gov
MDOS	Yvonne Young	517-636-5434	YoungY@michigan.gov



STATE OF MICHIGAN PROCUREMENT
 Department of Technology, Management, and Budget
 525 W Allegan St.
 PO Box 30026
 Lansing, MI 48909

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **171-190000001019**
 between
 THE STATE OF MICHIGAN
 and

CONTRACTOR	Intellectual Technology, Inc.
	1945 Camino Vida Roble, Suite O
	Carlsbad, CA 92008-6529
	Drew Nicholson
	260-459-8800
	dnicholson@iti4dmv.com
	CV0138422

STATE	Program Manager	Yvonne Young	MDOS
		517-636-5434	
	youngy@michigan.gov		
	Contract Administrator	Christopher Martin	DTMB
517-643-2833			
martinc20@michigan.gov			

CONTRACT SUMMARY			
DESCRIPTION: Self-Service Terminal (SST) Kiosks			
<u>INITIAL EFFECTIVE DATE</u>	<u>INITIAL EXPIRATION DATE</u>	<u>INITIAL AVAILABLE OPTIONS</u>	<u>EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW</u>
8/1/2019	7/31/2024	5 one-year	N/A
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45			
<u>ALTERNATE PAYMENT OPTIONS</u>			<u>EXTENDED PURCHASING</u>
<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			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$19,750,000.00

STATE OF MICHIGAN

Contract No. 190000001019
Turnkey Self Service Terminal - Kiosks

Schedule A PROJECT SCOPE

1. DEFINITIONS

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

Term	Definition
DTMB	Department of Technology, Management, and Budget
MDOS	Michigan Department of State
SOS	Secretary of State
SOM	State of Michigan
SST	Self-Service Terminal

2. BACKGROUND

MDOS is implementing a turnkey SST solution which will replace all existing SST Kiosks throughout the State of Michigan. Contractor will provide a solution at no cost to MDOS, that will integrate with FAST and the MDOS CARS application and will have the capability of expanding services in the future. Contractor will provide all maintenance, upgrades, repairs, software, hardware, consumables etc. at no cost to the State of Michigan or Michigan Department of State. A kiosk processing fee will be charged by the Contractor to the customer to cover the cost of all related technology maintenance.

3. PURPOSE

The objective of this project is to obtain a new turnkey solution for SSTs that can replace all current SSTs and add additional locations. SSTs will be located in SOS branches as well as retail locations. The contractor SST Solution must conform to all applicable DTMB and MDOS standards, including information security standards.

4. CONTRACT TERM

The contract overall term is 5 years with 5, 1 year options.

5. SPECIFIC STANDARDS

IT Policies, Standards and Procedures (PSP)

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to conform to State IT policies and standards. All services and products provided must comply with all applicable State IT policies and standards.

Public IT Policies, Standards and Procedures (PSP):

https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html

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 http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

Look and Feel Standard

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

ADA Compliance

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. The State is requiring that Contractor's Solution, where relevant, to level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Contractor may consider, where relevant, the W3C's Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT) for non-web software and content. The State may require that Contractor complete a Voluntary Product Accessibility Template for WCAG 2.0 (WCAG 2.0 VPAT) or other comparable document for the Solution.

http://www.michigan.gov/documents/dmb/1650.00_209567_7.pdf?20151026134621

6. USER TYPE AND CAPACITY

Type of User	Access Type	Number of Users	Number of Concurrent Users
Public Citizens	Write Access	900,000	150
State Employees	Write Access	50	20
Trusted Third Parties	Admin Access	10	5

Contractor must be able to meet the expected number of concurrent Users. Contractor must be able to scale up or down without affecting performance.

Contractor must meet the expected latency response time requirements set forth in **Schedule B – Service Level Agreements**.

7. ACCESS CONTROL AND AUDIT

While not currently required, in the future, the Contractor's solution may be required to integrate with the State's IT Identity and Access Management (IAM) environment as described in the State of Michigan Digital Strategy (http://www.michigan.gov/dtmb/0,5552,7-150-56345_56351_69611-336646--,00.html), which consist of:

1. MILogin/Michigan Identity, Credential, and Access Management (MICAM)
 - a. An enterprise single sign-on and identity management solution based on IBM's Identity and Access Management products including, IBM Security Identity Manager (ISIM), IBM

Security Access Manager for Web (ISAM), IBM Tivoli Federated Identity Manager (TFIM), IBM Security Access Manager for Mobile (ISAMM), and IBM DataPower, which enables the State to establish, manage, and authenticate user identities for the State's Information Technology (IT) systems.

2. MILogin Identity Federation
 - a. Allows federated single sign-on (SSO) for business partners, as well as citizen-based applications.
3. MILogin Multi Factor Authentication (MFA, based on system data classification requirements)
 - a. Required for those applications where data classification is Confidential and Restricted as defined by the 1340.00 Michigan Information Technology Information Security standard (i.e. the proposed solution must comply with PHI, PCI, CJIS, IRS, and other standards).
4. MILogin Identity Proofing Services (based on system data classification requirements)
 - a. A system that verifies individual's identities before the State allows access to its IT system. This service is based on "life history" or transaction information aggregated from public and proprietary data sources. A leading credit bureau provides this service.

To integrate with the SOM MILogin solution, the Contractor's solution must support HTTP Headers based SSO, or SAML, or OAuth or OpenID interfaces for the SSO purposes. The requirement to integrate will depend upon the type of transaction and the types of data that may need to be secured.

8. DATA RETENTION

Contractor must meet all data retention requirements for the Solution.

9. SECURITY

Contractor must review and meet the Data Security requirements set forth in Schedule D – Data Security Requirements to the SaaS Terms and Conditions.

Contractor must provide to the State independently audited PCI Certification and SOC 2 Type 2 reports to the State annually by May of each calendar year for the duration of this contract.

The Solution will be storing sensitive data.

Contractor must comply with the following:

- Must remain compliant with the Credit Card Holder information (PCI) Policies.
- Must be encrypted in transit and at rest using AES 256 bit or higher encryption.
- Must have multi-factor authentication for privileged/administrative access, however this level does not require a hard token at this time. Some other method such as SMMS text with passcode, phone call with temporary passcode or other approved multi-factor authentication method must be used.
- Must remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) MOD controls using minimum control values as established in the applicable PSP.

10. END-USER OPERATING ENVIRONMENT

The software must run under commonly used web browsers. At a minimum, the software must support Internet Explorer v9 or higher, Chrome v36 or higher, Firefox v31 or higher, and Safari v5.1 or higher both under the Windows and iOS operating systems.

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

Contractor must:

- Provide any State system access requirements that are necessary for the Contractor to perform its obligations on a timely basis, including but not limited to, physical or remote access to State networks, servers, or individual workstations.
- Comply with the current environment and how it intends to comply with any future changes to the user environment.
- Support the original environment throughout the term of the contract.
- Communicate changes to its roadmaps.
- Identify any plug-ins necessary for the solution to meet the system requirements of this Contract.
- Collaborate with SOM in the decision-making process for upgrades, maintenance, and change control.

11. SOFTWARE

Contractor's Solution must maintain the ability to be rapidly configured or scaled as the State's business or technical demands change.

12. SOLUTION REQUIREMENTS

See **Schedule A - Table 1 Business Specification Worksheet.**

Contractor has validated each requirement to ensure that the Solution meets the specifications set forth in this Contract.

Contractor has detailed any configuration changes that will be made to the Solution in order to meet the specifications set forth in this Contract.

Configuration is referred to as a change to the Solution that must be completed by the Contractor prior to Go-Live but allows an IT or non-IT end user to maintain or modify thereafter (i.e. no source code or structural data model modifications occurring).

All configuration changes made during the term of the contract must be forward-compatible with future releases and be fully supported by the awarded Contractor without additional costs.

13. INTEGRATION

Contractor must assist with the integration with the MDOS CARS system provided to the State by Fast Enterprises. See **15. Testing Services and Acceptance.**

14. MIGRATION

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

15. TESTING SERVICES AND ACCEPTANCE

Contractor must adhere to **Section 4, Service Preparation, Testing and Acceptance,** of the **SaaS Contract Terms.**

16. TRAINING SERVICES

Vendor to provide training for SOS branch staff and tutorial in application help for consumers

The Contractor must provide administration and end-user training for implementation, go-live support, and transition to customer self-sufficiency. The Contractor must provide a training plan for go-live support and

transition to self-support, including options and details such as the number of dedicated personnel, staff location, hours available and duration of go-live support.

Contractor must provide details on, and examples of, clearly written instructions and documentation to enable State administrators and end-users to successfully operate the Solution without needing to bring in additional Contractor support.

17. HOSTING

Contractor must review the State's standard Service Level Agreement (SLA) attached as **Schedule B** to the **SaaS Terms and Conditions**.

18. SUPPORT AND OPERATIONS

Contractor must meet the State's standard **Service Level Agreement (SLA) Schedule B** to the SaaS Terms and Conditions.

Support Hours

The State requires the Contractor to provide Support Hours as 24 hours a day, seven days a week

19. DOCUMENTATION

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

Contractor must develop and submit for State complete, accurate, and timely Solution documentation to support all users, and will update any discrepancies, or errors through the life of the contract.

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

20. TRANSITION SERVICES

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

When required, Contractor must provide a detailed transition-in and transition-out plan, including any roles or responsibilities expected of the State. The plan must adequately demonstrate the steps to migrate between Contractor's solution and internal or third-party solutions.

21. PRODUCTS AND SERVICES

Contractor and SOM have identified transaction types that may be added to the Solution in the future as part of **Section 6 - Schedule C**.

22. CONTRACTOR KEY PERSONNEL

Contractor has identified all Contractor resources and responsibilities required for the successful implementation and ongoing support of the Solution.

Contractor Contract Administrator: will (a) administer the terms of this Contract, and (b) approve and execute any Change Notices under this Contract.

Contractor: Intellectual Technology, Inc.
Name: Drew Nicholson, Chief Operating Officer/President
Address: 2980 E. Coliseum Blvd. Fort Wayne, Indiana 46805
Phone: 260-459-8800
Email: dnicholson@iti4dmv.com

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

Contractor: Intellectual Technology, Inc.
Name: Karen Reynolds
Address: 2980 E. Coliseum Blvd. Fort Wayne, Indiana 46805
Phone: 260-459-8800
Email: kreynolds@iti4dmv.com

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

Contractor: Intellectual Technology, Inc.
Name: Michelle Barber-Nicholson
Address: 2980 E. Coliseum Blvd. Fort Wayne, Indiana 46805
Phone: 260-459-8800
Email: mbarber@iti4dmv.com

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

Contractor: Intellectual Technology, Inc.
Name: David Johnson
Address: 2980 E. Coliseum Blvd.
Fort Wayne, Indiana 46805
Phone: 260-459-8800
Email: djohnson@iti4dmv.com

23. CONTRACTOR PERSONNEL REQUIREMENTS

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

In addition, Contractor personnel will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Prints, if required by project.

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

24. STATE RESOURCES/RESPONSIBILITIES

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

State Contract Administrator. The State Contract Administrator is the individual appointed by the State to (a) administer the terms of this Contract, and (b) approve and execute any Change Notices under this Contract. Christopher Martin – martinc20@michigan.gov

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

Agency Business Owner. The Agency Business Owner will serve as the primary contact for the business area with regard to business advisement who will have the authority to act on behalf of the State in matters pertaining to the business Specifications. Bill Strong – strongb1@michigan.gov

State Technical Lead. The State Technical Lead will serve as the primary contact with regard to technical advisement. Yvonne Young – youngy@michigan.gov

25. MEETINGS

The resulting awarded Contractor must attend the following meetings at no additional cost to the State.

At start of the engagement, the Contractor Project Manager must facilitate a project kick off meeting with the support from the State's Project Manager and the identified State resources to review the approach to accomplishing the project, schedule tasks and identify related timing, and identify any risks or issues related to the planned approach. From project kick-off until final acceptance and go-live, Contractor Project Manager must facilitate weekly meetings (or more if determined necessary by the parties) to provide updates on implementation progress. Following go-live, Contractor must facilitate monthly meetings either by phone or Skype (or more or less if determined necessary by the parties) to ensure ongoing support success.

Contractor must meet the meeting requirements set forth above for successful implementation and ongoing support of the Solution.

26. PROJECT REPORTS

Once the Project Kick-Off meeting has occurred, the Contractor Project Manager will monitor project implementation progress and report on a weekly basis to the State's Project Manager the following:

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

Contractor must provide reports after contract execution and during the lifecycle of the contract, including all required scheduled reporting and details around the how and when metrics captured/validated.

27. MILESTONES AND DELIVERABLES

The milestone schedule and associated deliverables are set forth below.

Milestone Event	Associated Milestone Deliverable(s)	Schedule
Project Planning	Project Kickoff	Contract Execution + 10 calendar days
Requirements and Design Validation	Validation sessions, Final Requirement Validation Document, Final Design Document, Final Implementation Document	Execution + 60 calendar days
Configuration of software	Final Solution and Testing Document	Execution + 90 calendar days
Testing and Acceptance	Final Test Results Report, Final Training Documentation, Final Acceptance	Execution+120 calendar days
Phase 1 Implementation	10 SST Kiosks in agreed upon locations for production use	Acceptance +30 calendar days
Phase 1 Acceptance	Executive Office provides approval to implement remaining kiosks	P1 Implementation +45 calendar days
Phase 2 Implementation	Implementation of remaining 90-140 SST kiosks TBD	P1 Acceptance +120 calendar days
Production Support Services	Ongoing after Final Acceptance	Ongoing

Contractor must provide a Work Breakdown Structure (WBS) that corresponds with the milestone dates set forth above (or with Contractor’s alternatively proposed schedule). The WBS must be detailed enough to identify all State and Contractor responsibilities.

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

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

SUITE Documentation

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

SUITE’s primary goal is the delivery of on-time, on-budget, quality systems that meet customer expectations. SUITE is based on industry best practices, including those identified in the Project Management Institute’s PMBoK and the Capability Maturity Model Integration for Development. It was designed and implemented to standardize methodologies, processes, procedures, training, and tools for project management and systems development lifecycle management. It offers guidance for efficient, effective improvement across multiple process disciplines in the organization, improvements to best practices incorporated from earlier models, and a common, integrated vision of improvement for all project and system related elements.

While applying the SUITE framework through its methodologies is required, SUITE was not designed to add layers of complexity to project execution. There should be no additional costs from the Contractor,

since it is expected that they are already following industry best practices which are at least similar to those that form SUITE's foundation.

SUITE's companion templates are used to document project progress or deliverables. In some cases, Contractors may have in place their own set of templates for similar use. Because SUITE can be tailored to fit specific projects, project teams and State project managers may decide to use the Contractor's provided templates, as long as they demonstrate fulfillment of the SUITE methodologies.

The Contractor is required to review <http://www.michigan.gov/suite> and demonstrate how each PMM/SEM requirement will be met. Contractors wishing to use their own documents must submit an example of the document that will be substituted. If the Contractor deems a document to be non-applicable, please provide reasons for the determination. The State reserves the right to give final approval of substituted documents and items marked as non-applicable.

28. PRICING

See **Schedule C - Pricing** for a detailed description of all costs associated with licensing, implementing, maintaining and supporting the Solution, including all requested services for credit card processing and armored car services.

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

Travel and Expenses

The State does not pay for overtime or travel expenses.

29. ADDITIONAL INFORMATION

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

STATE OF MICHIGAN

Contract No. 190000001019
Turnkey Self Service Terminal - Kiosks

Schedule A – Table 1 BUSINESS REQUIREMENTS

Item #	Feature General SST Design	Mandatory /Desired
1.1	There will be no upfront or ongoing costs charged to the State of Michigan or Michigan Department of State. This includes every requirement within this document. Examples include but are not limited to: hardware, software, maintenance, upgrades, networking, programming, project costs, consumables, changes, additional kiosks etc.	M
1.2	The SST must be designed to give the appearance of a single integral unit.	M
1.3	SSTs must be modular and capable of expansion. Including but not limited to: Cash & Check acceptance - Identity Proofing - Document Scanning - Plate Collections	M
1.4	SSTs must have interior area (s) for hardware and documentation/instructions that is self-contained and secure from public access.	M
1.5	SSTs must be capable of withstanding heavy and continuous use in an unattended environment.	M
1.6	SSTs must meet customer ergonomic standards.	M
1.7	SSTs must meet or have State approved plan for ADA compliance for both the: ADA Standards for Accessible Design Section 508 of the Rehabilitation Act (Required when purchasing or deploying a kiosk for Government entities)	M
1.8	SSTs cannot display company names or logos except for those of MDOS & authorized credit card companies, unless otherwise agreed upon by MDOS.	M
1.90	SST signage must not deteriorate during the term of the Contract. If deterioration exists, signage must be replaced at no cost to MDOS.	M

Item #	General SST Functionality	Mandatory /Desired
2.1	Transactions should be designed so additional languages can be added easily	D
2.2	SSTs should allow for multilingual solutions. Initial language must be English	D
2.3	SSTs should allow for multilingual solutions. Including: Spanish Arabic	D
24	The SST must be capable of printing receipts, registration tabs for 2 or more years, documentation requested in a transaction etc.	M
2.5	The SST must be capable of audio with adjustable volume control including mute.	M

Item #	SST User Interface/Display	Mandatory /Desired
3.1	MDOS must approve that the SSTs are intuitive and customer-friendly in order to avoid customer frustration and minimize the need for assistance or intervention from MDOS staff.	M
3.2	SSTs must be easy to use for customers who are unfamiliar with computers.	M
3.3	SSTs must have a screen saver that will be activated when the SST is unattended for a specified amount of time. MDOS must approve the screen saver prior to implementation.	M
3.4	The display monitor must be designed to eliminate distortion and be treated to minimize reflection and glare.	M
3.5	All SST screens must use Michigan branding approved by MDOS. Including but not limited to screen flow, format, verbiage and images.	M
3.6	The customer must be able to enter information via keyboard or virtual keyboard.	M
3.7	The customer must have the option to scan the barcode on MDOS issued documents to begin their transaction. If the barcode scanner is used, the application must use the information retrieved to populate pertinent information.	M
3.8	All interface design elements must be approved by MDOS prior to implementation.	M

3.9	The SST application must include instructions (help screens) to the customer which are clear and to the point and approved by MDOS.	M
3.10	SST screens must not scroll unless approved by MDOS.	M
3.11	Transaction Processing Messages: Must be used to communicate with the customer when the SST is busy or processing. These messages must be approved by MDOS. Example: "Please wait while we process your transaction"	M
3.12	Transaction Error Messages: Must be used to communicate with the customer when the SST malfunctions/errors. These messages must be approved by MDOS. Example: "Please use manual data entry option"	M
3.13	The SST application must prompt the customer via screen messages and visual location indicators during key steps of the transaction. These messages must be approved by MDOS. Example: "Please insert your credit card"	M
3.14	The SST must provide notice of any fees included in transactions and allow the customer to accept and continue or give options for additional places to process the transaction without the fee.	M
3.15	The SST must require the customer to pay fees for their transaction prior to any documents being dispensed from the SST.	M
3.16	All changes to fee percentages or amounts must be approved by MDOS prior to deployment.	M
3.17	All printed documents and receipts produced by the SSTs must be approved by MDOS.	M

Item #	Monitoring and Support	Mandatory /Desired
4.1	The SSTs must be monitored 24 hours a day, 7 days a week, 365 days a year.	M
4.2	The SST must be capable of producing real-time electronic reports for all SST transactions during normal business hours without interruption or affecting the system's performance. The reports must be accessible to MDOS.	M
4.3	SSTs must have the capability to determine when specific MDOS transactions are not available and activate/deactivate the appropriate transactions and associated messages.	M
4.4	SST must be capable of automatically disabling a transaction or payment option or automatically disable the entire application if a maintenance issue would prevent a customer from successful operation of that transaction or feature. Appropriate messages must be presented to the customer. Example: "Under Maintenance" All messages must be approved by MDOS.	M
4.5	Contractor must provide process and corrective action documentation as to how its solution will provide best efforts to prevent a customer from paying for a single transaction more than once.	M

4.6	SST must monitor it's own health state and identify any component failures. The SST must alert the SST provider that there is a failure. The SST provider will then respond and correct within the SLA timeframe.	M
4.7	Each SST must be capable of remote management capabilities for monitoring, diagnostics, error resolution, application and software updates and upgrades, rebooting and controlling the remote SST from a central location.	M
4.8	Each SST must be monitored by a central location that will report SST availability, status, and state of health (including System errors such as paper jams, printer out of order, out of stock etc.) Each SST will have the capability of reporting this information, along with current operational status to the proposed central monitoring solution in real time.	M
4.9	The SST central monitoring location will have the ability to provide reports to MDOS via e-mail.	M
4.10	The SST central monitoring location must provide receipt of all requests within 30 minutes and must ensure that a service representative is on-site within 4 hours for the lower peninsula and 8 hours for the upper peninsula of the initial call during agreed upon hours.	M
4.11	The SST central monitoring location must be capable of logging all dates and times needed to calculate average response time without affecting application performance.	M
4.12	SSTs must be able to provide real time reporting and auditing in a platform that is easily accessible and can be displayed on a dashboard format.	M

Item #	Training	Mandatory /Desired
5.1	SST vendor will coordinate with MDOS to establish a training schedule which coincides with installation schedule.	M
5.2	Training in use of the SSTs must be provided to MDOS at a time determined by MDOS. Multiple sessions may be required in various areas of the State.	D
5.3	Training and materials for both transaction and branch processes must be provided for the SST system.	M

Item #	Testing	Mandatory /Desired
6.1	MDOS must perform User Acceptance testing and the system must be approved through MDOS prior to deployment.	M
6.2	All changes (Hardware, Firmware and Software) to the SST or central system shall be required to pass MDOS User Acceptance Testing and approval prior to deployment.	M

6.3	All changes to the application must be migrated through the development and test systems prior to deployment into production on the SSTs.	M
6.4	All production and non-production defects must be communicated to MDOS in a manner that will best facilitate recording, prioritization and reporting.	M

Item #	Payment Processing	Mandatory /Desired
7.1	The vendor will provide all credit/debit card readers	M
7.2	SSTs must be modular and accept Credit Cards and or Cash. MDOS will determine which methods of processing each SST will provide.	M
7.3	SSTs that MDOS determines will process transactions with cash will be provided with the cash module and cash bill acceptors and dispensers or cash bill recyclers capable of high volume retail applications.	M
7.4	SSTs designated to accept and dispense currency must verify that the currency is neither counterfeit nor foreign currency. SSTs must provide a message to customers when counterfeit/foreign currency is detected by the cash acceptor. MDOS must approve all messaging.	M
7.5	The SST application must display a "running total" of the amount of currency being deposited and display the total amount accepted as well as any change to the customer.	M
7.6	The cash acceptor must be capable of accepting, validating and stacking US currency bills in denominations of \$1, \$2, \$5, \$10, \$20, \$50 and \$100.	M
7.7	The currency acceptor must not accept additional currency once the amount deposited meets the total amount due.	M
7.8	The currency acceptor must allow customers to pay a transaction without requiring exact change.	M
7.9	The SSTs designated to accept currency must have a coin change dispenser that is capable of dispensing pennies, nickels, dimes, and quarters.	M
7.10	Removed	M
7.11	The SSTs that are designated to accept currency must have a notification system that is capable of alerting Contractor staff when a currency dispenser is low on currency.	M
7.12	SSTs must have the capability of disabling the cash option from service when there is insufficient currency to dispense or is otherwise malfunctioning while continuing to allow other forms of payment.	M
7.13	SSTs must be configured to only allow 1 form of payment to be accepted for any transaction. Customers must be notified of this prior to processing transactions.	M
7.14	The currency dispenser must make change from the remaining available currency from the highest to lowest denomination.	M
7.15	Contractor will be responsible for contracting an Armored Car service for emptying and restocking of currency in SSTs in locations where Contractor and State have mutually agreed to offer cash services.	M

7.16	Currency will be deposited in Contractor's account and transferred by ACH to MDOS net of fees.	D
7.17	The vendor must provide all credit card payment processing and connections that are PCI certified.	M
7.18	The vendor must provide documentation of all transactions processed and any information MDOS requires to be capable of answering customer questions. Example: Type of Payment used, Customer Identifier, CC confirmation # etc.	M
7.19	The SST must return any currency accepted or credit card charge for the amount of any transactions that have been purchased but are unable to process.	M

Item #	System Requirements and Specifications	Mandatory /Desired
8.1	The vendor must provide system architecture that is scalable and designed to accommodate changes easily.	M
8.2	The SST must integrate with MDOS's platform.	M
8.3	The vendor must provide a history of working with FAST Enterprises on SST projects within other states in the United States.	M
8.4	Vendor must provide history of implementing SST programs in multiple states within the United States.	M
8.5	Vendor must provide all installation of network, cables, power cables and services.	M
8.6	The SST must be configurable in design to allow for additional transactions to be added at a later date.	M
8.7	The SST vendor is responsible for all back-up and recovery of SSTs.	M
8.8	All MDOS approved system updates will be at the sole responsibility of the vendor.	M
8.9	The system shall follow proper and secure design and coding standards.	M
8.10	The system must be capable of continuous operation 24 hours a day.	M
8.11	The vendor must provide all consumables for the SSTs to MDOS specification.	M
8.12	The vendor must maintain all consumables in all SSTs and have no need for MDOS staff to fill consumables.	M
8.13	The vendor will be responsible for all on-site and preventative maintenance as well as break fix including labor, parts, travel, upgrades, shipping, hardware, software etc.	M
8.14	The vendor will be responsible for all maintenance being performed in a way the SSTs are capable of continuous uninterrupted operation.	M
8.15	The vendor will provide all new manufactured and in good working order equipment. The vendor will continue to maintain this equipment or exchange it for newer/working equipment.	M
8.16	Any software maintenance to restore services shall be completed by the vendor.	M

8.17	The vendor must ensure each SST is performing at an effectiveness level of 95% or better during any 30 day period. The 95% does not include scheduled maintenance MDOS has already been made aware of and approved.	M
8.18	The SST must have the capacity to dispense, at a minimum, one days' quantity of the motor vehicle documents without restocking.	M

Item #	Installation Specifications	Mandatory /Desired
9.1	The vendor is responsible for supplying all network to the SST. The network must meet MDOS security requirements.	M
9.2	The vendor is responsible for all delivery, shipping, installation and setup of each SST.	M
9.3	The vendor is responsible for all removal's of SSTs should it be determined a specific location or MDOS as a whole will no longer be providing the SST option to constituents.	M
9.4	MDOS must be notified and approve all proposed installation schedule dates and times for the SSTs.	M
9.5	MDOS reserves the right to request the vendor relocate or remove an SST with a 30 day notice.	D
9.6	The vendor must be capable of installing and operating SSTs in locations that are not the branch offices. Example: Grocery stores, recreation centers etc.	M
9.7	The vendor must provide history/relationship of deploying SSTs in alternative locations.	D
9.8	MDOS's goal is to locate SSTs in high volume areas of Michigan but may need to place SSTs in a lower volume areas. Vendor is willing to deploy SSTs in lower volume areas at MDOS request.	D
9.9	Vendor must be capable of installing between 100-150 SSTs within a 6 month period of contract signature. This is to include programming, testing, deployment and installation.	M

Item #	Equipment Specifications	Mandatory /Desired
10.1	The SST must be installed with secured openings for power/network lines to prevent public access to the internal components.	M
10.2	The SST monitor/display must be a minimum of 17 inches in size across the diagonal.	M
10.3	The SST display screen must be highly durable and resistant to surface damage. The screen will require a scratch resistant solution due to the need to sustain heavy usage in public environments.	M
10.4	The SST display must include a way to provide privacy to the user and not show customers information from the sides etc.	M

10.5	The SST must include one UPS backup to provide a minimum of 15 minutes of continuous power backup. The UPS must be contained in the shell of the SST and not apparent to customers.	M
10.6	SSTs that lose power for more than 15 minutes must have the ability to return to the application upon restoration of power without onsite intervention.	M
10.7	The vendor must provide all electrical components and communication lines with more than adequate surge protection for both existing hardware and future enhancements or additions.	M
10.8	The vendor must provide bar scanners on each SST that reliably and rapidly scans both 1 & 2 dimensional barcodes and linear barcodes. Scanners must be incorporated within the shell of the SST and not accessible by the customer.	M
10.9	The vendor must provide printers in each SST that reliably and rapidly print receipts, registration tabs & documents provided in transactions. Printers must be designed for high volume retail applications and must be incorporated within the shell of the SST and not accessible by the customer.	M
10.10	SSTs must include air conditioning to control heat within the shell.	D
10.11	SSTs must include security camera monitoring within the unit. MDOS must be able to access to the recordings upon request.	M

Item #	System Security	Mandatory /Desired
11.1	The vendor must provide UL Certified SSTs.	M
11.2	The vendor must provide documentation of PCI Level 1 certification per requirements set forth in Section 9 of this contract.	M
11.3	The vendor must provide documentation of SOC 2 Type 2 compliancy per requirements set forth in Section 9 of this contract.	M
11.4	The vendor must provide each SST with heavy duty locking mechanisms, hinges and door mechanisms that resist vandalism and theft attempts. Locks must meet PCI compliant standards.	M
11.5	The SST must be designed with features to prevent "shoulder surfing" and must protect the privacy of a customer during the process of completing transactions.	M
11.6	PII data must not be stored on the SSTs or the vendors system. This includes Credit Card numbers, driver's license numbers, social security numbers.	M
11.7	The vendor must provide a detailed description of the SST system security features.	M
11.8	The SST must pass an internal MDOS NIST moderate based security review conducted by one or more of the following: the Business Area, DTMB Agency Services, Michigan Cyber Security, and/or MDOS's Information Security Division prior to implementation.	M

11.9	The SSTs must include a system that locks down and secures the terminals. This must include safeguards to prevent a customer from booting directly into the OS or BIOS or from physically removing networking.	M
11.10	The vendor must implement network and system access controls on all facets of the SST system.	M
11.11	The vendor must incorporate audible and electronic security alerts to notify staff and central monitoring center when the SST has been tampered with.	M
11.12	The vendor must repair or replace SSTs that have been tampered with.	M
11.13	The vendor must include an automatic time out function in order to protect customers that have not responded to the SST prompts within a specified amount of time determined by MDOS.	M
11.14	The vendor must submit a backup and recovery strategy (Disaster Recovery Plan)	M
11.15	The vendor must provide disaster recovery services in the event of a major disruption or shut down of the operation of the system.	M
11.16	In the event of a disaster, the vendor will ensure the continuity of system operation and restore operation within 7 business days from disruption of service.	M
11.17	The vendor must detail how all functions of the SST system will be restored within the disaster recovery plan.	M
11.18	The vendor must work with MDOS to review/update the disaster recovery plan annually.	M
11.19	The disaster recovery plan must include recovery of necessary operating systems, system software, network connectivity and databases from backups.	M
11.20	The disaster recovery plan must include a procedure for testing the restored system.	M
11.21	The vendor must adhere to a Data Sharing Agreement prior to implementation.	M
11.22	The vendor must provide NIST compliancy.	M
11.23	The vendor's data centers must be hosted within the United States.	M

Item #	Management Plan	Mandatory /Desired
12.1	The vendor must provide the number of management staff that will be devoted to the initial project including roles and titles.	M
12.2	The vendor must provide the roles and titles of a POC to MDOS.	M

STATE OF MICHIGAN

Contract No. 190000001019
Turnkey Self Service Terminal - Kiosks

Schedule C PRICING

1. Contractor will have no upfront or ongoing costs charged to the State of Michigan or Michigan Department of State.
2. Contractor will charge a per transaction kiosk processing fee of \$3.95 for both branch and alternative locations to the End User to cover their costs. This transaction processing fee applies to all transactions listed in Schedule C, Section 5.
3. Kiosk processing fee covers all costs, including but not limited to:
 - 3.1. Any one-time or set-up charges
 - 3.2. Hardware
 - 3.3. Software
 - 3.4. Network Connections
 - 3.5. Compliance audits including but not limited to SOC 2 Type 2 & PCI
 - 3.6. Installation
 - 3.7. Programming – both initial and ongoing
 - 3.8. Project Management
 - 3.9. Maintenance
 - 3.10. Upgrades to hardware
 - 3.11. Updates to software or application
 - 3.12. Consumables – both inventory & stocking
 - 3.13. Armored Car or Brinks-type service for all cash locations
 - 3.14. Monitoring & remote repairs
 - 3.15. On-site repairs and replacement hardware
 - 3.16. Potential costs the Contractor may be charged (e.g., shipping and handling, per piece pricing, and palletizing).
 - 3.17. Training both remote & onsite
 - 3.18. Any location rental or site fees for non-State-owned locations.
4. Pricing is valid for the initial five (5) year Contract term. Should the State introduce any extensive changes to the scope of this contract; Contractor shall have the right to renegotiate pricing with the State on a transaction type basis. Contractor shall have the right to renegotiate the transaction level pricing for the five (5) Contract option years. Contractor must provide justification for any price increases and all price increases will require approval of the State.
5. Contractor will charge the End User a kiosk processing fee of \$3.95 for the following transactions:
 - 5.1. Vehicle/Motorcycle Registration Renewal
 - 5.2. Watercraft Registration Renewal
6. End User kiosk processing fees for future transaction types will be determined by requirements and accepted through a mutual signed Change Notice. Examples of future transaction types include:
 - 6.1. Vehicle Registration Duplicate [future enhancement]
 - 6.2. Driver License Renewal [future enhancement]

- 6.3. State ID Renewal [future enhancement]
- 6.4. Driver License Duplicate [future enhancement]
- 6.5. State ID Duplicate [future enhancement]
- 6.6. Driver Record [future enhancement]
- 6.7. IRP Payments [future enhancement]

- 6.8. Change of Address [future enhancement]
- 6.9. Voter Registration [future enhancement]
- 6.10. Organ Donor Registration [future enhancement]
7. Additional or alternative transactions outside of the those listed in Schedule C sections five (5) and six (6) Contractor & MDOS must mutually agree that the transaction will or will not charge the End User a Kiosk Processing Fee.
8. Contractor will charge end user and process all payments associated with transaction processing including:
 - 8.1. Kiosk Processing Fee per transaction by transaction type identified in Section 5
 - 8.2. MDOS transaction fees (i.e. cost of Vehicle Registration Renewal)
 - 8.3. Credit Card processing fee of 2.3% limited to credit card transactions only paid by End-User.
9. All payments acquired, despite the payment medium, will be deposited in Contractor's account
10. All payments net of Kiosk Processing Fees and Credit Card fees (where applicable) will be ACH debited nightly on a two business-day delay by MDOS from the Contractor's account.
11. Contractor must provide regularly scheduled reports (at least every two weeks) for reconciliation and auditing purposes. MDOS reserves the right to request these reports on an on-demand basis outside of the regularly scheduled reporting period.



STATE OF MICHIGAN

CONTRACT TERMS

This Software as a Service Contract (this “**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Intellectual Technology, Inc. (“**Contractor**”), a Delaware Corporation. This Contract is effective on August 1, 2019 (“**Effective Date**”), and unless earlier terminated, will expire on July 31, 2024.

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

1. Definitions.

“**Accept**” has the meaning set forth in **Section 4.2(b)**.

“**Acceptance**” has the meaning set forth in **Section 4.2(b)**.

“**Action**” has the meaning set forth in **Section 14.1**.

“**Allegedly Infringing Features**” has the meaning set forth in **Section 14.3(b)(ii)**.

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

“**Availability Requirement**” has the meaning set forth in **Section 5**.

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

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

“**Code**” has the meaning set forth in **Section 20**.

“**Confidential Information**” has the meaning set forth in **Section 11.1**.

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

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

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

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

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

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

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

“**DR Plan**” has the meaning set forth in **Section 13(a)**.

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

“**End Users**” means members of the general public who will be processing kiosk transactions through the Hosted Services, and who will be charged a transaction fee by Contractor for such use.

“**Equipment**” means the Self-Service Terminals, and any other materials, equipment or hardware that Contractor or any Subcontractor is required to, or otherwise does provide, under this Contract.

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

“**Force Majeure Event**” has the meaning set forth in **Section 18**.

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

“**HIPAA**” has the meaning set forth in **Section 10.1**.

“**Hosted Services**” has the meaning set forth in **Section 23.1(a)**.

“**Intellectual Property Rights**” means any and all rights comprising or relating to: (a) patents, patent disclosures and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith; (c) authorship rights, copyrights and copyrightable works (including computer programs) and rights in data and databases; (d) trade secrets, know-how and other confidential information; and (e) all other

intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable Law in any jurisdiction throughout the world.

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

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

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

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

"Personal Health Information (PHI)" has the meaning set forth in **Section 10.1**.

"Personally Identifiable Information (PII)" has the meaning set forth in **Section 10.1**.

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

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

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

"Reject" has the meaning set forth in **Section 4.2(b)**.

"Rejection" has the meaning set forth in **Section 4.2(b)**.

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

"RFP" means the State's request for proposal designed to solicit responses for Services under this Contract.

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

“Service Software” means any and all software applications and any third-party or other software, and all new versions, updates, revisions, improvements and modifications of the foregoing, that Contractor provides remote access to and use of as part of the Services.

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

“Source Code” means the human readable source code of the Service Software to which it relates, in the programming language in which the Service Software was written, together with all related flow charts and technical documentation, including a description of the procedure for generating object code, all of a level sufficient to enable a programmer reasonably fluent in such programming language to understand, build, operate, support, maintain and develop modifications, upgrades, updates, adaptations, enhancements, new versions and other derivative works and improvements of, and to develop computer programs compatible with, the Service Software.

“Specifications” means the specifications for the Services set forth in the applicable Statement of Work and, to the extent consistent with and not limiting of the foregoing, the Documentation.

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

“State Data” has the meaning set forth in **Section 10.1**.

“State Modification” has the meaning set forth in **Section 14.2(a)**.

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

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

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

“Stop Work Order” has the meaning set forth in **Section 8**.

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

“Support Services” has the meaning set forth in **Section 6**.

“Support Service Level Requirement” has the meaning set forth in **Section 6**.

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

“**Transition Period**” has the meaning set forth in **Section 7.3**.

“**Transition Responsibilities**” has the meaning set forth in **Section 7.3**.

“**User Data**” means any and all information reflecting the access or use of the Hosted Services by or on behalf of the State or any Authorized User, including any end user profile, visit, session, impression, click-through or click-stream data and any statistical or other analysis, information or data based on or derived from any of the foregoing.

2. Services.

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

(a) the hosting, management and operation of the Service Software and other services for remote electronic access and use by the State and its Authorized Users (“**Hosted Services**”) as described in one or more written, sequentially numbered, statements of work referencing this Contract, including all Specifications set forth in such statements of work, which, upon their execution will be attached as **Schedule A** to this Contract and by this reference are incorporated in and made a part of this Contract (each, a “**Statement of Work**”);

(b) maintain the Availability Requirement set forth in the Service Level Agreement attached as **Schedule B** to this Contract;

(c) provide maintenance and Support Services as set forth in the Service Level Agreement, attached as **Schedule B**;

(d) implement and maintain the security requirements set forth in **Schedule D** to this Contract;

(e) maintain a DR plan, which is attached as **Schedule E** to this Contract;

(f) the provision, installation, maintenance, and support of the Equipment, as described in the Statement of Work and **Schedule F** to this Contract; and

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

2.2 Change Notices.

- (a) Any modifications or changes to the Services under the Statement of Work will be effective only if and when memorialized in a mutually agreed written change notice (“**Change Notice**”) signed by both Parties.

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

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

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

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

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

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

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

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

- (i) the identity of such Subcontractor and the location of all its data centers, if any, that will be used in Processing any State Data, which information Contractor shall promptly disclose to the State in writing; and
- (ii) a written confidentiality and restricted use agreement, giving the State rights at least equal to those set forth in **Section 10** (State Data), **Section 11** (Confidentiality), **Section 12** (Security) and **Section 13** (Disaster Recovery) and containing the Subcontractor's acknowledgment of, and agreement to, the provisions of **Section 2.5** (Contractor Personnel), a fully-executed copy of which agreement Contractor will promptly provide to the State upon the State's request.

2.5 Contractor Personnel. Contractor will:

(a) subject to the prior written approval of the State, appoint: (i) a Contractor employee to serve as a primary contact with respect to the Services who will have the authority to act on behalf of Contractor in matters pertaining to the receipt and processing of support requests and the Support Services (the “**Contractor Service Manager**”); and (ii) a Contractor employee to respond to the State’s inquiries regarding the security of the Contractor Systems who has sufficient knowledge of the security of the Contractor Systems and the authority to act on behalf of Contractor in matters pertaining thereto (“**Contractor Security Officer**”); and (iii) other Key Personnel, who will be suitably skilled, experienced and qualified to perform the Services;

(b) provide names and contact information for Contractor’s Key Personnel in the Statement of Work;

(c) maintain the same Contractor Service Manager, Contractor Security Officer and other Key Personnel throughout the Term and such additional period, if any, as Contractor is required to perform the Services, except for changes in such personnel due to: (i) the State’s request pursuant to **Section 2.5(d)**; or (ii) the death, disability, resignation or termination of such personnel or other circumstances outside Contractor’s reasonable control; and

(d) upon the reasonable written request of the State, promptly replace any Key Personnel of Contractor.

2.6 Management and Payment of Contractor Personnel.

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

(b) Contractor will ensure that no Person who has been convicted of a felony or any misdemeanor involving, in any way, theft, fraud, or bribery provides any Services or has access to any State Data, State Systems or State facilities. On a case-by-case basis, the State may request that Contractor initiate a background check on any Contractor Personnel before they may have access to State Data, State Systems or State facilities. Any request for a background check shall be initiated by the State and must be reasonably related to the type of work requested. The scope of the background check is at the discretion of the State and the results shall be used solely to determine the eligibility of Contractor Personnel to work with State Data, State Systems or in State facilities. If provided to the State, results of background checks will be promptly returned to Contractor, and will be treated as Confidential Information. All investigations will include a Michigan State Police Background check (ICHAT) and may include a National Crime Information Center (NCIC) Finger Print check. Contractor will present attestation of satisfactory completion of such tests. Contractor is responsible for all costs and expenses associated with such background checks. 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.

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

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

3. License Grant and Restrictions.

3.1 Contractor License Grant. Contractor hereby grants to the State, exercisable by and through its Authorized Users and End Users, a nonexclusive, royalty-free, irrevocable (except as provided herein) right and license during the Term and such additional periods, if any, as Contractor is required to perform Services under this Contract or any Statement of Work, to:

(a) access and use the Hosted Services, including in operation with other software, hardware, systems, networks and services, for the State’s business purposes, including for Processing State Data;

(b) generate, print, copy, upload, download, store and otherwise Process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Services;

(c) prepare, reproduce, print, download and use a reasonable number of copies of the Specifications and Documentation for any use of the Services under this Contract; and

(d) access and use the Services for all such non-production uses and applications as may be necessary or useful for the effective use of the Hosted Services hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair.

3.2 License Restrictions. The State will not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Hosted Services available to any third party, except as expressly permitted by this Contract or in any Statement of Work; or (b) use or authorize the use of the Services or Documentation in any manner or for any purpose that is unlawful under applicable Law.

3.3 Use. End Users will pay Contractor the corresponding Fees set forth in the Statement of Work for all End User and Authorized Users access and use of the Service Software. Such Fees will be Contractor’s sole and exclusive remedy for use of the Service Software, including any excess use it being understood and acknowledged by Contractor that the State will not be liable for any Fees, costs,

expenses, or any other form of remuneration of any kind associated with use of the Hosted Services by Authorized Users or End Users.

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

4. Service Preparation, Testing and Acceptance.

4.1 Service Preparation. Promptly upon the parties' execution of a Statement of Work, Contractor will take all steps necessary to make the Services procured thereunder ready and available for the State's use in accordance with the Statement of Work and this Contract, including any applicable milestone date or dates set forth in such Statement of Work.

4.2 Testing and Acceptance.

(a) When Contractor notifies the State in writing that the Hosted Services and Equipment are ready for use in a production environment, the State will have thirty (30) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the notice to test the Hosted Services and Equipment pursuant to the terms of this Contract and **Schedule G**, User Acceptance Testing to determine whether they comply in all material respects with the requirements of this Contract and the Specifications.

(b) Upon completion of the State's testing, the State will notify Contractor of its acceptance ("**Accept**" or "**Acceptance**") or, if it has identified any noncompliance with the Specifications, rejection ("**Reject**" or "**Rejection**") of the Hosted Services and Equipment. If the State Rejects the Hosted Services or Equipment, the State will provide a written list of items that must be corrected. On receipt of the State's notice, Contractor will promptly commence, at no additional cost or charge to the State, all reasonable efforts to complete, as quickly as possible and in any event within twenty (20) days (or such other period as may be agreed upon by the Parties in writing) from receipt of the State's notice, such necessary corrections, repairs and modifications to the Hosted Services to bring them into full compliance with the Specifications.

(c) If any corrective measures are required under **Section 4.2(b)** or **Schedule G**, upon completion of all such measures, Contractor will notify the State in writing and the process set forth in **Section 4.2(a)** or **Schedule G** and **Section 4.2(b)** will be repeated; provided that if the State determines that the Hosted Services or Equipment, as revised, still do not comply in all material respects with the Specifications, the State may, in its sole discretion:

- (i) require the Contractor to repeat the correction, repair and modification process set forth in **Section 4.2(b)** at no additional cost or charge to the State; or
- (ii) terminate any and all of the relevant Statement of Work, this Contract and any other Statements of Work hereunder.

(d) The parties will repeat the foregoing procedure until the State Accepts the Hosted Services and Equipment or elects to terminate the relevant Statement of Work as provided in **Section 4.2(c)(ii)** above. If the State so terminates the relevant Statement of Work, Contractor must refund to the State all sums previously paid to Contractor under such Statement of Work within ten (10) Business Days of the State's written notice of termination, and the State will be relieved of all obligations thereunder.

5. Service Availability. Contractor will make the Hosted Services available, as measured over the course of each calendar month during the Term, in accordance with the provisions set forth in the Service Level Agreement, attached as **Schedule B** to this Contract (the "**Availability Requirement**").

6. Support and Maintenance Services. Contractor will provide Hosted Service maintenance and support services (collectively, "**Support Services**") in accordance with the provisions set forth in the Service Level Agreement, attached as **Schedule B** to this Contract (the "**Support Service Level Requirement**").

7. Termination, Expiration and Transition.

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

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

(b) If the State terminates this Contract under this **Section 7.1**, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of this Contract, the termination will be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 7.2**.

- (c) Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, and transition costs.

7.2 Termination for Convenience. The State may immediately terminate this Contract in whole or in part, without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance immediately, or (b) continue to perform in accordance with **Section 7.3**. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

7.3 Transition Responsibilities. Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days; the “**Transition Period**”), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract to continue without interruption or adverse effect, and to facilitate the orderly transfer of the Services to the State or its designees. Such transition assistance may include but is not limited to: (a) continuing to perform the Services at the established Statement of Work rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Services to the State or the State’s designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all State Data; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, the “**Transition Responsibilities**”). The Term of this Contract is automatically extended through the end of the Transition Period.

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

(a) Contractor will be obligated to perform all Transition Responsibilities specified in **Section 7.3**.

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

(c) Contractor will (i) return to the State all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the State’s Confidential Information; (ii) permanently erase the State’s Confidential Information from its computer systems; and (iii) certify in writing to the State that it has complied with the requirements of this **Section 7.4(c)**, in each case to the extent such materials are not required by Contractor for Transition Responsibilities, if any.

(d) Notwithstanding any provisions of this Contract or any Statement of Work to the contrary, upon the State’s termination of this Contract or any Statement of Work for cause pursuant to **Section 7.1**, the State will have the right and option to continue to access and use the Services under each applicable Statement of Work, in whole and in part, for a period not to exceed one hundred and eighty (180) days from the effective date of such termination pursuant to the terms and conditions of this Contract and each applicable Statement of Work.

7.5 Survival. The rights, obligations and conditions set forth in this **Section 7.5** and **Section 1** (Definitions), **Section 7.3** (Effect of Termination; Data Retention), **Section 10** (State Data), **Section 11** (Confidentiality), **Section 12** (Security), **Section 14.1** (Indemnification), **Section 15** (Limitations of Liability), **Section 16** (Representations and Warranties), **Section 17** (Insurance) and **Section 20** (Effect of Contractor Bankruptcy) and **Section 21** (General Provisions), and any right, obligation or condition that, by its express terms or nature and context is intended to survive the termination or expiration of this Contract, survives any such termination or expiration hereof.

8. Stop Work Order. The State may, at any time, order the Services of Contractor fully or partially stopped for its own convenience for up to ninety (90) calendar days at no additional cost to the State. The State will provide Contractor a written notice detailing such suspension (a “**Stop Work Order**”). Contractor must comply with the Stop Work Order upon receipt. Within 90 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 this Contract. The State will not pay for any Services, Contractor’s lost profits, or any additional compensation during a stop work period.

9. Fees and Expenses.

9.1 Fees. Subject to the terms and conditions of this Contract and the Statement of Work, including the provisions of this **Section 9**, Contractor may charge End Users the transaction fees set forth in **Schedule C**, Pricing (“**Fees**”).

9.2 Fees During Option Years. Contractor’s Fees charged to the End User shall be fixed during all Terms and Option Years, except where significant changes in scope of project result in a mutually agreed upon fee change. Contractor and State have the option to renegotiate Fees during option years if mutually agreed upon.

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

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

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

(a) clearly identify the Contract and purchase order number to which it relates, in such manner as is required by the State;

(b) list each Fee item separately;

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

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

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

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

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

9.7 State Audits of Contractor.

(a) During the Term, and for four (4) years after, Contractor must maintain complete and accurate books and records regarding its business operations relevant to the calculation of Fees and any other information relevant to Contractor's compliance with this **Section 9**. During the Term, and for four (4) years after, upon the State's request, Contractor must make such books and records and appropriate personnel, including all financial information, available during normal business hours for inspection and audit by the State or its authorized representative, provided that the State: (a) provides Contractor with at least fifteen (15) days prior notice of any audit, and (b) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations.

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

9.8 Payment Does Not Imply Acceptance. The making of any payment or payments by the State, or the receipt thereof by Contractor, will in no way affect the responsibility of Contractor to perform the

Services in accordance with this Contract, and will not imply the State's Acceptance of any Services or the waiver of any warranties or requirements of this Contract, including any right to Service Credits.

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

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

Contractor shall not withhold or delay any Hosted Services or Support Services or fail to perform any other Services or obligations hereunder by reason of the State's good faith withholding of any payment or amount in accordance with this **Section 9.9** or any dispute arising therefrom

9.10 Service Availability Fees. Contractor acknowledges and agrees that each of the Service Availability Fees assessed pursuant to **Schedule B, Section 26**: (a) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the corresponding Service Error, which would be impossible or very difficult to accurately estimate; and (b) be payable to the State upon demand. No Service Availability Fees for any Service Period may exceed the total amount of Fees that would be collectible for that Service Period if the Services were fully provided in accordance with this Contract and the Specifications.

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

10. State Data.

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

number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and (ii) personal health information ("PHI") collected, used, processed, stored, or generated as the result of the Services, which is defined under the Health Insurance Portability and Accountability Act ("HIPAA") and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This **Section 10.1** survives termination or expiration of this Contract.

10.2 Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This **Section 10.2** survives termination or expiration of this Contract.

10.3 Backup and Extraction of State Data. Contractor will conduct, or cause to be conducted periodic back-ups of State Data at a frequency that will ensure the RPO requirements set forth in **Section 13(a)** of this Contract. All backed up State Data shall be located in the continental United States. Contractor must, within five (5) Business Days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of State Data in the format specified by the State.

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

10.5 Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as

practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 9.5** are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract.

10.6 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.

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

10.8 ADA Compliance. The State is required to comply with the Americans with Disabilities Act of 1990 (ADA), and has adopted a formal policy regarding accessibility requirements for websites and software applications. Contractor's Service Software must comply, where relevant, with level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0.

11. Confidentiality.

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

11.2 Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to the Contractor's subcontractor is permissible where: (a) the subcontractor is a Permitted Subcontractor; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Permitted Subcontractor's responsibilities; and (c) Contractor obligates the Permitted Subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any of the Contractor's Representatives may be required to execute a separate agreement to be bound by the provisions of this **Section 11.2**.

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

to Confidential Information has violated or intends to violate the terms of this Contract. Each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

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

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

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

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

(a) maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 4 hours, and a Recovery Time Objective (RTO) of 4 hours (the "**DR Plan**"), and implement such DR Plan in the event of any unplanned interruption of the Hosted Services. Contractor's current DR Plan, revision history, and any reports or summaries relating to past testing of or pursuant to the DR Plan are attached as **Schedule E**. 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 13**; and

(b) provide the State with copies of all reports resulting from any testing of or pursuant to the DR Plan promptly after Contractor's receipt or preparation. If Contractor fails to reinstate all material Hosted Services within the periods of time set forth in the DR Plan, the State may, in addition to any other remedies available under this Contract, in its sole discretion, immediately terminate this Contract as a non-curable default under **Section 7.1(a)**.

14. Indemnification.

14.1 General Indemnification. Contractor must defend, indemnify and hold harmless the State, and the State's agencies, departments, officers, directors, employees, agents, and contractors from and against all Losses arising out of or resulting from any third party claim, suit, action or proceeding (each, an "**Action**") that does or is alleged to arise out of or result from:

(a) the Contractor's breach of any representation, warranty, covenant or obligation of Contractor under this Contract (including, in the case of Contractor, any action or failure to act by any Contractor Personnel that, if taken or not taken by Contractor, would constitute such a breach by Contractor); or

(b) any negligence or more culpable act or omission (including recklessness or willful misconduct) in connection with the performance or nonperformance of any Services or other activity actually or required to be performed by or on behalf of, Contractor (including, in the case of Contractor, any Contractor Personnel) under this Contract, provided that, to the extent that any Action or Losses described in this **Section 14.1** arises out of, results from, or alleges a claim that any of the Services does or threatens to infringe, misappropriate or otherwise violate any Intellectual Property Rights or other rights of any third party, Contractor's obligations with respect to such Action and Losses, if any, shall be subject to the terms and conditions of **Section 14.2(a)** through **Section 14.3(b)** and **Section 14.3**.

14.2 Infringement Indemnification By Contractor. Contractor must indemnify, defend and hold the State, and the State's agencies, departments, officers, directors, employees, agents, and contractors harmless from and against all Losses arising out of or resulting from any Action that does or is alleged to arise out of or result from a claim that any of the Services, or the State's or any Authorized User's use thereof, actually does or threatens to infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of a third party, provided however, that Contractor shall have no liability or obligation for any Action or Loss to the extent that such Action or Loss arises out of or results from any:

(a) alteration or modification of the Hosted Services or Service Software by or on behalf of the State or any Authorized User without Contractor's authorization (each, a "**State Modification**"), provided that no infringement, misappropriation or other violation of third party rights would have occurred without such State Modification and provided further that any alteration or modification made by or for Contractor at the State's request shall not be excluded from Contractor's indemnification obligations hereunder unless (i) such alteration or modification has been made pursuant to the State's written specifications and (ii) the Hosted Services, as altered or modified in accordance with the State's specifications, would not have violated such third party rights but for the manner in which the alteration or modification was implemented by or for Contractor; and

(b) use of the Hosted Services by the State or an Authorized User pursuant to this Contract in combination with any software or service not provided, authorized or approved by or on behalf of Contractor, if (i) no violation of third party rights would have occurred without such combination and (ii) such software or service is not commercially available and not standard in Contractor's or the State's

industry and there are no Specifications, Documentation, or other materials indicating Contractor's specification, authorization or approval of the use of the Hosted Services in combination therewith.

14.3 Mitigation.

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

(b) Subject to the exclusions set forth in clauses (a) and (b) of **Section 14.2**, if any of the Services or any component or feature thereof is ruled to infringe or otherwise violate the rights of any third party by any court of competent jurisdiction, or if any use of any Services or any component thereof is threatened to be enjoined, or is likely to be enjoined or otherwise the subject of an infringement or misappropriation claim, Contractor must, at Contractor's sole cost and expense:

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

(c) If neither of the remedies set forth in **Section 14.3(b)** is reasonably available with respect to the Allegedly Infringing Features then Contractor may direct the State to cease any use of any materials that have been enjoined or finally adjudicated as infringing, provided that Contractor will:

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

(d) The remedies set forth in this **Section 14.3** are in addition to, and not in lieu of, all other remedies that may be available to the State under this Contract or otherwise, including the State's right to be indemnified pursuant to **Section 14.1** and **Section 14.2**.

14.4 Indemnification Procedure. The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is

materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations. The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own expense, if the State deems necessary. Neither Contractor nor the State, without the other's prior written consent (not to be unreasonably withheld), will 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 14**, 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.

15. Limitations of Liability.

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

15.2 The State's Limitation of Liability. THE STATE WILL HAVE NO 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.

16. Contractor Representations and Warranties.

16.1 Authority and Bid Response. Contractor represents and warrants to the State that:

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

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

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

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

(e) the prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other Contractor for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Bidder to the Invitation to

Negotiate; and no attempt was made by Contractor to induce any other Person to submit or not submit a proposal for the purpose of restricting competition;

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

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

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

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

(b) neither Contractor's grant of the rights or licenses hereunder nor its performance of any Services or other obligations under this Contract does or at any time will: (i) conflict with or violate any applicable Law, including any Law relating to data privacy, data security or personal information; (ii) require the consent, approval or authorization of any governmental or regulatory authority or other third party; or (iii) require the provision of any payment or other consideration by the State or any Authorized User to any third party, and Contractor shall promptly notify the State in writing if it becomes aware of any change in any applicable Law that would preclude Contractor's performance of its material obligations hereunder;

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

(d) there is no settled, pending or, to Contractor's knowledge as of the Effective Date, threatened Action, and it has not received any written, oral or other notice of any Action (including in the form of any offer to obtain a license): (i) alleging that any access to or use of the Services or Service Software does or would infringe, misappropriate or otherwise violate any Intellectual Property Right of any third party; (ii) challenging Contractor's ownership of, or right to use or license, any software or other materials used or required to be used in connection with the performance or receipt of the Services, or alleging any adverse right, title or interest with respect thereto; or (iii) that, if decided unfavorably to Contractor, would reasonably be expected to have an actual or potential adverse effect on its ability to

perform the Services or its other obligations under this Contract, and it has no knowledge after reasonable investigation of any factual, legal or other reasonable basis for any such litigation, claim or proceeding;

(e) the Service Software and Services will in all material respects conform to and perform in accordance with the Specifications and all requirements of this Contract, including the Availability and Availability Requirement provisions set forth in **Section 5**;

(f) all Specifications are, and will be continually updated and maintained so that they continue to be, current, complete and accurate and so that they do and will continue to fully describe the Hosted Services in all material respects such that at no time during the Term or any additional periods during which Contractor does or is required to perform the Services will the Hosted Services have any material undocumented feature;

(g) the Contractor Systems and Services are and will remain free of Harmful Code;

(h) Contractor will not advertise through the Hosted Services (whether with adware, banners, buttons or other forms of online advertising) or link to external web sites that are not approved in writing by the State;

(i) Contractor will perform all Services in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with generally recognized industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet Contractor's obligations (including the Availability Requirement and Support Service Level Requirements) under this Contract;

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

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

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

17. Insurance.

17.1 Required Coverage.

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

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate Limit <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
Umbrella or Excess Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	Contractor must have their policy follow form.
Automobile Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include coverage for Hired and Non-Owned Automobiles.
Workers' Compensation Insurance	

<p><u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.</p>	<p>Waiver of subrogation, except where waiver is prohibited by law.</p>
<p>Employers Liability Insurance</p>	
<p><u>Minimum Limits:</u> \$1,000,000 Each Accident \$1,000,000 Each Employee by Disease \$1,000,000 Aggregate Disease</p>	
<p>Privacy and Security Liability (Cyber Liability) Insurance</p>	
<p><u>Minimum Limits:</u> \$2,000,000 Each Occurrence \$2,000,000 Annual Aggregate</p>	<p>Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.</p>
<p>Crime (Fidelity) Insurance</p>	
<p><u>Minimal Limits:</u> \$1,000,000 Employee Theft Per Loss</p>	<p>Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as Loss Payees.</p>
<p>Property Insurance</p>	
<p>Contractor is responsible for any loss or damage to State property that results from this agreement including cargo while in transit, and cargo in the care, custody, or control of Contractor, up to its replacement value.</p>	<p>Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as loss payee as its interests appear.</p>

Evidence of property insurance coverage is required for each of Contractor's off-site locations at which Contract Activities are performed.	
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(b) If Contractor's policy contains limits higher than the minimum limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits are not intended, and may not be construed to limit any liability or indemnity of Contractor to any indemnified party or other persons.

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

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

17.2 Non-waiver. This **Section 17** is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

18. Force Majeure.

18.1 Force Majeure Events. Subject to **Section 18.2**, neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached this Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a "**Force Majeure Event**"), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

18.2 State Performance; Termination. In the event of a Force Majeure Event affecting Contractor's performance under this Contract, the State may suspend its performance hereunder until such time as Contractor resumes performance. The State may terminate this Contract by written notice to Contractor if a Force Majeure Event affecting Contractor's performance hereunder continues substantially uninterrupted for a period of ten (10) Business Days or more. Unless the State terminates this Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under this Contract will automatically be extended for a period up to the duration of the Force Majeure Event.

18.3 Exclusions; Non-suspended Obligations. Notwithstanding the foregoing or any other provisions of this Contract:

- (a) in no event will any of the following be considered a Force Majeure Event:
 - (i) shutdowns, disruptions or malfunctions of the Contractor Systems or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to the Contractor Systems; or
 - (ii) the delay or failure of any Contractor Personnel to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a Force Majeure Event; and

(b) no Force Majeure Event modifies or excuses Contractor's obligations under **Section 25** (Service Availability and Service Availability Credits), **Section 26.5** (Support Service Level Credits), **Section 10** (State Data), **Section 11** (Confidentiality), **Section 12** (Security), **Section 13** (Disaster Recovery) or **Section 14** (Indemnification), or any Availability Requirement or Support Service Level Requirement.

19. Software Escrow. The parties may enter into a separate intellectual property escrow agreement. Such escrow agreement will govern all aspects of Source Code escrow and release.

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

21. General Provisions.

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

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

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

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

If to Contractor:

2980 E. Coliseum Blvd.
Fort Wayne, Indiana 46805
E-mail: DNicholson@iti4dmv.com

Attention: Drew Nicholson

Title: Chief Operating Officer

If to the State:

DTMB Central Procurement Services
525 W. Allegan St.
PO Box 30026
Lansing, MI 48909

E-mail: martinc20@michigan.gov

Attention: Christopher Martin

Title: Contract Administrator

Notices sent in accordance with this **Section 21.4** will be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail (with confirmation of transmission), if sent during normal business hours of the recipient, and on the next

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

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

21.6 Assignment. Contractor may not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Contract, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the State's prior written consent, such consent not to be unreasonably withheld. The State has the right to terminate this Contract in its entirety or any Services or Statements of Work hereunder, pursuant to **Section 7.2**, if Contractor delegates or otherwise transfers any of its obligations or performance hereunder, whether voluntarily, involuntarily, by operation of law or otherwise, and no such delegation or other transfer will relieve Contractor of any of such obligations or performance. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Contractor (regardless of whether Contractor is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Contract for which the State's prior written consent is required, and such consent may not be unreasonably withheld. Any purported assignment, delegation, or transfer in violation of this **Section 21.6** is void.

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

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

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

21.10 Governing Law. This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract

are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of personal jurisdiction or forum non conveniens. Contractor must appoint agents in Michigan to receive service of process

21.11 Equitable Relief. Each party to this Contract acknowledges and agrees that (a) a breach or threatened breach by such party of any of its obligations under this Contract would give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto is, in addition to any and all other rights and remedies that may be available to such party at law, at equity or otherwise in respect of such breach, entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each party to this Contract agrees that such party will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this **Section 21.11**.

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

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

21.14 Schedules All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference.

Schedule A	Statement of Work
Schedule B	Service Level Agreement

Schedule C	Pricing
Schedule D	Data Security Requirements
Schedule E	Disaster Recovery Plan
Schedule F	Terms for On-site Equipment
Schedule G	User Acceptance Testing

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

21.16 Administrative Fee and Reporting. Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract by other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget
Cashiering
P.O. Box 30681
Lansing, MI 48909

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.

21.17 Extended Purchasing Program. Upon written agreement between the State and Contractor, this contract may also be extended to other states (including governmental subdivisions and authorized entities).

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.

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

SCHEDULE B
Service Level Agreement

22. Definitions. For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Section 22** shall have the respective meanings given to them in the Contract.

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

“**Availability**” has the meaning set forth in **Section 25(a)**.

“**Availability Requirement**” has the meaning set forth in **Section 25(a)**.

“**Available**” has the meaning set forth in **Section 25(a)**.

“**Contractor Service Manager**” has the meaning set forth in **Section 24.1**.

“**Corrective Action Plan**” has the meaning set forth in **Section 26.6**.

“**Critical Service Error**” has the meaning set forth in **Section 26.4(a)**.

“**Exceptions**” has the meaning set forth in **Section 25.2**.

“**Force Majeure Event**” has the meaning set forth in **Section 27.1**.

“**High Service Error**” has the meaning set forth in **Section 26.4(a)**.

“**Hosted Services**” has the meaning set forth in **Section 23.1(a)**.

“**Low Service Error**” has the meaning set forth in **Section 26.4(a)**.

“**Medium Service Error**” has the meaning set forth in **Section 26.4(a)**.

“**Resolve**” has the meaning set forth in **Section 26.4(b)**.

“**Scheduled Downtime**” has the meaning set forth in **Section 25.3**.

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

“**Service Availability Credits**” has the meaning set forth in **Section 25.6(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 26.5**.

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

“**Service Period**” has the meaning set forth in **Section 25(a)**.

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

“**Software Support Services**” has the meaning set forth in **Section 26**.

“**State Service Manager**” has the meaning set forth in **Section 24.2**.

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

“**Support Request**” has the meaning set forth in **Section 26.4(a)**.

“**Support Service Level Requirements**” has the meaning set forth in **Section 26.4**.

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

23. Services.

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

- (a) the hosting, management and operation of the Software and other services for remote electronic access and use by the State and its Authorized Users (“**Hosted Services**”);
- (b) the Software Support Services set forth in **Section 26** of this Schedule;

24. Personnel

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

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

25. Service Availability and Service Availability Credits.

(a) Availability Requirement. Contractor will make the Hosted Services Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a “**Service Period**”), at least 95.0% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the “**Availability Requirement**”). “**Available**” means the Hosted Services are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. “**Availability**” has a correlative meaning. The Hosted Services are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows: $(\text{Actual Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \div (\text{Scheduled Uptime} - \text{Total Minutes in Service Period Hosted Services are not Available Due to an Exception}) \times 100 = \text{Availability}$.

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

- (a) failures of the State’s or its Authorized Users’ internet connectivity;
- (b) Scheduled Downtime as set forth in **Section 25.3**.

25.3 Scheduled Downtime. Contractor must notify the State at least twenty-four (24) hours in advance of all scheduled outages of the Hosted Services in whole or in part (“**Scheduled Downtime**”). All such scheduled outages will: (a) last no longer than five (5) hours; (b) be scheduled between the hours of 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.

25.4 Software Response Time. Service 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 thirty (30) seconds for 98% of all transactions. Unacceptable response times shall be considered to make the Software unavailable and will count against the Availability Requirement.

25.5 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 during that calendar month as compared to the Availability Requirement. The report must be in electronic or such other form as the State may approve in writing and shall include, at a minimum: (a) the actual performance of the Hosted Services relative to the Availability Requirement; and (b) if Hosted Service performance has failed in any respect to meet or exceed the Availability Requirement during the reporting period, a description in sufficient detail to inform the State of the cause

of such failure and the corrective actions the Contractor has taken and will take to ensure that the Availability Requirement are fully met.

25.6 Remedies for Service Availability Failures. For any Service Period in which the Availability of the Hosted Services is less than the Availability Requirement, the Contractor will pay to the State the following percentage of the Fees the Contractor collects from End Users during that Service Period.

Availability	Credit of Fees
≥95%	None
<95% but ≥92.5%	5%
<92.5% but ≥90%	10%
<90.0%	25%

(a) Any Service Availability Credits due under this **Section 25.6** will be applied in accordance with payment terms of the Contract.

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

26. Support and Maintenance Services. Contractor will provide Hosted Service maintenance and support services (collectively, “**Software Support Services**”) in accordance with the provisions of this **Section 26**. 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.

26.1 Support Service Responsibilities. Contractor will:

(a) correct all Service Errors in accordance with the Support Service Level Requirements, including by providing defect repair, programming corrections and remedial programming;

(b) provide unlimited telephone support 24 hours a day, seven days a week;

(c) provide unlimited online support 24 hours a day, seven days a week;

(d) provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and

(e) respond to and Resolve Support Requests as specified in this **Section 26**.

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

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

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

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

- (i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;
- (ii) if Contractor's facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Section 26.4**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and
- (iii) notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

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

(a) all updates, bug fixes, enhancements, new releases, new versions and other improvements to the Hosted Services, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; and

(b) all such services and repairs as are required to maintain the Hosted Services or are ancillary, necessary or otherwise related to the State's or its Authorized Users' access to or use of the Hosted Services, so that the Hosted Services operate properly in accordance with the Contract and this Schedule.

26.4 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 26.4 (“Support Service Level Requirements”)**, and the Contract.

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

Support Request Classification	Description: Any Service Error Comprising or Causing any of the Following Events or Effects
Critical Service Error	<ul style="list-style-type: none"> • 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"> • Hosted Service 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.
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(b) Response and Resolution Time Service Levels. Response and Resolution times will be measured from the time Contractor receives a Support Request until the respective times Contractor has (i) responded to, in the case of response time and (ii) Resolved such Support Request, in the case of Resolution time. **“Resolve”** (including **“Resolved”**, **“Resolution”** and correlative capitalized terms) means that, as to any Service Error, Contractor has provided the State the corresponding Service Error correction and the State has confirmed such correction and its acceptance thereof or provide acceptance of Corrective Action Plan and timeline. 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)
Critical Service Error	One (1) hour	Three (3) hours
High Service Error	One (1) hours	Four (4) hours
Medium Service Error	Three (3) hours	Forty-Eight (48) hours
Low Service Error	Three (3) hours	Five (5) Business Days

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	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.	for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
High Service Error	One (1) hour	Four (4) hours	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

(c) Escalation. With respect to any Critical Service Error Support Request, until such Support Request is Resolved, Contractor will escalate that Support Request within sixty (60) minutes of the receipt

of such Support Request by the appropriate Contractor support personnel, including, as applicable, the Contractor Service Manager and Contractor's management or engineering personnel, as appropriate.

26.5 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors that are solely an issue with Contractor (or subcontractor) systems or personnel will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Section 26.4(b)** ("**Service Level Credits**") in accordance with payment terms set forth in the Contract.

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

27. Force Majeure.

27.1 Force Majeure Events. Subject to **Section 27.3**, neither party will be liable or responsible to the other party, or be deemed to have defaulted under or breached the Contract, for any failure or delay in fulfilling or performing any term hereof, when and to the extent such failure or delay is caused by: acts of God, flood, fire or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Contract, national or regional emergency, or any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition (each of the foregoing, a "**Force Majeure Event**"), in each case provided that: (a) such event is outside the reasonable control of the affected party; (b) the affected party gives prompt written notice to the other party, stating the period of time the occurrence is expected to continue; (c) the affected party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

27.2 State Performance; Termination. In the event of a Force Majeure Event affecting Contractor's performance under the Contract, the State may suspend its performance hereunder until such time as Contractor resumes performance. The State may terminate the Contract by written notice to Contractor if a Force Majeure Event affecting Contractor's performance hereunder continues substantially

uninterrupted for a period of ten (10) Business Days or more. Unless the State terminates the Contract pursuant to the preceding sentence, any date specifically designated for Contractor's performance under the Contract will automatically be extended for a period up to the duration of the Force Majeure Event.

27.3 Exclusions; Non-suspended Obligations. Notwithstanding the foregoing or any other provisions of the Contract or this Schedule:

- (a) in no event will any of the following be considered a Force Majeure Event:
 - (i) shutdowns, disruptions or malfunctions of Contractor Systems or any of Contractor's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to the Contractor Systems; or
 - (ii) the delay or failure of any Contractor Personnel to perform any obligation of Contractor hereunder unless such delay or failure to perform is itself by reason of a Force Majeure Event.

SCHEDULE D

Data Security Requirements

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

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

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

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

“**FISMA**” means The Federal Information Security Management Act of 2002 (44 U.S.C. ch. 35, subch. III § 3541 et seq.).

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

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

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

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

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

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

3.1 maintain SOC2 type II certification for the Hosted Services throughout the Term, and in the event the contractor is unable to maintain SOC2 type II certification, the State may move the Software to an alternative provider, at contractor’s sole cost and expense;

3.2 ensure that the Software is securely hosted, supported, administered, and accessed in a data center that resides in the continental United States, and minimally meets Uptime Institute Tier 3 standards (www.uptimeinstitute.com), or its equivalent;

3.3 maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State’s Confidential Information that comply with the requirements of the State’s data security policies as set forth in the

Contract, and must, at a minimum, remain compliant with FISMA and the NIST Special Publication 800.53 (most recent version) MOD Controls using minimum control values as established in the applicable PSP;

3.4 provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of the State's Confidential Information and the nature of such Confidential Information, consistent with best industry practice and standards;

3.5 take all reasonable measures to:

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

(b) prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Services; (ii) the State's Confidential Information from being commingled with or contaminated by the data of other customers or their users of the Services; and (iii) unauthorized access to any of the State's Confidential Information;

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

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

3.8 assist the State, at no additional cost, with development and completion of a system security plan using the State's automated governance, risk and compliance (GRC) platform.

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

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

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

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

6.2 upon the State's request, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Contractor Systems and their housing facilities and operating environments; and

6.3 if requested by the State, provide a copy of Contractor's SOC2 Type II System Security Plan. The System Security Plan will be recognized as Contractor's Confidential Information.

7. Nonexclusive Remedy for Security Breach. Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period.

8. PCI Compliance.

8.1 Contractors that process, transmit, store or affect the security of credit/debit cardholder data, must adhere to the PCI Data Security Standard. The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.

8.2 The Contractor must notify the State's Contract Administrator (within 48 hours of discovery) of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the card associations (e.g. Visa, MasterCard, and Discover) and state acquirer representative(s), or a PCI approved third party, to conduct a thorough security review. The Contractor must provide, at the request of the State, the results of such third party security review. The review must validate compliance with the PCI Data Security Standard for protecting cardholder data. At the State's sole discretion, the State may perform its own security review, either by itself or through a PCI approved third party.

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

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

8.5 The Contractor must dispose of cardholder data when it is no longer needed in compliance with PCI DSS policy. The Contractor must continue to treat cardholder data as confidential upon contract termination.

8.6 The Contractor must provide the State's Contract Administrator with an annual Attestation of Compliance (AOC) or a Report on Compliance (ROC) showing the contractor is in compliance with the PCI Data Security Standard. The Contractor must notify the State's Contract Administrator of all failures to comply with the PCI Data Security Standard.

Schedule F
Terms for On-Site Equipment

1. **Definitions.** All initial capitalized terms in this Schedule that are not defined herein shall have the respective meanings given to them in the Contract.
2. **Delivery.** Contractor must deliver the Equipment to the locations designated by the State by the delivery date specified in the Statement of Work. Five days prior to the actual delivery date, Contractor must give written notice to the State specifying the precise delivery date and time. Contractor must pay all costs associated with replacing any item damaged in transit to the destination. Contractor acknowledges that no item will be considered delivered on the delivery date if it is damaged or otherwise not ready for the State to begin its acceptance procedures. Contractor must, at a minimum, package the Equipment according to industry standards and include a packing slip with each shipment. Contractor must also arrange for any rigging and drayage necessary to deliver the Equipment. All costs associated with packaging, shipping, transportation, delivery and insurance will be the Contractor's responsibility.
3. **Installation, Integration and Configuration.**
 - a. Contractor must unpack, assemble, install, integrate, interconnect, and configure all the Equipment at the locations specified in the Statement of Work. Where necessary to complete installation, Contractor must provide all required moving and installation resources, including but not limited to personnel, packing material, and floor protection panels. After completing installation, Contractor must provide the State with written notification that the Equipment is ready for use.
 - b. Contractor must supply all materials required to complete the assembly, installation, integration, interconnection, and configuration of the Equipment at the locations specified in the Statement of Work so that they are ready for use and acceptance, including providing and setting up all required connections to the power supply and any other necessary cables and any other accessories or supplies.
 - c. Contractor must leave all work areas clean once installation is complete, which includes removing and disposing of all packing materials.
 - d. All costs associated with the installation services described in this **Section** will be the Contractor's responsibility.
4. **Documentation.** Contractor must provide to the State all end-user documentation for the Equipment. The documentation, at a minimum, must include all the documentation available to consumers from the manufacturer of the Equipment about the technical specifications of the Equipment, warranties, installation requirements, and operating instructions, as well as details about the software programs with which the Equipment function.
5. **Acceptance.** The following Section applies generally to the acceptance of Equipment, but is subject to the more specific UAT Test Plan set forth in **Schedule G** if the Equipment being tested is part of the UAT process.
 - a. All Equipment is subject to acceptance by the State. As part of its acceptance process, the State may test any function of the Equipment to determine whether it meets the requirements set forth in the Statement of Work. If the Equipment does not meet the requirements set forth in the Statement of Work, the State may reject the Equipment or require that they be corrected at Contractor's sole cost and expense before accepting them.

- b. Acceptance by the State does not relieve Contractor of its responsibility for defects in the Equipment or other failures to meet the requirements of the Statement of Work or of its support and maintenance obligations.
- c. The procedure for acceptance will be as follows:
 - i. Contractor must notify the State in writing once the Equipment are ready for use, in accordance with **Section 4.a** above;
 - ii. the State will have ten (10) Business Days to perform its acceptance procedures (the "**Acceptance Period**"); and
 - iii. if the State provides notice of any deficiency during the Acceptance Period, Contractor must address the deficiency at no cost to the State as soon as possible and notify the State in writing once the work is complete, at which time the State will be entitled to re-inspect the Equipment and Hosting Environment and the Acceptance Period will start again.

6. **Warranty for Equipment.**

- a. Even if the State has accepted the Equipment, Contractor warrants that, throughout the Term, the Equipment and will conform in all ways with the requirements set forth in the Statement of Work.
- b. This warranty does not apply to a specific item of the Equipment if the only reason that item fails to conform to the requirements of the Statement of Work is because:
 - i. a person other than the Contractor, a subcontractor, or a person approved by either of them modifies the Equipment or attaches items that were not designed or approved for use with the Equipment by the Contractor or the manufacturer of the Equipment; or
 - ii. the State uses consumable supplies or materials in or on the Equipment that are supplied by a person other than the Contractor, if those consumables or materials do not conform to the Equipment manufacturer's instructions to consumers.
- c. Contractor must provide maintenance and support services for the Equipment throughout the Term in accordance with **Schedule B** to the Contract, the Service Level Agreement. All charges and costs associated with providing the maintenance and support during the Term are included in the Contract rates.

7. **Risk of Loss and Title.** The risk of loss or damage to Equipment remains with Contractor. Rejected Equipment not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Equipment.

SCHEDULE G

User Acceptance Testing

The parties agree as follows:

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

“Acceptance” has the meaning set forth in Section 3.5 of this Schedule.

“Acceptance Tests” means such tests as may be conducted in accordance with Section 3 of this Schedule and the Statement of Work to determine whether the Equipment or Service Software meets the Requirements.

“Defect” means any failure or failures of the Equipment, Service Software, or any API, to conform to the Requirements, and any applicable specifications set forth in the Documentation.

“Integration Testing” has the meaning set forth in Section 3.1(c) of this Schedule.

“Requirements” means the State’s business and technical requirements regarding the features and functionality of the Equipment and Service Software, which are set forth in the Statement of Work.

“SUITE” means the State Unified Information Technology Environment, which was designed and implemented to standardize methodologies, processes, procedures, training, and tools for project management and systems development lifecycle management.

“Test Data” means Contractor’s or the State’s test data and testing scripts for use in Acceptance Testing during UAT.

“Test Environment” means the operating environment created by Contractor for purposes of UAT.

“Testing Period” has the meaning set forth in Section 3.1(b) of this Schedule.

“Test Results” means the results Contractor or the State expects to be achieved by processing the Test Data using the Software.

“UAT” means User Acceptance Testing.

“UAT Plan” means Contractor’s written plan outlining the UAT schedule, procedures for logging Defects and tracking corrections and re-testing status.

- 2. Parties Obligations for UAT.**

2.1 Contractor Obligations. Contractor will complete the following tasks as part of UAT:

- (a) Install, configure and deploy the Service Software into the Test Environment;
- (b) Install, configure and deploy all API and related Equipment necessary for the Service Software to fully function in accordance with the Requirements;
- (c) Create and provide to the State sufficient Test Data and Test Results to adequately test the Service Software end-to-end, including testing of any APIs, Hosted Services, and Equipment for purposes of Integration Testing;
- (d) Review any State-created Test Data and provide necessary feedback to the State;
- (e) Assist the State with completing any necessary SUITE documentation;
- (f) Communicate to the State that the Testing Environment is ready for use prior to initiation of Acceptance Tests;
- (g) Create a written UAT Plan;
- (h) Train State staff on how to perform Acceptance Tests using the UAT Plan.
- (i) Correct Defects in Test Results in accordance with Section 3 of this Schedule, which are identified by Contractor or the State during the testing Period;
- (j) Conduct regular status meetings during UAT to assess Test Data and Test Results; and
- (k) Provide a tracking system for Contractor and the State to log Defects and track corrections and re-testing status.

2.2 State Obligations: The State will complete the following tasks as part of UAT:

- (a) Create its own Test Data for use in UAT;
- (b) Develop and add approved tests to the UAT Plan;
- (c) Execute tests and report Test Results to Contractor in accordance with the UAT Plan;
- (d) Participate in regular testing status meetings;
- (e) Enter defects from Test Results into the Contractor-provided issue tracking system. Details to be entered include a minimum of: (i) detailed description of the problem (include screenshot(s) if applicable); and (ii) steps needed to reproduce the issue;
- (f) Perform regular retest of Contractor resolved defects based on mutually agreed schedule; and

(g) Work with Contractor to prioritize issues that arise during UAT.

3. Acceptance Testing; Acceptance.

3.1 Acceptance Testing.

(a) Unless otherwise specified in the Statement of Work, upon installation of the Hosted Service(including Service Software) and Equipment and direction from Contractor that the Hosted Services and Equipment are ready to be tested by the State, acceptance tests will be conducted as set forth in this Section 3 to ensure the Hosted Services and Equipment conforms to the requirements of the Contract, the Statement of Work, and the applicable Requirements.

(b) All Acceptance Tests will take place at a designated State facility, with remote access to the Hosted Services, commencing on the Business Day following Contractor's notice that the Hosted Services are ready to be tested by the State, and be conducted diligently for up to thirty (30) Business Days, or such other period as may be set forth in the Statement of Work (the "Testing Period"). Acceptance Tests will be conducted by the State, and if requested by the State, Contractor will make suitable Contractor Personnel available to assist or guide such Acceptance Tests. Contractor is solely responsible for all costs and expenses related to Contractor's performance of, participation in, and observation of Acceptance Testing.

(c) All APIs and Equipment must be delivered at the same time as the Hosted Services (including Service Software), and Acceptance Tests will also be performed on the integrated Hosted Services, Service Software, APIs and Equipment as a whole to ensure full operability, integration, and compatibility among all elements of the end to end system ("Integration Testing").

(d) The State may suspend Acceptance Tests and the corresponding Testing Period by written notice to Contractor if the State discovers a material Defect in the tested Hosted Services, Service Software or Equipment, or part or feature of the Hosted Services, Service Software, or Equipment. In such event, Contractor will immediately, and in any case within ten (10) Business Days, correct such Defect, whereupon the Acceptance Tests and Testing Period will resume for the balance of the Testing Period.

3.2 Notices of Completion, Defects, and Acceptance. Within fifteen (15) Business Days following the final completion of all Acceptance Tests, including any Integration Testing, the State will prepare and provide to Contractor written notice of the completion of the tests. Such notice must include a report describing in reasonable detail the tests conducted and the results of such tests, including any uncorrected Defect in the tested Hosted Services, Service Software, or Equipment.

(a) If such notice identifies any Defects, the parties' rights, remedies, and obligations will be as set forth in Section 3.3 and Section 3.4 of this Schedule.

(b) If such notice identifies no Defects, such notice constitutes the State's Acceptance of such Hosted Services, Service Software, and Equipment.

3.3 Failure of Acceptance Tests. If Acceptance Tests identify any Defects, Contractor, at Contractor's sole cost and expense, will remedy all such Defects and re-deliver the Hosted Services, Service Software, or Equipment in accordance with the Requirements. Re-delivery will occur as promptly as commercially possible and, in any case, within fifteen (15) Business Days following, as applicable, Contractor's receipt of the State's notice under Section 3.2, identifying any Defects.

3.4 Repeated Failure of Acceptance Tests. If Acceptance Tests identify any Defect in the Hosted Services, Service Software, or Equipment after a second or subsequent delivery of the Hosted Services, Service Software, or Equipment, or Contractor fails to re-deliver the Hosted Services, Service Software or Equipment on a timely basis, the State may, in its sole discretion, by written notice to Contractor:

- (a) continue the process set forth in this Section 3; or
- (b) deem the failure to be a non-curable material breach of this Contract and the Statement of Work and terminate the Contract for cause.

3.5 Acceptance. Acceptance ("Acceptance") of the Hosted Services, Service Software, and Equipment (subject, where applicable, to the State's right to perform Integration Testing) will occur on the date of the State's delivery of a notice accepting the Software under Section 3.2(b) of this Schedule