# 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 **MA210000000686**

| CONTRACTOR | | STATE | | |
|---|---|---|---|---|
| | RECDIVIZ INC | | Program Manager | Various |
| | 1655 Pine Ln | | | |
| | Provo UT 84604 | | | |
| | Jenn Shaw | | Contract Administrator | Jarrod Barron |
| | 308-760-3801 | | | 517-249-0406 |
| | legal@recidiviz.org | | | BarronJ1@michigan.gov |
| | VS0184112 | | | |

Program Manager: Various — Various
Contract Administrator: Jarrod Barron — DTMB

| CONTRACT SUMMARY | | | |
|---|---|---|---|
| Criminal Justice Data Platform | | | |
| **INITIAL EFFECTIVE DATE** | **INITIAL EXPIRATION DATE** | **INITIAL AVAILABLE OPTIONS** | **EXPIRATION DATE BEFORE** |
| May 1, 2021 | April 30, 2024 | 5 - 12 Months | April 30, 2026 |
| **PAYMENT TERMS** | | **DELIVERY TIMEFRAME** | |
| | | | |
| **ALTERNATE PAYMENT OPTIONS** | | | **EXTENDED PURCHASING** |
| ☐ P-Card     ☐ Direct Voucher (PRC)     ☐ Other | | | ☒ Yes     ☐ No |
| **MINIMUM DELIVERY REQUIREMENTS** | | | |
| | | | |

| DESCRIPTION OF CHANGE NOTICE | | | | |
|---|---|---|---|---|
| **OPTION** | **LENGTH OF OPTION** | **EXTENSION** | **LENGTH OF EXTENSION** | **REVISED EXP. DATE** |
| ☐ | | ☐ | | |
| **CURRENT VALUE** | | **VALUE OF CHANGE NOTICE** | **ESTIMATED AGGREGATE CONTRACT VALUE** | |
| $2,933,219.00 | | $0.00 | $2,933,219.00 | |

## DESCRIPTION

Effective 4/24/2025, the parties 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 approval.

**Program Managers**

**for**

**Multi-Agency and Statewide Contracts**

| AGENCY | NAME | PHONE | EMAIL |
|---|---|---|---|
| MDOC | Kevin Burtovoy | 517-648-0337 | BurtovoyK@michigan.gov |
| DTMB | David Enslin | 517-930-6332 | EnslinD@michigan.gov |

# STATE OF MICHIGAN
# ENTERPRISE PROCUREMENT

## Department of Technology, Management, and Budget

320 S. Walnut Street 2nd Floor Lansing, MI 48933
P.O. BOX 30026 LANSING, MICHIGAN 48909

## CONTRACT CHANGE NOTICE

Change Notice Number **3**
to
Contract Number **MA210000000686**

<table>
<tr><td rowspan="7"><strong>CONTRACTOR</strong></td><td>RECDIVIZ INC</td></tr>
<tr><td>1655 Pine Ln</td></tr>
<tr><td>Provo UT 84604</td></tr>
<tr><td>Jenn Shaw</td></tr>
<tr><td>308-760-3801</td></tr>
<tr><td>legal@recidiviz.org</td></tr>
<tr><td>VS0184112</td></tr>
</table>

<table>
<tr><td rowspan="6"><strong>STATE</strong></td><td rowspan="3"><strong>Program Manager</strong></td><td>Various</td><td>Various</td></tr>
<tr><td></td><td></td></tr>
<tr><td></td><td></td></tr>
<tr><td rowspan="3"><strong>Contract Administrator</strong></td><td>Jarrod Barron</td><td>DTMB</td></tr>
<tr><td>(517) 249-0406</td><td></td></tr>
<tr><td>BarronJ1@michigan.gov</td><td></td></tr>
</table>

## CONTRACT SUMMARY

Criminal Justice Data Platform

| INITIAL EFFECTIVE DATE | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE |
|---|---|---|---|
| May 1, 2021 | April 30, 2024 | 5 - 12 Months | April 30, 2025 |

| PAYMENT TERMS | DELIVERY TIMEFRAME |
|---|---|
|  |  |

| ALTERNATE PAYMENT OPTIONS | | | EXTENDED PURCHASING | |
|---|---|---|---|---|
| ☐ P-Card | ☐ Direct Voucher (PRC) | ☐ Other | ☒ Yes | ☐ No |

**MINIMUM DELIVERY REQUIREMENTS**

## DESCRIPTION OF CHANGE NOTICE

| OPTION | LENGTH OF OPTION | EXTENSION | LENGTH OF EXTENSION | REVISED EXP. DATE |
|---|---|---|---|---|
| ☒ | 12 Months | ☐ |  | April 30, 2026 |

| CURRENT VALUE | VALUE OF CHANGE NOTICE | ESTIMATED AGGREGATE CONTRACT VALUE |
|---|---|---|
| $1,850,000.00 | $1,083,219.00 | $2,933,219.00 |

## DESCRIPTION

Effective 2/11/2025, the State exercises an option year and adds $1,083,219.00 for the Year 5 services quoted in Contract Change Notice 2. Per Contractor, Agency, and DTMB Procurement approval.

Internal State Note: Remaining Ad Board funds after this CN: $16,780.99

**Program Managers**

**for**

**Multi-Agency and Statewide Contracts**

| AGENCY | NAME | PHONE | EMAIL |
|--------|------|-------|-------|
| DTMB | David Enslin | 517-930-6332 | EnslinD@michigan.gov |
| MDOC | Kevin Burtovoy | 517-648-0337 | BurtovoyK@michigan.gov |

# STATE OF MICHIGAN
# ENTERPRISE PROCUREMENT

## Department of Technology, Management, and Budget

320 S. Walnut Street 2nd Floor Lansing, MI 48933
P.O. BOX 30026 LANSING, MICHIGAN 48909

## CONTRACT CHANGE NOTICE

Change Notice Number **2**
to
Contract Number **MA210000000686**

| CONTRACTOR | | STATE | | |
|---|---|---|---|---|
| | Recidiviz Inc. | | Program Manager: Various | Various |
| | 1655 Pine Ln | | | |
| | Provo UT 84604 | | | |
| | Jenn Shaw | | Contract Administrator: Jarrod Barron | DTMB |
| | 308-760-3801 | | 517-249-0406 | |
| | legal@recidiviz.org | | BarronJ1@michigan.gov | |
| | VS0184112 | | | |

| CONTRACT SUMMARY | | | |
|---|---|---|---|
| Criminal Justice Data Platform | | | |
| INITIAL EFFECTIVE DATE | INITIAL EXPIRATION DATE | INITIAL AVAILABLE OPTIONS | EXPIRATION DATE BEFORE |
| May 1, 2021 | April 30, 2024 | 5 - 12 Months | April 30, 2025 |
| PAYMENT TERMS | | DELIVERY TIMEFRAME | |
| | | | |

| ALTERNATE PAYMENT OPTIONS | | | EXTENDED PURCHASING | |
|---|---|---|---|---|
| ☐ P-Card | ☐ Direct Voucher (PRC) | ☐ Other | ☒ Yes | ☐ No |

**MINIMUM DELIVERY REQUIREMENTS**

| DESCRIPTION OF CHANGE NOTICE | | | | |
|---|---|---|---|---|
| OPTION | LENGTH OF OPTION | EXTENSION | LENGTH OF EXTENSION | REVISED EXP. DATE |
| ☐ | | ☐ | | |
| CURRENT VALUE | | VALUE OF CHANGE NOTICE | ESTIMATED AGGREGATE CONTRACT VALUE | |
| $1,850,000.00 | | $0.00 | $1,850,000.00 | |

## DESCRIPTION

Effective 10/10/2024, the parties revise the Year 5 pricing to $1,083,219.00 per the attached documentation, reflecting the following changes:

- A customer support team dedicated fully to Contractor's work with Michigan;
- Accounting for maintenance of and improvements to Recidiviz's existing suite of tools for MDOC, which expanded significantly in 2024 with the launch of the first tools for MDOC CFA and a new supervisor tool for MDOC FOA;
- Development of classification tools for MDOC CFA to support both tool development and a policy audit effort; and
- Projected cost inflation in Year 5.

All other terms, conditions, specifications, and pricing remain the same. Per contractor, agency, and DTMB Central Procurement approval.

Internal State Note: Remaining Ad Board funds after this CN: $1,099,999.99.

**Program Managers**

**for**

**Multi-Agency and Statewide Contracts**

| AGENCY | NAME | PHONE | EMAIL |
|---|---|---|---|
| MDOC | Kevin Burtovoy | 517-648-0337 | BurtovoyK@michigan.gov |
| DTMB | David Enslin | 517-930-6332 | EnslinD@michigan.gov |

## Recidiviz x MDOC: Year 5 Partnership Budget

| Budget Category | Year 5 | |
|---|---|---|
| | State | Philanthropy |
| A. Personnel | $280,350 | $280,350 |
| B. Fringe Benefits | $61,257 | $61,257 |
| C. Travel | $13,080 | $13,080 |
| D. Equipment | $0 | $0 |
| E. Supplies | $0 | $0 |
| F. Construction | $0 | $0 |
| G. Subawards (Subgrants) | $0 | $0 |
| H. Procurement Contracts | $0 | $0 |
| I. Other | $0 | $0 |
| J. Platform Costs | $728,532 | $728,532 |
| | **$1,083,219** | **$1,083,219** |

# Recidiviz x MDOC: Year 5 Partnership Budget

## A. Personnel

| Department | Position | Computation | | | | Total Cost | Non-State Contribution | State Request |
|---|---|---|---|---|---|---|---|---|
| | | Average Salary | Rate | Time Worked (# of hours, days, months, years) | Percentage of Time | | | |
| Product | Product Manager | $135,000.00 | yearly | 1 | 33% | $44,550 | $22,275 | $22,275 |
| Product | Product Manager | $135,000.00 | yearly | 1 | 33% | $44,550 | $22,275 | $22,275 |
| Product | Product Designer | $120,000.00 | yearly | 1 | 33% | $39,600 | $19,800 | $19,800 |
| State Engagement | State Engagement Manager | $131,000.00 | yearly | 1 | 50% | $65,500 | $32,750 | $32,750 |
| Data & Research | Data Analyst | $131,000.00 | yearly | 1 | 50% | $65,500 | $32,750 | $32,750 |
| Product | Go-to-Market Manager | $95,000.00 | yearly | 1 | 100% | $95,000 | $47,500 | $47,500 |
| Engineering | Implementation Engineer | $112,000.00 | yearly | 1 | 50% | $56,000 | $28,000 | $28,000 |
| Engineering | Software Engineer | $150,000.00 | yearly | 1 | 50% | $75,000 | $37,500 | $37,500 |
| Engineering | Software Engineer | $150,000.00 | yearly | 1 | 50% | $75,000 | $37,500 | $37,500 |
| Engineering | Software Engineer | $150,000.00 | yearly | 1 | 50% | $75,000 | $37,500 | $37,500 |
| | | | | | Total(s) | $560,700 | $280,350 | $280,350 |

| Narrative | The Recidiviz x MDOC scope of work is expected to require significant time for two Product Managers to facilitate new tool launches across priority areas and user groups. Tool development detailed in scope of work will be supported by software engineers, an implementation engineer, a product designer, and a data analyst. The Recidiviz x MDOC partnership will be led by a State Engagement Manager dedicating 50% of their time to the MDOC scope of work throughout the funding period. Tool rollout will be supported by a Go-to-Market Manager. |
|---|---|

## B. Fringe Benefits

| Position | Computation | | Total Cost | Non-State Contribution | State Request |
|---|---|---|---|---|---|
| | Base | Rate | | | |
| Product Manager | $135,000.00 | 21.85% | $9,734 | $4,867 | $4,867 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Product Manager | $135,000.00 | 21.85% | | | $9,734 | $4,867 | $4,867 |
| Product Designer | $120,000.00 | 21.85% | | | $8,653 | $4,326 | $4,326 |
| State Engagement Manager | $131,000.00 | 21.85% | | | $14,312 | $7,156 | $7,156 |
| Data Analyst | $131,000.00 | 21.85% | | | $14,312 | $7,156 | $7,156 |
| Go-to-Market Manager | $95,000.00 | 21.85% | | | $20,758 | $10,379 | $10,379 |
| Implementation Engineer | $112,000.00 | 21.85% | | | $12,236 | $6,118 | $6,118 |
| Software Engineer | $150,000.00 | 21.85% | | | $16,388 | $8,194 | $8,194 |
| Software Engineer | $150,000.00 | 21.85% | | | $16,388 | $8,194 | $8,194 |
| Software Engineer | $150,000.00 | 21.85% | | | $16,388 | $8,194 | $8,194 |
| | | | | Total(s) | $122,514 | $61,257 | $61,257 |

**Narrative** — Our fringe benefits rate is 21.85% and covers the following items: FICA (7%), Worker's compensation (1.35%), Health Insurance (8.5%), Retirement (5%)

**C. Travel**

| Purpose of Travel | Location | Type of Expense | Basis | Computation | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Indicate the purpose of each trip or type of trip (training, advisory group meeting) | Indicate the travel destination. | Lodging, Meals, Etc. | Per day, mile, trip, Etc. | Compute the cost of each type of expense X the number of people traveling. | | | | | | |
| | | | | Cost | Quantity | # of Staff | # of Trips | Total Cost | Non-State Contribution | State Request |
| State visit for needfinding / project check-in / workflow integration | MDOC offices | Transportation | Round-trip | $800.00 | 1 | 4 | 4 | $12,800 | $6,400 | $6,400 |
| State visit for needfinding / project check-in / workflow integration | MDOC offices | Lodging | Night | $150.00 | 3 | 4 | 4 | $7,200 | $3,600 | $3,600 |
| State visit for needfinding / project check-in / workflow integration | MDOC offices | Meals | Day | $45.00 | 3 | 4 | 4 | $2,160 | $1,080 | $1,080 |

| State visit for needfinding / project check-in / workflow integration | MDOC offices | Local Travel | Day | $50.00 | 3 | 4 | 4 | $2,400 | $1,200 | $1,200 |
|---|---|---|---|---|---|---|---|---|---|---|
| State visit for needfinding / project check-in / workflow integration | MDOC offices | Other | Trip | $100.00 | 1 | 4 | 4 | $1,600 | $800 | $800 |
| | | | | | | | Total(s) | $26,160 | $13,080 | $13,080 |

| Narrative | We anticipate four trips to be necessary to build and launch the MDOC x Recidiviz scope of work throughout 2024. Each trip will involve three (4) Recidiviz staff traveling to the state department of corrections for three (3) days. Three nights of lodging are accounted for in addition to meals, airfare, and local transportation.<br><br>These visits will be used to (1) launch new tools, (2) offer trainings and conduct UXR regarding existing tools, and (3) meet with leadership to refine scope and priorities and present new concepts.<br><br>For these trips, our staff will comply with the Recidiviz written travel guidelines. Travel will occur the afternoon prior to the first day of collaborative work, and the afternoon or evening of the final day of work. Local transportation is budgeted as $50/rental car/day, with only one staff member needing to rent a vehicle per trip. Air travel and lodging costs are priced conservatively. $100 is budgeted per traveling staff member per trip for unforeseen incidentals. |
|---|---|

## D. Equipment

| Item | Computation | | | | |
|---|---|---|---|---|---|
| *List and describe each item of equipment that will be purchased* | *Compute the cost (e.g., the number of each item to be purchased X the cost per item)* | | | | |
| | **# of Items** | **Unit Cost** | **Total Cost** | **Non-State Contribution** | **State Request** |
| | | Total(s) | $0 | $0 | $0 |

| Narrative | | | | | N/A |
|---|---|---|---|---|---|

## E. Supplies

| Supply Items | Computation | | | | |
|---|---|---|---|---|---|
| *Provide a list of the types of items to be purchased with grant funds.* | *Describe the item and the compute the costs. Computation: The number of each item to be purchased X the cost per item.* | | | | |
| | **# of Items** | **Unit Cost** | **Total Cost** | **Non-State Contribution** | **State Request** |
| | | Total(s) | $0 | $0 | $0 |

| Narrative | |
|---|---|

## F. Construction

| Purpose | Description of Work | Computation | | | |
|---|---|---|---|---|---|
| *Provide the purpose of the construction* | *Describe the construction project(s)* | *Compute the costs (e.g., the number of each item to be purchased X the cost per item)* | | | |
| | | **# of Items** | **Cost** | **Total Cost** | **Non-State Contribution** | **State Request** |
| | | | Total(s) | $0 | $0 | $0 |

| Narrative | N/A | | | | | |
|---|---|---|---|---|---|---|

**G. Subawards (Subgrants)**

| Description | | Purpose | | Consultant? | Computation | | |
|---|---|---|---|---|---|---|---|
| | | | | | **Total Cost** | **Non-State Contribution** | **State Request** |
| | | | | Total(s) | $0 | $0 | $0 |

**Consultant Travel (if necessary)** — N/A

| Purpose of Travel | Location | Type of Expense | Computation | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Indicate the purpose of each trip or type of trip (training, advisory group meeting)* | *Indicate the travel destination.* | *Hotel, airfare, per diem* | *Compute the cost of each type of expense X the number of people traveling.* | | | | | |
| | | | **Cost** | **Duration or Distance** | **# of Staff** | **Total Cost** | **Non-State Contribution** | **State Request** |
| | | | | | Total | $0 | $0 | $0 |

| Narrative | N/A | | | | | |
|---|---|---|---|---|---|---|

**H. Procurement Contracts**

| Description | | Purpose | | Consultant? | Computation | | |
|---|---|---|---|---|---|---|---|
| | | | | | **Total Cost** | **Non-State Contribution** | **State Request** |
| | | | | Total(s) | $0 | $0 | $0 |

**Consultant Travel (if necessary)** — N/A

| Purpose of Travel | Location | Type of Expense | Computation | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Indicate the purpose of each trip or type of trip (training, advisory group meeting)* | *Indicate the travel destination.* | *Hotel, airfare, per diem* | *Compute the cost of each type of expense X the number of people traveling.* | | | | | |
| | | | **Cost** | **Duration or Distance** | **# of Staff** | **Total Cost** | **Non-State Contribution** | **State Request** |
| | | | | | Total | $0 | $0 | $0 |

| Narrative | N/A | | | | | |
|---|---|---|---|---|---|---|

**I. Other Costs**

| Description | Computation |
|---|---|
| *List and describe items that will be paid with grants funds (e.g. rent, reproduction, telephone, janitorial, or security services, and investigative or confidential funds).* | *Show the basis for computation* |

## Budget Summary

| | | Quantity | Basis | Cost | Length of Time | Total Cost | Non-State Contribution | State Request |
|---|---|---|---|---|---|---|---|---|
| | | | | | Total(s) | $0 | $0 | $0 |
| *Narrative* | N/A | | | | | | | |

### J. Platform Costs

| Description | | Computation | | | | |
|---|---|---|---|---|---|---|
| | Base | | Platform Cost Rate | Total Cost | Non-State Contribution | State Request |
| Indirect Business Operations Expenses | $1,830,148.00 | | 6% | $109,809 | $54,905 | $54,905 |
| Engineering Platform Expenses - Existing Tool Maintenance | $11,996,091.40 | | 8% | $959,688 | $479,844 | $479,844 |
| Engineering Platform Expenses - New Tool Development | $5,536,657.57 | | 6% | $332,200 | $166,100 | $166,100 |
| Indirect Infrastructure Expenses | $922,776.26 | | 6% | $55,367 | $27,684 | $27,684 |
| | | | Total(s) | $1,457,064 | $728,532 | $728,532 |
| *Narrative* | Indirect business operations expenses covers the support of non-engineering elements of the organization and physical infrastructure costs. Engineering platform expenses cover engineering platform development, inclusive of personnel resources supporting software tools. Indirect infrastructure expenses covers cloud computing and hosting costs. | | | | | |

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

## CONTRACT CHANGE NOTICE

Change Notice Number **1**

to

Contract Number **210000000686**

| CONTRACTOR | |
|---|---|
| | Recidiviz Inc. |
| | 1655 Pine Ln |
| | Provo, UT 84604 |
| | Jenn Shaw |
| | 308-760-3801 |
| | legal@recidiviz.org |
| | VS0184112 |

| STATE | Program Manager | Jeff Anderson | MDOC |
|---|---|---|---|
| | | 517-242-0753 | |
| | | AndersonJ30@Michigan.gov | |
| | Contract Administrator | Jarrod Barron | DTMB |
| | | (517) 249-0406 | |
| | | barronj1@michigan.gov | |

| CONTRACT SUMMARY | | | |
|---|---|---|---|
| CRIMINAL JUSTICE DATA PLATFORM | | | |
| **INITIAL EFFECTIVE DATE** | **INITIAL EXPIRATION DATE** | **INITIAL AVAILABLE OPTIONS** | **EXPIRATION DATE BEFORE** |
| May 1, 2021 | April 30, 2024 | 5 - 1 Year | April 30, 2024 |
| **PAYMENT TERMS** | | **DELIVERY TIMEFRAME** | |
| | | | |
| **ALTERNATE PAYMENT OPTIONS** | | | **EXTENDED PURCHASING** |
| ☐ P-Card ☐ PRC ☐ Other | | | ☒ Yes ☐ No |
| **MINIMUM DELIVERY REQUIREMENTS** | | | |
| | | | |

| DESCRIPTION OF CHANGE NOTICE | | | | |
|---|---|---|---|---|
| **OPTION** | **LENGTH OF OPTION** | **EXTENSION** | **LENGTH OF EXTENSION** | **REVISED EXP. DATE** |
| ☒ | 1 | ☐ | | April 30, 2025 |
| **CURRENT VALUE** | **VALUE OF CHANGE NOTICE** | **ESTIMATED AGGREGATE CONTRACT VALUE** | | |
| $1,000,000.00 | $850,000.00 | $1,850,000.00 | | |

| DESCRIPTION |
|---|
| Effective 12/19/2023, the State exercises the first of five option years, adding $850,000 for ongoing services per the attached cost table. All other terms, conditions, specifications, and pricing remain the same. Per contractor, agency, DTMB Central Procurement and State Administrative Board approval on 12/19/2023. |

SCHEDULE B – UPDATED PRICING

| Term | Description | Flat Fee |
|---|---|---|
| Year 4 (First option year) | Annual Maintenance Fee | $850,000 |
| Year 5 (Second option year) | Annual Maintenance Fee | $850,000 |

# STATE OF MICHIGAN PROCUREMENT

## Department of Technology, Management, and Budget

525 W. Allegan, Lansing, MI 48933
P.O. Box 30026 Lansing, MI 48909

## NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **210000000686**
between
THE STATE OF MICHIGAN
and

<table>
<tr><td rowspan="7"><b>CONTRACTOR</b></td><td>Recidiviz Inc.</td></tr>
<tr><td>1655 Pine Ln</td></tr>
<tr><td>Provo, UT 84604</td></tr>
<tr><td>Jenn Shaw</td></tr>
<tr><td>308-760-3801</td></tr>
<tr><td>legal@recidiviz.org</td></tr>
<tr><td>VS0184112</td></tr>
</table>

<table>
<tr><td rowspan="6"><b>STATE</b></td><td rowspan="3">Program Manager</td><td>Jeff Anderson</td><td>MDOC</td></tr>
<tr><td>517-242-0753</td><td></td></tr>
<tr><td>Andersonj30@michigan.gov</td><td></td></tr>
<tr><td rowspan="3">Contract Administrator</td><td>Sean Regan</td><td>DTMB</td></tr>
<tr><td>517-243-8459</td><td></td></tr>
<tr><td>regans@michigan.gov</td><td></td></tr>
</table>

| CONTRACT SUMMARY | | | |
|---|---|---|---|
| **DESCRIPTION: Criminal Justice Data Platform** | | | |
| **INITIAL EFFECTIVE DATE** | **INITIAL EXPIRATION DATE** | **INITIAL AVAILABLE OPTIONS** | **EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW** |
| 5/1/2021 | 4/30/2024 | 5, 1 year | |
| **PAYMENT TERMS** | | **DELIVERY TIMEFRAME** | |
| Net 45 | | | |
| **ALTERNATE PAYMENT OPTIONS** | | | **EXTENDED PURCHASING** |
| ☐ P-card    ☐ Payment Request (PRC) | | ☐ Other | ☒ Yes    ☐ No |
| **MINIMUM DELIVERY REQUIREMENTS** | | | |
| | | | |
| **MISCELLANEOUS INFORMATION** | | | |
| | | | |
| **ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION** | | | $1,000,000.00 |

**FOR THE CONTRACTOR:**

<u>**Recidiviz, Inc.**</u>
**Company Name**

_____
**Authorized Agent Signature**

_____
**Authorized Agent** (Print or Type)

_____
**Date**

**FOR THE STATE:**

_____
**Signature**

_____
**Name & Title**

_____
**Agency**

_____
**Date**

# STATE OF MICHIGAN

## SOFTWARE TERMS AND CONDITIONS

These Terms and Conditions, together with all Schedules (including the Statement(s) of Work), Exhibits and any other applicable attachments or addenda (Collectively this "Contract") are agreed to between the State of Michigan (the "**State**") and Recidiviz, Inc. ("**Contractor**"), a Utah non-profit corporation. This Contract is effective on [MONTH, DAY, YEAR] ("**Effective Date**"), and unless terminated, will expire on [MONTH, DAY, YEAR] (the "**Term**").

This Contract may be renewed for up to five (5) additional one (1) year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

1.  **Definitions**. For the purposes of this Contract, the following terms have the following meanings:

    "**Acceptance**" has the meaning set forth in **Section 9.6**.

    "**Acceptance Tests**" means such tests as may be conducted in accordance with **Section 9.1** and a Statement of Work to determine whether the Software meets the requirements of this Contract and the Documentation.

    "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, the term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of a Person.

    "**Allegedly Infringing Materials**" has the meaning set forth in **Section 18.2(b)**.

    "**Authorized Users**" means all Persons authorized by the State to access and use the Software under this Contract, subject to the maximum number of users specified in the applicable Statement of Work.

    "**Business Day**" means a day other than a Saturday, Sunday or other day on which the State is authorized or required by law to be closed for business.

    "**Business Requirements Specification**" means the initial specification setting forth the State's business requirements regarding the features and functionality of the Software, as set forth in a Statement of Work.

    "**Change**" has the meaning set forth in **Section 2.2**.

    "**Change Notice**" has the meaning set forth in **Section 2.2(b)**.

    "**Change Proposal**" has the meaning set forth in **Section 2.2(a)**.

    "**Change Request**" has the meaning set forth in **Section 2.2**.

    "**Confidential Information**" has the meaning set forth in **Section 22.1**.

    "**Configuration**" means State-specific changes made to the Software without Source Code or structural data model changes occurring.

    "**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 any Change Notices under this Contract. Each party's Contract Administrator will be identified in a Statement of Work.

    "**Contractor**" has the meaning set forth in the preamble.

"**Contractor's Bid Response**" means the Contractor's proposal submitted in response to the RFP.

"**Contractor Hosted**" means the Hosted Services are provided by Contractor or one or more of its Permitted Subcontractors.

"**Contractor Personnel**" means all employees of Contractor or any subcontractors or Permitted Subcontractors involved in the performance of Services hereunder.

"**Contractor Project Manager**" means the individual appointed by Contractor and identified in a Statement of Work to serve as the primary contact with regard to services, to monitor and coordinate the day-to-day activities of this Contract, and to perform other duties as may be further defined in this Contract, including an applicable Statement of Work.

"**Deliverables**" means the Software, and all other documents and other materials that Contractor is required to or otherwise does provide to the State under this Contract and otherwise in connection with any Services, including all items specifically identified as Deliverables in a Statement of Work and all Work Product.

"**Documentation**" means 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 Software.

"**DTMB**" means the Michigan Department of Technology, Management and Budget.

"**Effective Date**" has the meaning set forth in the preamble.

"**Fees**" means the fees set forth in the Pricing Schedule attached as **Schedule B**.

"**Financial Audit Period**" has the meaning set forth in **Section 23.1**.

"**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, encrypt, modify, copy, or otherwise harm or impede in any manner, any (i) computer, software, firmware, data, 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 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 21.1(b)(ii)**.

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

"**Implementation Plan**" means the schedule included in a Statement of Work setting forth the sequence of events for the performance of Services under a Statement of Work, including the Milestones and Milestone Dates.

"**Integration Testing**" has the meaning set forth in **Section 9.2(a)**.

"**Intellectual Property Rights**" means all or any of the following:  (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 associated goodwill; (c) copyrights and copyrightable works (including computer programs), mask works 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 the Contract.

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

"**Milestone**" means an event or task described in the Implementation Plan under a Statement of Work that must be completed by the corresponding Milestone Date.

"**Milestone Date**" means the date by which a particular Milestone must be completed as set forth in the Implementation Plan under a Statement of Work.

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

"**Non-Conformity**" or "**Non-Conformities**" means any failure or failures of the Software to conform to the requirements of this Contract, including any applicable Documentation.

"**Open-Source Components**" means any software component that is subject to any open-source copyright license agreement, including any GNU General Public License or GNU Library or Lesser General Public License, or other obligation, restriction or license agreement that substantially conforms to the Open Source Definition as prescribed by the Open Source Initiative or otherwise may require disclosure or licensing to any third party of any source code with which such software component is used or compiled.

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

"**PAT**" means a document or product accessibility template, including any Information Technology Industry Council Voluntary Product Accessibility Template or VPAT®, that specifies how information and software products, such as websites, applications, software and associated content, conform to WCAG 2.0 Level AA.

"**Permitted Subcontractor**" means any third party hired by Contractor to perform Services for the State under this Contract or have access to State Data.

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

"**Pricing Schedule**" means the schedule attached as **Schedule B.**

"**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.

"**Representatives**" means a party's employees, officers, directors, partners, shareholders, agents, attorneys, successors and permitted assigns.

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

"**Services**" means any of the services, including but not limited to, Hosted Services, Contractor is required to or otherwise does provide under this Contract.

"**Service Level Agreement**" means the schedule attached as **Schedule** D, setting forth the Support Services Contractor will provide to the State, and the parties' additional rights and obligations with respect thereto.

"**Site**" means the physical location designated by the State in, or in accordance with, this Contract or a Statement of Work for delivery and installation of the Software.

"**Software**" means Contractor's software as set forth in a Statement of Work, and any Maintenance Releases or New Versions provided to the State.

"**Source Code**" means the human readable source code of the Software to which it relates, in the programming language in which the 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 Software.

"**Specifications**" means, for the Software, the specifications collectively set forth in the Business Requirements Specification, Technical Specification, Documentation, Request for Solution or Contractor's Bid Response, if any, for such Software, or elsewhere in a Statement of Work.

"**State**" means the State of Michigan.

"**State Data**" has the meaning set forth in **Section 21.1**.

"**State Hosted**" means the Hosted Services are not provided by Contractor or one or more of its Permitted Subcontractors.

"**State Materials**" means all materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content and technology, in any form or media, directly or indirectly provided or made available to Contractor by or on behalf of the State in connection with this Contract.

"**State Program Managers**" are the individuals appointed by the State, or their designees, to (a) monitor and coordinate the day-to-day activities of this Contract; (b) co-sign off on Acceptance of the Software and other Deliverables; and (c) perform other duties as may be specified in a Statement of Work Program Managers will be identified in a Statement of Work.

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

"**Statement of Work**" means any statement of work entered into by the parties and incorporated into this Contract. The initial Statement of Work is attached as **Schedule A**.

"**Stop Work Order**" has the meaning set forth in **Section 15**.

"**Support Services**" means the software maintenance and support services Contractor is required to or otherwise does provide to the State under the Service Level Agreement.

"**Support Services Commencement Date**" means, with respect to the Software, the date on which the Warranty Period for the Software expires, and  fees for support become applicable, or such other date as may be set forth in a Statement of Work.

"**Technical Specification**" means, with respect to any Software, the document setting forth the technical specifications for such Software and included in a Statement of Work.

"**Term**" has the meaning set forth in the preamble.

"**Testing Period**" has the meaning set forth in **Section 9.1(b)**.

"**Transition Period**" has the meaning set forth in **Section 16.3(a)**.

"**Transition Responsibilities**" has the meaning set forth in **Section 16.3(a)(iv)**.

"**Unauthorized Removal**" has the meaning set forth in **Section 2.5(b)**.

"**Unauthorized Removal Credit**" has the meaning set forth in **Section 2.5(c)**.

"**User Data**" means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, Processed, generated or output by any device, system or network by or on behalf of the State, including any and all works, inventions, data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input without the inclusion if user derived Information or additional user input.

"**Warranty Period**" means the ninety (90) calendar-day period commencing on the date of the State's Acceptance of the Software and for which Support Services are provided free of charge.

"**WCAG 2.0 Level AA**" means level AA of the World Wide Web Consortium Web Content Accessibility Guidelines version 2.0.

"**Work Product**" means all State-specific deliverables that Contractor is required to, or otherwise does, provide to the State under this Contract including but not limited to application programming interfaces, computer scripts, macros, user interfaces, reports, project management documents, forms, templates, and other State-specific documents and related materials together with all ideas, concepts, processes, and methodologies developed in connection with this Contract whether or not embodied in this Contract.

**2. Duties of Contractor**. Contractor will provide Services and Deliverables pursuant to Statement(s) of Work entered into under this Contract. Contractor will provide all Services and Deliverables in a timely, professional manner and in accordance with the terms, conditions, and Specifications set forth in this Contract and the Statement(s) of Work.

2.1. <u>Statement of Work Requirements</u>. No Statement of Work will be effective unless signed by each party's Contract Administrator. The term of each Statement of Work will commence on the parties' full execution of a Statement of Work and terminate when the parties have fully performed their obligations. The terms and conditions of this Contract will apply at all times to any Statements of Work entered into by the parties and incorporated into this Contract. The State will have the right to terminate such Statement of Work as set forth in **Section 16**. Contractor acknowledges and agrees that prompt and timely performance of all such obligations in accordance with this Contract and the Statements of Work (including the Implementation Plan and all Milestone Dates) is required.

2.2. <u>Change Control Process</u>. Each party may at any time request in writing (each, a "**Change Request**") changes to a Statement of Work, including changes to the Services and Implementation Plan (each, a "**Change**"). Upon a party's submission of a Change Request, the parties will evaluate and may implement Changes in accordance with this **Section 2.2**.

(a) As soon as reasonably practicable, and in any case within twenty (20) Business Days following receipt of a Change Request, Contractor will provide the State with a written proposal for implementing the requested Change or the State will provide a written proposal for implementing the requested Change ("**Change Proposal**"), setting forth:

(i) a written description of the proposed Changes to any Services or Deliverables;

(ii) an amended Implementation Plan reflecting: (A) the schedule for commencing and completing any additional or modified Services or Deliverables; and (B) the effect of such Changes, if any, on completing any other Services under a Statement of Work;

(iii) any additional State Resources Contractor deems necessary to carry out such Changes; and

(iv) any increase or decrease in Fees resulting from the proposed Changes, which increase or decrease will reflect only the increase or decrease in time and expenses Contractor requires to carry out the Change.

(b) Within thirty (30) Business Days following the State's receipt of a Change Proposal, the State will by written notice to Contractor, approve, reject, or propose modifications to such Change Proposal. If the State proposes modifications, Contractor must modify and re-deliver the Change Proposal reflecting such modifications, or notify the State of any disagreement, in which event the parties will negotiate in good faith to resolve their disagreement. Within thirty (30) Business Days following Contractor's receipt of a Change Proposal, Contractor will by written notice to the State, approve, reject, or propose modifications to such Change Proposal. If Contractor proposes modifications, the State must modify and re-deliver the Change Proposal reflecting such modifications, or notify Contractor of any disagreement, in which event the parties will negotiate in good faith to resolve their disagreement. Upon the applicable party's approval of the Change Proposal or the parties' agreement on all proposed modifications, as the case may be, the parties will execute a written agreement to the Change Proposal ("**Change Notice**"), which Change Notice will be signed by the State's Contract Administrator and will constitute an amendment to a Statement of Work to which it relates; and

(c) If the parties fail to enter into a Change Notice within fifteen (15) Business Days following the State's response to a Change Proposal, each party may, in its discretion, initiate a dispute resolution procedure.

(d) No Change will be effective until the parties have executed a Change Notice. Except as the State may request in its Change Request or otherwise in writing, Contractor must continue to perform its obligations in accordance with a Statement of Work pending negotiation and execution of a Change Notice. Contractor will use its commercially reasonable efforts to limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Notice. Each party is responsible for its own costs and expenses of preparing, evaluating, negotiating, and otherwise processing any Change Request, Change Proposal, and Change Notice.

(e) The performance of any functions, activities, tasks, obligations, roles and responsibilities comprising the Services as described in this Contract are considered part of the Services and, thus, will not be considered a Change. This includes the delivery of all Deliverables in accordance with their respective Specifications, and the diagnosis and correction of Non-Conformities discovered in Deliverables prior to their Acceptance by the State or, subsequent to their Acceptance by the State, as necessary for Contractor to fulfill its associated warranty requirements and its Support Services under this Contract.

2.3. <u>Contractor Personnel</u>.

(a) Contractor is solely responsible for all Contractor Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

(b) Prior to any Contractor Personnel performing any Services, Contractor will:

(i) ensure that such Contractor Personnel have the legal right to work in the United States;

(ii) upon written request, require such Contractor Personnel to execute written agreements, in form and substance acceptable to the State, that bind such Contractor Personnel to confidentiality provisions that are at least as protective of the State's information (including all Confidential Information) as those contained in this Contract; and

(iii) upon written request, or as otherwise specified in a Statement of Work, perform background checks on all Contractor Personnel prior to their assignment. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks on Contractor Personnel. 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.

(c) Contractor and all Contractor Personnel will comply with all rules, regulations, and policies of the State that are communicated to Contractor in writing in advance, including security procedures concerning systems and data and remote access, building security procedures, including the restriction of access by the State to certain areas of its premises or systems, and general health and safety practices and procedures.

(d) The State reserves the right to require the removal of any Contractor Personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and Contractor cannot immediately replace the removed personnel, the State agrees to negotiate an equitable adjustment in schedule or other terms that may be affected by the State's required removal.

2.4. Contractor Project Manager. Throughout the Term of this Contract, Contractor must maintain a Contractor employee acceptable to the State to serve as Contractor Project Manager, who will be considered Key Personnel of Contractor. Contractor Project Manager will be identified in a Statement of Work.

(a) Contractor Project Manager must:

(i) have the requisite authority, and necessary skill, experience, and qualifications, to perform in such capacity;

(ii) be responsible for overall management and supervision of Contractor's performance under this Contract; and

(iii) be the State's primary point of contact for communications with respect to this Contract, including with respect to giving and receiving all day-to-day approvals and consents.

(b) Contractor Project Manager must attend all regularly scheduled meetings as set forth in the Implementation Plan and will otherwise be available as set forth in a Statement of Work.

(c) Contractor will maintain the same Contractor Project Manager throughout the Term of this Contract, unless:

(i) the State requests in writing the removal of Contractor Project Manager;

(ii) the State consents in writing to any removal requested by Contractor in writing;

(iii) Contractor Project Manager ceases to be employed by Contractor, whether by resignation, involuntary termination or otherwise.

(d) Contractor will promptly replace its Contractor Project Manager on the occurrence of any event set forth in **Section 2.4(c)**. Such replacement will be subject to the State's prior written approval.

2.5. Contractor's Key Personnel.

(a)   The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel.  Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State Program Managers or their designees, and provide the State with a resume and any other information about the individual reasonably requested by the State.  The State reserves the right to interview the individual before granting written approval.  In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.

(b)   Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State.  The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("**Unauthorized Removal**").  An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment.  Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under **Section 16.1**.

(c)   It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to determine and remedy the actual damage sustained by the State as a result of any Unauthorized Removal.  Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 16**, Contractor will issue to the State an amount equal to $25,000 per individual (each, an "**Unauthorized Removal Credit**").

(d)   Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed under **Subsection 2.5(c)** above:  (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any Fees or other charges payable to Contractor under this Contract.

2.6.   Subcontractors.  Contractor must obtain prior written approval of the State, which consent may be given or withheld in the State's sole discretion, before engaging any Permitted Subcontractor to provide Services to the State under this Contract.  Third parties otherwise retained by Contractor to provide Contractor or other clients of contractor with services are not Permitted Subcontractors, and therefore do not require prior approval by the State.  Engagement of any subcontractor or Permitted Subcontractor by Contractor does not relieve Contractor of its representations, warranties or obligations under this Contract.  Without limiting the foregoing, Contractor will:

(a)   be responsible and liable for the acts and omissions of each such subcontractor (including such Permitted Subcontractor and Permitted Subcontractor's employees who, to the extent providing Services or Deliverables, will be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees;

(b)   Reserved;

(c)   be responsible for all fees and expenses payable to, by or on behalf of each Permitted Subcontractor in connection with this Contract, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits; and

(d)   notify the State of the location of the Permitted Subcontractor and indicate if it is located within the continental United States.

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

| If to State: | If to Contractor: |
|---|---|
| Sean Regan | Clementine Jacoby |
| 525 W. Allegan St. | 1655 Pine Lane |
| Lansing, MI 48933 | Provo, UT 84604 |
| regans@michigan.gov | legal@recidiviz.org |
| 517-243-8459 | 650-933-7578 |

**4.   Insurance**.  Contractor must maintain the minimum insurances identified in the Insurance Schedule attached as **Schedule C**.

**5.   Software License**.

5.1.   Reserved.

5.2.   Subscription License.  If the Software is Contractor Hosted and Contractor is providing the State access to use its Software during the Term of the Contract only, then:

(a)   Subject to the terms and conditions of the Contract,  Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, 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:

(i)   access and use the Software, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for Processing State Data;

(ii)   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 Software;

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

(iv)   access and use the Software for all such non-production uses and applications as may be necessary for the effective use of the Software hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without charge and not included for any purpose in any calculation of the State's or its Authorized Users' use of the Software, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Software as described in **Section 5.2(c)** below.

(b)   License Restrictions.  The State will not directly or indirectly:  (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, use as a service bureau, or otherwise make the Software available to any third party or for the benefit of a third party, except as expressly permitted by this Contract or in any Statement of Work; (b) disrupt the functioning of the Software; (c) modify, create any derivative work, decompile, reverse engineer, disassemble, remove, alter, circumvent, or otherwise tamper with the Software, Documentation, or any security technology, software, or rights management information contained within the Software or in any software used to enable the Software; (d) use or authorize the use of the Software or Documentation in any manner or for any purpose that is unlawful under applicable Law or in any manner not permitted under this Contract; (e) otherwise act in a manner that interferes with Contractor's operation of the Software or with the use of the Software by others; (f) modify or remove any copyright, trademark or other proprietary rights notice on any software or other materials contained within the Software or Documentation; (g) access or use the Software to submit or transmit any computer viruses, worms, defects, Trojan horses or other items of a destructive nature or to send any commercial solicitation or spam (whether commercial in nature or not); (h) exploit the Software in any unauthorized way whatsoever, including by trespass or burdening server or network capacity or Software infrastructure (including transmitting files containing viruses, corrupted files, spyware, adware, or any other software or programs, or deploying "spiders," "web-bots," "screen-scrapers," or "web crawlers" that

may damage or adversely affect server or network capacity or Software infrastructure); or (i) attempt, or encourage or assist any third party to do, any of the foregoing.

       (c) <u>Use</u>. The State will pay Contractor the corresponding Fees set forth in a Statement of Work or Pricing Schedule for all Authorized Users access and use of the Software.

    5.3. <u>Certification</u>. To the extent that a license granted to the State is not unlimited, Contractor may request written certification from the State regarding use of the Software for the sole purpose of verifying compliance with this **Section 6.** Such written certification may occur no more than once in any twelve (12) month period during the Term of the Contract. The State will respond to any such request within 45 calendar days of receipt. If the State's use is greater than contracted, Contractor may invoice the State for any unlicensed use (and related support) pursuant to the terms of this Contract at the rates set forth in **Schedule B**, and the unpaid license and support fees shall be payable in accordance with the terms of the Contract.

    5.4. <u>State License Grant to Contractor</u>. 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. Contractor is provided a limited license to State Materials for the sole and exclusive purpose of providing the Services.

**6. Reserved**.

**7. Intellectual Property Rights**.

    7.1. <u>Ownership Rights in Software</u>.

       (a) Subject to the rights and licenses granted by Contractor in this Contract and the provisions of **Section 5.2(c)**:

           (i) Contractor reserves and retains its entire right, title and interest in and to all Intellectual Property Rights arising out of or relating to the Software; and

           (ii) none of the State or Authorized Users acquire any ownership of Intellectual Property Rights in or to the Software or Documentation as a result of this Contract.

       (b) As between the State, on the one hand, and Contractor, on the other hand, the State has, reserves and retains, sole and exclusive ownership of all right, title and interest in and to State Materials, User Data, including all Intellectual Property Rights arising therefrom or relating thereto.

    7.2. <u>Reserved</u>.

**8. Software Implementation**.

    8.1. <u>Implementation</u>. Subject to **Section 8.2**, Contractor will use commercially reasonable efforts to, as applicable: deliver, install, configure, integrate, and otherwise provide and make operational the Software on or prior to the applicable Milestone Date in accordance with the criteria set forth in a Statement of Work and the Implementation Plan.

    8.2. <u>Site Preparation</u>. Unless otherwise set forth in a Statement of Work, Contractor is responsible for ensuring the relevant Operating Environment is set up and in working order to allow Contractor to deliver and install the Software on or prior to the applicable Milestone Date. Contractor will provide the State with such notice as is specified in a Statement of Work, prior to delivery of the Software to give the State sufficient time to prepare for Contractor's delivery

and installation of the Software.  If the State is responsible for Site preparation, Contractor will use commercially reasonable efforts to provide such reasonable assistance as the State requests to complete such preparation on a timely basis.

**9.    Software Acceptance Testing**.

9.1.    Acceptance Testing.

(a)   Unless otherwise specified in a Statement of Work, upon installation of the Software, or in the case of Contractor Hosted Software, when Contractor notifies the State in writing that the Hosted Services are ready for use in a production environment, Acceptance Tests will be conducted as set forth in this **Section 9.1** to ensure the Software conforms to the requirements of this Contract, including the applicable Specifications and Documentation.

(b)   All Acceptance Tests will take place at the designated Site(s) in the Operating Environment described in a Statement of Work, commence on the Business Day following installation of the Software, or the receipt by the State of the notification in **Section 9.1(a)**, and be conducted diligently for up to thirty (30) Business Days, or such other period as may be set forth in a Statement of Work (the "**Testing Period**").  Acceptance Tests will be conducted by the party responsible as set forth in a Statement of Work or, if a Statement of Work does not specify, the State, provided that:

(i)    for Acceptance Tests conducted by the State, if requested by the State, Contractor will, in its reasonable discretion, make suitable Contractor Personnel available to observe or participate in such Acceptance Tests; and

(ii)   for Acceptance Tests conducted by Contractor, the State has the right to observe or participate in all or any part of such Acceptance Tests.

9.2.    Contractor is solely responsible for all costs and expenses set forth in a Statement of Work and related to Contractor's performance of, participation in, and observation of Acceptance Testing.

(a)   Upon delivery and installation of any application programming interfaces, Configuration or customizations, or any other applicable Work Product, to the Software under a Statement of Work, additional Acceptance Tests will be performed on the modified Software as a whole to ensure full operability, integration, and compatibility among all elements of the Software ("**Integration Testing**").  Integration Testing is subject to all procedural and other terms and conditions set forth in **Section 9.1**, **Section 9.4**, and **Section 9.5**.

(b)   The State may suspend Acceptance Tests and the corresponding Testing Period by written notice to Contractor if the State discovers a material Non-Conformity in the tested Software or part or feature of the Software. In such event, Contractor will promptly, and in any case within ten (10) Business Days, correct such Non-Conformity, whereupon the Acceptance Tests and Testing Period will resume for the balance of the Testing Period.

9.3.    Notices of Completion, Non-Conformities, and Acceptance.  Within fifteen (15) Business Days following the completion of any Acceptance Tests, including any Integration Testing, the party responsible for conducting the tests will prepare and provide to the other party 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 Non-Conformity in the tested Software.

(a)   If such notice is provided by either party and identifies any Non-Conformities, the parties' rights, remedies, and obligations will be as set forth in **Section 9.4** and **Section 9.5**.

(b)   If such notice is provided by the State, is signed by the State Program Managers or their designees, and identifies no Non-Conformities, such notice constitutes the State's Acceptance of such Software.

(c)   If such notice is provided by Contractor and identifies no Non-Conformities, the State will have thirty (30) Business Days to use the Software in the Operating Environment and determine, in the exercise of its sole

discretion, whether it is satisfied that the Software contains no Non-Conformities, on the completion of which the State will, as appropriate:

    (i)    notify Contractor in writing of Non-Conformities the State has observed in the Software and of the State's non-acceptance thereof, whereupon the parties' rights, remedies and obligations will be as set forth in **Section 9.4** and **Section 9.5**; or

    (ii)    provide Contractor with a written notice of its Acceptance of such Software, which must be signed by the State Program Managers or their designees.

9.4.    <u>Failure of Acceptance Tests</u>.  If Acceptance Tests identify any Non-Conformities, Contractor, at Contractor's sole cost and expense, will remedy all such Non-Conformities and re-deliver the Software, in accordance with the requirements set forth in a Statement of Work.  Redelivery will occur as promptly as commercially possible and, in any case, within thirty (30) Business Days following, as applicable, Contractor's:

    (a)    completion of such Acceptance Tests, in the case of Acceptance Tests conducted by Contractor; or

    (b)    receipt of the State's notice under **Section 9.1(a)** or **Section 9.3(c)(i)**, identifying any Non-Conformities.

9.5.    <u>Repeated Failure of Acceptance Tests</u>.  If Acceptance Tests identify any Non-Conformity in the Software after a second or subsequent delivery of the Software, or Contractor fails to re-deliver the Software 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 9**;

    (b)    accept the Software as a nonconforming deliverable, in which case the Fees for such Software will be reduced equitably to reflect the value of the Software as received relative to the value of the Software had it conformed; or

    (c)    deem the failure to be a non-curable material breach of this Contract and a Statement of Work and terminate this Contract for cause in accordance with **Section 16.1**.

9.6.    <u>Acceptance</u>.  Acceptance ("**Acceptance**") of the Software (subject, where applicable, to the State's right to Integration Testing) and any Deliverables will occur on the date that is the earliest of the State's delivery of a notice accepting the Software or Deliverables under **Section 9.3(b)**, or **Section 9.3(c)(ii)**.

**10. Non-Software Acceptance**.

10.1.    All other non-Software Services and Deliverables are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in the Statement of Work.  If the non-Software Services and Deliverables are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either:  (a) the non-Software Services and Deliverables are accepted but noted deficiencies must be corrected; or (b) the non-Software Services and Deliverables are rejected.  If the State finds material deficiencies, it may:  (i) reject the non-Software Services and Deliverables without performing any further inspections; (ii) request repair or replacement of the non-Software Services and Deliverables  at no additional cost; or (iii) terminate this Contract in accordance with **Section 16.1**, Termination for Cause.

10.2.    Within 10 Business Days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any non-Software Services and Deliverables, Contractor must cure, at no additional cost, the deficiency and deliver non-Software Services and Deliverables without substantially decreased functionality to the State.  If acceptance with deficiencies or rejection of the non-Software Services and Deliverables impacts the content or delivery of other non-completed non-Software Services and Deliverables, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract.  However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

10.3.  If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part.

**11.  Assignment**.  Neither party may assign, delegate, or otherwise transfer this Contract, in whole or in part, without the prior written approval of the other party, and any attempt to do so will be null and void; provided that either party may assign this Contract and its rights and obligations hereunder, in whole, without such consent, to an Affiliate (including in the case of a reorganization) or to a successor-in-interest in connection with a change of control (as set forth in **Section 12** below), in each case which such assignee agrees in writing to be bound by all of the terms and conditions of this Contract.

**12.  Change of Control**.  Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership.  For purposes of this Contract, a change in control means any of the following:

(a)  a sale of more than 50% of Contractor's stock;

(b)  a sale of substantially all of Contractor's assets;

(c)  a change in a majority of Contractor's board members;

(d)  consummation of a merger or consolidation of Contractor with any other entity;

(e)  a change in ownership through a transaction or series of transactions;

(f)  or the board (or the stockholders) approves a plan of complete liquidation.

A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.  In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

**13.  Invoices and Payment**.

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

13.2.  The State has the right to withhold payment of any amounts disputed in good faith until the parties agree as to the validity of the disputed amount.  The State will notify Contractor of any dispute within a reasonable time.  Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Services and Deliverables.

13.3.  The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT).  Contractor must register with the State at http://www.michigan.gov/SIGMAVSS to receive electronic fund transfer payments.  If Contractor does not register, the State is not liable for failure to provide payment.  Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

13.4.  Reserved.

13.5.  Taxes.  The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services or Deliverables purchased under this Contract are for the State's exclusive use.  Notwithstanding the foregoing, all Fees are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

13.6.  Pricing/Fee Changes.  All Pricing set forth in this Contract will not be increased, except as otherwise expressly provided in a Statement of Work.

**14. Liquidated Damages**.

14.1.  The parties agree that any delay or failure by Contractor to timely perform its obligations in accordance with the Implementation Plan and Milestone Dates agreed to by the parties will interfere with the proper and timely implementation of the Software, to the loss and damage of the State.  Further, the State will incur major costs to perform the obligations that would have otherwise been performed by Contractor.  The parties understand and agree that any liquidated damages Contractor must pay to the State as a result of such nonperformance are described in a Statement of Work, and that these amounts are reasonable estimates of the State's damages in accordance with applicable law.

14.2.  The parties acknowledge and agree that Contractor could incur liquidated damages for more than one event if Contractor fails to timely perform its obligations by each Milestone Date.

14.3.  The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under **Section 16.1** and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract.  However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages.

14.4.  Amounts due the State as liquidated damages may be set off against any Fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.

**15. Stop Work Order**.  The State may, at any time, order the Services of Contractor fully or partially stopped for up to thirty (30) 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 such thirty (30) days, or any longer period agreed to by Contractor in writing, the State may:

(a)  issue a notice authorizing Contractor to resume work, or

(b)  issue a written notice terminating this Contract.  The State will not pay for any Services, Contractor's lost profits, or any additional compensation during a stop work period.

**16. Termination, Expiration, Transition**.  The State may terminate this Contract, the Support Services, or any Statement of Work, in accordance with the following:

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

(a)  Either party may terminate this Contract for cause, in whole or in part, if the other party:

(i)  with respect to the State, if Contractor materially 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 and such default has not been cured within thirty (30) days after written notice of such default to the other party.  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 16.1**, the State will issue a termination notice specifying whether Contractor must:

(i)  cease performance immediately.  Contractor must submit all invoices for Services accepted by the State within 30 days of the date of termination.  Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Services accepted by the State under this Contract, or

(ii)  continue to perform for a specified period.  If it is later determined that Contractor was not in breach of this Contract, the termination will be deemed to have been a termination for public interest, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Section 16.2**.

(c)  The State will only pay for amounts due to Contractor for Services provided by Contractor on or before the date of termination.  Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination, including any prepaid Fees.

16.2.  Termination for Public Interest.  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.  Contractor must submit all invoices for Services accepted by the State within 30 days of the date of termination.  Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Services accepted by the State under this Contract, or

(b)  continue to perform in accordance with **Section 16.3**.  If the State terminates this Contract for public interest, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

16.3.  Transition Responsibilities.

(a)  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 at Contractor's then-current rates, 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:

(i)  continuing to perform the Services at the established Contract rates;

(ii)  taking all reasonable and necessary measures to transition performance of the work, including all applicable Services to the State or the State's designee;

(iii)  taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, and comply with **Section 21.5** regarding the return or destruction of State Data at the conclusion of the Transition Period; and

(iv)  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.

(b)  Subject to **Section 16.3,** Contractor will follow the transition plan attached as **Schedule G** as it pertains to both transition in and transition out activities.

**17. Indemnification**.

17.1. <u>General Indemnification</u>. Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless from and against any and all losses, liabilities, damages, costs, reasonable attorney fees, and expenses (including those required to establish the right to indemnification) awarded against such indemnitees arising from any third-party action arising from:

(a) any material breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the representations or warranties contained in this Contract;

(b) any infringement, misappropriation, or other violation of any U.S. Intellectual Property Right or other right of any third party;

(c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable)

(d) Reserved.

17.2. <u>Indemnification Procedure</u>. The State will promptly 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 will provide Contractor with all reasonable cooperation in the defense and settlement of the applicable claim, at Contractor's request and expense. The State is entitled to:

(a) regular updates on proceeding status, in Contractor's reasonable discretion;

(b) participate in the defense of the proceeding at its own cost and expense;

(c) employ its own counsel at its own cost and expense; and to

(d) retain control of the defense, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. Any litigation activity on behalf of the State or any of its subdivisions, under this **Section 17**, 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.

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

**18. Infringement Remedies**.

18.1. The remedies set forth in this Section and the State's right to be indemnified for such actions are the State's sole remedy for infringement of Intellectual Property Rights under this Contract.

18.2. If any Software or any component thereof, other than State Materials, is found to be infringing or if any use of any Software or any component thereof is enjoined, threatened to be enjoined or otherwise the subject of an infringement claim, Contractor must, at Contractor's sole cost and expense:

(a) procure for the State the right to continue to use such Software or component thereof to the full extent contemplated by this Contract; or

(b) modify or replace the materials that infringe or are alleged to infringe ("**Allegedly Infringing Materials**") to make the Software and all of its components non-infringing while providing substantially equivalent features and functionality.

18.3. If neither of the foregoing is possible notwithstanding Contractor's commercially reasonable efforts, 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:

    (a)  refund to the State all amounts paid by the State in respect of the Allegedly Infringing Materials that the State cannot reasonably use as intended under this Contract; and

    (b)  Reserved.

18.4. If Contractor directs the State to cease using any Software under **Section 18.3,** the State may terminate this Contract for cause under **Section 16.1**. Unless the claim arose against the Software independently of any of the actions specified below, Contractor will have no liability for any claim of infringement arising solely from:

    (a)  Contractor's compliance with any designs, specifications, or instructions of the State; or

    (b)  modification of the Software by the State without the prior knowledge and approval of Contractor.

**19. Disclaimer of Damages and Limitation of Liability**.

19.1. <u>Disclaimer of Damages</u>. EACH PARTY 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.

19.2. <u>Limitation of Liability</u>. IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAID UNDER THIS CONTRACT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.

**20. Disclosure of Litigation, or Other Proceeding**. Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a Permitted Subcontractor, or an officer or director of Contractor or Permitted Subcontractor, that arises during the term of the Contract, including:

    (a)  a criminal Proceeding;

    (b)  a parole or probation Proceeding;

    (c)  a Proceeding under the Sarbanes-Oxley Act;

    (d)  a civil Proceeding involving:

        (i)  a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or

        (ii)  a governmental or public entity's claim or written allegation of fraud; or

    (e)  a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

**21. State Data**.

21.1. <u>Ownership</u>. The State's data ("**State Data**"), which will be treated by Contractor as Confidential Information, includes:

(a) User Data; and

(b) any other data (other than aggregate and anonymous 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.

21.2.  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

21.3.  <u>Contractor Use of State Data</u>.  Except as otherwise set forth in Schedule F (Data Sharing Agreement), 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, and Contractor must:

(a)  keep and maintain State Data in 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;

(c)  keep and maintain State Data in the continental United States and

(d)  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.

21.4.  <u>Discovery</u>.  Contractor will promptly 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 Software and Hosted Services, if applicable. Contractor will notify the State Program Managers or their designees by the fastest means available and also in writing. In no event will Contract provide such notification more than twenty-four (24) hours after Contractor receives the request.  Contractor will not respond to subpoenas, service of process, FOIA requests, and other legal requests related to the State without first notifying the State 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.

21.5.  <u>Loss or Compromise of Data</u>.  In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that materially compromises the security, confidentiality, integrity, or availability 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)   reasonably 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

(d)   perform or take any other actions required to comply with applicable law as a result of the occurrence;

(e)   be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and

(f)   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.

21.6.  The parties agree that any damages relating to a breach of **Section 21.5** are to be considered direct damages and not consequential damages.  **Section 21** survives termination or expiration of this Contract.

**22.   Non-Disclosure of Confidential Information**.  The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.  This **Section 22** survives termination or expiration of this Contract.

22.1.  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; or,

(c)   should reasonably be recognized as confidential information of the disclosing party.

The term "Confidential Information" does not include any information or documentation that was or is:

(d)   in the possession of the State and subject to disclosure under the Michigan Freedom of Information Act (FOIA);

(e)   already in the possession of the receiving party without an obligation of confidentiality;

(f)   developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights;

(g)   obtained from a source other than the disclosing party without an obligation of confidentiality; or,

(h)  publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party).

For purposes of this Contract, in all cases and for all matters, State Data and pricing under this Contract are deemed to be Confidential Information.

22.2.  Obligation of Confidentiality.  The parties agree to hold all Confidential Information in 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 no less restrictive than the confidentiality obligations in this Contract.  At the State's request, any of the Contractor's and Permitted Subcontractor's Representatives may be required to execute a separate agreement to be bound by the provisions of this **Section 22.2**.

22.3.  Cooperation to Prevent Disclosure of Confidential Information.  Each party must use its reasonable efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of the other party's Confidential Information and will not use such Confidential Information except in its performance of obligations under this Contract.  The receiving party shall use at least the same degree of care which it uses to prevent the disclosure of its own confidential information of like importance to prevent the disclosure of the disclosing party's Confidential Information, but in no event less than reasonable care. Without limiting the foregoing, each party must advise the other party promptly 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.

22.4.  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 injunctive relief against the breach or threatened breach of the foregoing undertakings, without posting a bond, in addition to any other legal remedies which may be available.

22.5.  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, destroy or 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.  Upon confirmation from the State, of receipt of all data, Contractor must permanently sanitize or destroy the State's Confidential Information, including State Data, from all media including backups using National Security Agency ("**NSA**") and/or National Institute of Standards and Technology ("**NIST**") (NIST Guide for Media Sanitization 800-88) data sanitation methods or as otherwise instructed by the State.  The Contractor must certify the destruction of Confidential Information (including State Data) in writing within five (5) Business Days from the date of confirmation from the State.

23.  **Records Maintenance, Inspection, Examination, and Audit**.

23.1.  Right of Audit.  Pursuant to MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract; provided that notwithstanding anything to the contrary herein, the State and its designee may not audit Contractor more than one (1) time in any given twenty-four (24) month period, and such audit must take place during Contractor's standard business hours and upon no less than ten (10) Business Days' advance written notice. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and

accounting records related to this Contract through the Term of this Contract and for four (4) years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Financial Audit Period**").  If an audit, litigation, or other action involving the records is initiated before the end of the Financial Audit Period, Contractor must retain the records until all issues are resolved.

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

23.3.  Reserved.

**24. Support Services**.

24.1.  Contractor will provide the State with the Support Services described in the Service Level Agreement attached as **Schedule D** to this Contract.  Such Support Services will be provided:

(a)  Free of charge during the Warranty Period.

(b)  Thereafter, for so long as the State elects to receive Support Services for the Software, in consideration of the State's payment of Fees for such services in accordance with the rates set forth in the Pricing Schedule.

24.2.  Data Security Requirements.  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 E** to this Contract.

**25. Training**.  Contractor will provide, at no additional charge, training on all uses of the Software permitted hereunder in accordance with the times, locations and other terms set forth in a Statement of Work.  Upon the State's request, Contractor will timely provide training for additional Authorized Users or other additional training on all uses of the Software for which the State requests such training, at such reasonable times and locations and pursuant to such rates and other terms as are set forth in the Pricing Schedule.

**26. Maintenance Releases; New Versions**.

26.1.  Maintenance Releases.  Provided that the State is current on its Fees, during the Term, Contractor will provide the State, at no additional charge, with all Maintenance Releases, each of which will constitute Software and be subject to the terms and conditions of this Contract.

26.2.  New Versions.  Provided that the State is current on its Fees, during the Term, Contractor will provide the State, at no additional charge, with all New Versions, each of which will constitute Software and be subject to the terms and conditions of this Contract.

26.3.  Reserved.

**27. Reserved**.

**28. Representations and Warranties**.

28.1.  Authority.  Each party represents and warrants to the other party 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)   The execution of this Contract by such party, and the performance by such party of its obligations and duties hereunder do not and will not violate any agreement to which such party is a party or by which it is otherwise bound; and

(e)   When executed and delivered by it, this Contract will constitute its legal, valid, and binding obligation, enforceable against it in accordance with the terms in the Contract.

Further, Contractor represents and warrants to the State that:

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

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

(a)   The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the same RFP ("**Bidder**") for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Bidder to the Request for Solution; 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;

(b)   To its knowledge, all written information furnished to the State by or for Contractor in connection with this Contract, including Contractor's Bid Response, 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;

(c)   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; and

(d)   If any of the certifications, representations, or disclosures made in Contractor's Bid Response change after contract award, the Contractor is required to report those changes promptly to the Contract Administrator.

28.3.   Software Representations and Warranties.  Contractor further represents and warrants to the State that:

(a)   it is the legal and beneficial owner of the entire right, title and interest in and to the Software, including all Intellectual Property Rights relating thereto, or licensor thereto;

(b)   it has, and throughout the license term, will retain the unconditional and irrevocable right, power and authority to grant and perform the license hereunder;

(c)   it 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;

(d)   the Software, and the State's use thereof, is and throughout the license term will be free and clear of all encumbrances, liens and security interests of any kind;

(e)  To its knowledge, neither its grant of the license, nor its performance under this Contract does or will at any time:

(i)  conflict with or violate any applicable law;

(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 to any third party;

(f)  To its knowledge, when used by the State or any Authorized User in accordance with this Contract and the Documentation, the Software, the Hosted Services, if applicable, or Documentation as delivered or installed by Contractor does not or will not:

(i)  infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of any third party; or

(ii)  fail to comply with any applicable law;

(g)  To its knowledge, as provided by Contractor, the Software and Services do not and will not at any time during the Term contain any:

(i)  Harmful Code

(h)  all Documentation is and will be complete and accurate in all material respects when provided to the State such that at no time during the license term will the Software have any material undocumented feature; and

(i)  it will perform all Services in a timely, skillful, professional and workmanlike manner in accordance with commercially reasonable industry standards and practices for similar services, using personnel with the requisite skill, experience and qualifications, and will devote adequate resources to meet its obligations under this Contract and will devote adequate resources to meet Contractor's obligations under this Contract;

(j)  when used in the Operating Environment (or any successor thereto) in accordance with the Documentation, all Software as provided by Contractor, will be operable, meet all applicable specifications, and function in all material respects, in conformity with this Contract and the Documentation;

(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;

(l)  Reserved.

(m)  Reserved.

(n)  If Contractor Hosted:

(i)  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;

(ii)  the 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 the Service Level Agreement;

(iii) 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;

(o) 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 Software or with the Hosted Services, if applicable, will apply solely to Contractor or its Permitted Subcontractors. 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.

28.4. Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THIS CONTRACT INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE; AND THE SOFTWARE AND ALL SERVICES PROVIDED BY CONTRACTOR ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND CONTRACTOR AND ITS LICENSORS MAKE NO OTHER WARRANTY AS TO THE SOFTWARE AND SERVICES. THE PARTIES ACKNOWLEDGE AND AGREE THAT THERE ARE CERTAIN RISKS INHERENT TO THEIR ENGAGEMENT HEREUNDER, AND THAT THE STATE'S USE OF, AND CONTRACTOR'S PROVISION OF, THE SOFTWARE AND SERVICES MAY NOT RESULT IN ANY SPECIFIED RESULT, MEET THE STATE'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, BE COMPATIBLE OR WORK WITH ANY OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. THE PARTIES ACKNOWLEDGE AND AGREE THAT INFORMATION PROVIDED VIA THE SOFTWARE AND SERVICES IS INTENDED TO BE INFORMATIVE AND SHOULD NOT BE CONSTRUED AS ADVICE. ACCORDINGLY, CONTRACTOR HEREBY DISCLAIMS, AND THE STATE HEREBY EXPRESSLY RELIEVES CONTRACTOR FROM: ANY CLAIMS, DAMAGES, COSTS, OR LIABILITIES THAT MAY ARISE FROM OR RELATE TO ANY ACTS OR OMISSIONS MADE BY THE STATE BASED IN WHOLE OR IN PART BASED ON ANY INFORMATION PROVIDED VIA THE SOFTWARE OR SERVICES.

**29. Offers of Employment**. During the first twelve (12) months of the Contract, should Contractor hire an employee of the State who has substantially worked on any project covered by this Contract without prior written consent of the State, the Contractor will be billed for fifty percent (50%) of the employee's annual salary in effect at the time of separation. Notwithstanding the foregoing, Contractor shall not be restricted from placing general employment opportunity advertisements not specifically targeted at the State's personnel, and Contractor shall have no liability to the State if the other State's personnel respond to any such advertisements and are hired pursuant to such a response.

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

**31. Compliance with Laws**. Contractor, its subcontractors, including Permitted Subcontractors, and their respective Representatives must comply with all laws in connection with this Contract.

**32. Nondiscrimination**. Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and Executive Directive 2019-09, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because

of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of the Contract.

**33. Unfair Labor Practice**. Under MCL 423.324, the State may void any Contract with a Contractor or Permitted Subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

**34. 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 an agent in Michigan to receive service of process.

**35. Non-Exclusivity**. Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Services from other sources.

**36. Force Majeure**.

36.1. Force Majeure Events. 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.

36.2. 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 fourteen (14) 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.

36.3. 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 Hosted Services 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 Hosted Services; 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.

    (b) no Force Majeure Event modifies or excuses Contractor's obligations under **Sections 21** (State Data), **22** (Non-Disclosure of Confidential Information), or **17** (Indemnification) of the Contract, Disaster Recovery and Backup

requirements set forth in the Service Level Agreement, Availability Requirement (if Contractor Hosted) defined in the Service Level Agreement, or any data retention or security requirements under the Contract.

37. **Dispute Resolution**.  The parties will endeavor to resolve any Contract dispute in accordance with this provision.  The dispute will be referred to the parties' respective Contract Administrators.  Such referral must include a description of the issues and all supporting documentation.  The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 Business Days.  The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance.  A dispute involving payment does not preclude performance.  Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within fifteen (15) Business Days.  The parties are not prohibited from instituting formal proceedings:  (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy.  This Section does not limit the State's right to terminate the Contract.

38. **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.

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

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

41. **Survival**.  The rights, obligations and conditions set forth in this **Section 41** and **Section 1** (Definitions), **Section 7** (Intellectual Property Rights), **Section 11** (Assignment), **Section 13** (Invoices and Payment), **Section 16.3** (Transition Responsibilities), **Section 17** (Indemnification), **Section 19** (Disclaimer of Damages and Limitations of Liability), **Section 21** (State Data), **Section 22** (Non-Disclosure of Confidential information), **Section 28** ( Representations and Warranties), **Section 52** (Effect of Contractor Bankruptcy), **Section 56** (Export Law Assurances), **Schedule C** Insurance (for a period of two (2) years), and **Schedule F** (Data Sharing Agreement) Sections 1, 4, 5 and 10, 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.

42. **Administrative Fee and Reporting**.  Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities).  Administrative fee payments must be made online by check or credit card:

    State of MI Admin Fees:  https://www.thepayplace.com/mi/dtmb/adminfee

    State of Mi MiDEAL Fees:  https://www.thepayplace.com/mi/dtmb/midealfee

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.

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

    43.1.  Upon written agreement between the State and Contractor, this contract may also be extended to:

(a) other states (including governmental subdivisions and authorized entities); and

(b) State of Michigan employees.

43.2. If extended, Contractor must supply all Services and Deliverables 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.

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

**44. Contract Modification**. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

**45. 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.

**46. Accessibility Requirements**.

46.1. All Software provided by Contractor under this Contract, including associated content and documentation, must conform to WCAG 2.0 Level AA. Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed PAT for each product provided under the Contract. At a minimum, Contractor must comply with the WCAG 2.0 Level AA conformance claims it made to the State, including the level of conformance provided in any PAT. Throughout the Term of the Contract, Contractor must:

(a) maintain compliance with WCAG 2.0 Level AA and meet or exceed the level of conformance provided in its written materials, including the level of conformance provided in each PAT;

(b) comply with plans and timelines approved by the State to achieve conformance in the event of any deficiencies;

(c) ensure that no Maintenance Release, New Version, update or patch, when properly installed in accordance with this Contract, will have any adverse effect on the conformance of Contractor's Software to WCAG 2.0 Level AA;

(d) promptly respond to and resolve any complaint the State receives regarding accessibility of Contractor's Software;

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

(f) participate in the State of Michigan Digital Standards Review described below.

46.2. State of Michigan Digital Standards Review. Contractor must assist the State, at no additional cost, with development, completion, and on-going maintenance of an accessibility plan, which requires Contractor, upon request from the State, to submit evidence to the State to validate Contractor's accessibility and compliance with WCAG 2.0 Level AA. Prior to the solution going-live and thereafter on an annual basis, or as otherwise required by the State, re-assessment of accessibility may be required. At no additional cost, Contractor must remediate all issues identified from any assessment of accessibility pursuant to plans and timelines that are approved in writing by the State.

46.3. Warranty. Contractor warrants that all WCAG 2.0 Level AA conformance claims made by Contractor pursuant to this Contract, including all information provided in any PAT Contractor provides to the State, are true and correct. If the State determines such conformance claims provided by the Contractor represent a higher level of

conformance than what is actually provided to the State, Contractor will, at its sole cost and expense, promptly remediate its Software to align with Contractor's stated WCAG 2.0 Level AA conformance claims in accordance with plans and timelines that are approved in writing by the State. If Contractor is unable to resolve such issues in a manner acceptable to the State, in addition to all other remedies available to the State, the State may terminate this Contract for cause under **Section 16.1**.

    46.4. Failure to comply with the requirements in this **Section 46** shall constitute a material breach of this Contract.

**47. 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.

**48. 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 nor bind the other party in any manner whatsoever.

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

**50. No Third-party Beneficiaries**. This Contract is for the sole benefit of the parties and their respective successors and permitted assigns. 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.

**51. Equitable Relief**. Each party to this Contract acknowledges and agrees that (a) a breach or threatened breach by such party of any of its obligations under this Contract may give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto is, in addition to any and all other rights and remedies that may be available to such party at law, at equity or otherwise in respect of such breach, entitled to 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.

**52. Effect of Contractor Bankruptcy**. All rights and licenses granted by Contractor under this Contract are and will be deemed to be rights and licenses to "intellectual property," and all Software and Deliverables are and will 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**"). If Contractor or its estate becomes subject to any bankruptcy or similar proceeding, the State retains and has the right to fully exercise all rights, licenses, elections, and protections under this Contract, the Code and all other applicable bankruptcy, insolvency, and similar laws with respect to all Software and other Deliverables. Without limiting the generality of the foregoing, Contractor acknowledges and agrees that, if Contractor or its estate will become subject to any bankruptcy or similar proceeding:

    (a) all rights and licenses granted to the State under this Contract will continue subject to the terms and conditions of this Contract, and will not be affected, even by Contractor's rejection of this Contract; and

    (b) the State will be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property comprising or relating to any Software or other Deliverables, and the same, if not already in the State's possession, will be promptly delivered to the State, unless Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

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

       **Schedule A**        Statement of Work

| | | |
|---|---|---|
| **Schedule B** | Pricing Schedule | |
| **Schedule C** | Insurance Schedule | |
| **Schedule D** | Service Level Agreement | |
| **Schedule E** | Data Security Requirements | |
| **Schedule F** | Data Sharing Agreement | |

**54.  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.

**55.  Entire Agreement**.  These Terms and Conditions, including all Statements of Work and other Schedules and Exhibits (again collectively the "Contract") 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, representations and warranties, both written and oral, with respect to such subject matter.  In the event of any inconsistency between the statements made in the Terms and Conditions, the Schedules, Exhibits, and a Statement of Work, the following order of precedence governs:  (a) first, these Terms and Conditions and (b) second, **Schedule E** – Data Security Requirements and (c) third, each Statement of Work; and (d) fourth, the remaining Exhibits and Schedules to this Contract.  NO TERMS ON CONTRACTOR'S 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, EVEN IF ATTACHED TO STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE.  ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF SUCH SERVICE OR DOCUMENTATION REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

**56.  <u>Export Law Assurances</u>**. The State understands that the Software and Reports (as defined in **Schedule F**) are or may be subject to export control laws and regulations. THE STATE MAY NOT DOWNLOAD OR OTHERWISE EXPORT OR RE-EXPORT THE SOFTWARE AND REPORTS OR ANY UNDERLYING INFORMATION OR TECHNOLOGY EXCEPT IN FULL COMPLIANCE WITH ALL UNITED STATES AND OTHER APPLICABLE LAWS AND REGULATIONS, IN PARTICULAR, BUT WITHOUT LIMITATION, UNITED STATES EXPORT CONTROL LAWS. NONE OF THE SOFTWARE AND REPORTS OR ANY UNDERLYING INFORMATION OR TECHNOLOGY MAY BE DOWNLOADED OR OTHERWISE EXPORTED OR RE-EXPORTED: (A) INTO (OR TO A NATIONAL OR RESIDENT OF) ANY COUNTRY TO WHICH THE UNITED STATES HAS EMBARGOED GOODS; OR (B) TO ANYONE ON THE U.S. TREASURY DEPARTMENT'S LIST OF SPECIALLY DESIGNATED NATIONALS OR THE U.S. COMMERCE DEPARTMENT'S LIST OF PROHIBITED COUNTRIES OR DEBARRED OR DENIED PERSONS OR ENTITIES.

SCHEDULE A - STATEMENT OF WORK

This schedule identifies the requirements of the Contract resulting from the Request For Solution.

1.  BACKGROUND.

This contract provides an open-source, extensible platform that can clean and link data from existing data systems and provide the ongoing capacity to generate timely, granular, cross-system insights to solve three key problems for the State:

- Fragmentation
- Lack of real time insights
- Lack of targeted insights

2.  ADA COMPLIANCE.

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

At the State's request, the Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed PAT for the Solution. If the Solution is comprised of multiple products, a PAT must be provided for each product. In addition to PATs, Contractors may include a verification of conformance certified by an industry-recognized third-party. If the Contractor is including any third-party products in the Solution, Contractor must obtain and provide the third-party PATs as well.

Each PAT must state exactly how the product meets the specifications. All "Not Applicable" (N/A) responses must be fully explained. Contractor must address each standard individually and with specificity; and clarify whether conformance is achieved throughout the entire product (for example – user functionality, administrator functionality, and reporting), or only in limited areas. A description of the evaluation methods used to support WCAG 2.0 Level AA conformance claims, including, if applicable, any third-party testing, must be provided. For each product that does not fully conform to WCAG 2.0 Level AA, Contractor must provide detailed information regarding the plan to achieve conformance, including timelines.

3.  USER TYPE AND CAPACITY.

| Type of User | Access Type | Number of Users | Number of Concurrent Users |
|---|---|---|---|
| State Employee | Read, Write | 10 | 10 |

Contractor can, at a minimum, meet the user type and capacity requirements in the table above.

4.  ACCESS CONTROL AND AUTHENTICATION.

The Contractor's solution must integrate with the State's IT Identity and Access Management (IAM) environment as described in the State of Michigan Digital Strategy (https://www.michigan.gov/dtmb/0,5552,7-358-82547_56345_56351_69611-336646--,00.html), which consist of:

4.1  MILogin/Michigan Identity, Credential, and Access Management (MICAM).  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.

4.2  MILogin Identity Federation.  Allows federated single sign-on (SSO) for business partners, as well as citizen-based applications.

4.3  MILogin Multi Factor Authentication (MFA, based on system data classification requirements).  Required for those applications where data classification is Confidential and Restricted as defined by the 1340.00 Michigan Information Technology Information Security Policy (i.e. the proposed solution must comply with PHI, PCI, CJIS, IRS, and other standards).

4.4  MILogin Identity Proofing Services (based on system data classification requirements).  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.

Contractor staff will work with the State to implement its preferred SSO integration to ensure use of multi-factor authentication and other authentication constraints imposed for State employees.

5.    DATA RETENTION AND REMOVAL.

The State will need to retain all data for the entire length of the Contract unless otherwise directed by the State.

The State will need the ability to delete data, even data that may be stored off-line or in backups.

The State will need to retrieve data, even data that may be stored off-line or in backups.

6.    END USER OPERATING ENVIRONMENT.

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

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

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

This information can be found at https://www.michigan.gov/browserstats.  Please use the most recent calendar quarter to determine browser statistics.  For those browsers with over 2% of site traffic, except Internet Explorer which requires support for at minimum version 11, the current browser version as well as the previous two major versions must be supported.

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

7.    SOFTWARE.

Reserved.

8.    INTEGRATION.

Reserved.

9.  MIGRATION.

Reserved.

10.  TRAINING SERVICES.

The Contractor must provide administration and end-user training for implementation & go-live support.

Contractor will provide the equivalent of up to two weeks of staff support (80hrs) by one Contractor staff member for any product launch that the State requests live training for.

Training will be available with up to two dedicated Contractor staff over a one-week period for any specific launch (the equivalent number of hours of training could also be split over a longer duration).  Staff would be available during the typical workday 9am-5pm EST.  Contractor staff will be available remotely over video conference, or in-person (pending the conclusion of the current COVID-19 pandemic).

11.  DOCUMENTATION.

At the State's request, the 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 Software.

Contractor must develop and submit for State approval 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.

12.  ADDITIONAL PRODUCTS AND SERVICES.

Contractor also offers the following additional Solution functionality:

-   Ongoing Analytical Capacity
    o   Contractor's solution goes to significant length to normalize and link data from disparate systems in the State. Once done, this enables significant new analytical capabilities and ease of authorizing access by the state DOC.
-   Data Validation
    o   The Contractor data platform includes an automated data validation system built-in, which performs a variety of validation checks on a daily cadence.  Every time new data is uploaded to Contractor and processed; all validations are performed again to ensure that no validations have begun failing.
-   Historical Snapshotting
    o   The Contractor's data platform prevents information loss by keeping track of every field change to every incoming data record over time via historical snapshotting.

13.  CONTRACTOR PERSONNEL.

**Contractor Contract Administrator**.  Contractor resource who is responsible to(a) administer the terms of this Contract, and (b) approve and execute any Change Notices under this Contract.

| Contractor |
| --- |
| **Name:  Clementine Jacoby** |
| **Address:  1655 Pine Ln, Provo UT 84604** |
| **Phone:  650-933-7578** |
| **Email:  clementine@recidiviz.org** |

14. CONTRACTOR KEY PERSONNEL.

**Contractor Project Manager.** Contractor resource who is responsible to 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, matters pertaining to the receipt and processing of Support Requests and the Support Services.

| Contractor |
| --- |
| **Name: John Tilley** |
| **Address: 1655 Pine Ln, Provo UT 84604** |
| **Phone: 270-839-4049** |
| **Email: tilley@recidiviz.org** |

**Contractor Security Officer.** Contractor resource who is responsible to respond to State inquiries regarding the security of the Contractor's Solution. This person must have sufficient knowledge of the security of the Contractor Solution and the authority to act on behalf of Contractor in matters pertaining thereto.

| Contractor |
| --- |
| **Name: Joshua Essex** |
| **Address: 1655 Pine Ln, Provo UT 84604** |
| **Phone: 703-409-7219** |
| **Email: joshua@recidiviz.org** |

15. CONTRACTOR PERSONNEL REQUIREMENTS.

A. The Contractor/subcontractor's personnel performing work under this Contract must be LEIN cleared and receive written approval from the State's Program Manager and Contract Manager initially and annually thereafter.

B. A completed LEIN Information Form for each staff assigned to the contract must be sent to the and MDOC-PMCD-CFA-LEINS@michigan.gov approved by the State prior to Contractor/subcontractor's personnel working under this Contract and annually following approval. Please submit this request at least 72 hours in advance. There is no cost associated with the LEIN. The LEIN form will be provided to the Contract awardee(s).

**Offshore Resources.**
Contractor states there will not be any offshore resources.

16. 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.

| State Contract Administrator |
| --- |
| **Name: Sean Regan** |
| **Phone: 517-243-8459** |
| **Email: regans@michigan.gov** |

17. MEETINGS.

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 (or more or less if determined necessary by the parties) to ensure ongoing support success.

The Contractor must attend the following meetings, at a location and time as identified by the state, at no additional cost to the State:

- Kick-off meeting after contract execution

18.  PROJECT MANAGEMENT.

The Contractor Project Manager will be responsible for maintaining a 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.

19.  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.

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.

20.  ADDITIONAL INFORMATION

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

**Instructions for Completing the Business Specifications Worksheet**

Contractors are asked to review the business problem below and provide a detailed response to each specification.

Problem Statement is as follows:

Although the State has one of the lowest recidivism rates in the country and has transformed the lives of thousands of offenders  (prisoners, parolees, probationers) , the State currently does not have the long-term analytics capacity to track metrics in real time to :

1.   Give leadership specific, actionable insights into their systems
2.   Enable data-driven decision making

The State is seeking an open-source, extensible platform that can clean and link data from existing data systems and provide the ongoing capacity to generate timely, granular, cross-system insights to solve three key problems:

**A.   Fragmentation**
While the State collects multiple types of data across a number of IT systems, these data points are warehoused in silos that require significant manual labor to collect data, process it, and present it in ways that help leadership determine which courses of action may result in permanent outcome improvements.

**B.   Lack of real-time insights**
Without real-time insight, it is difficult for the State to fine-tune its programs, policies, and processes to achieve better outcomes for prisoners and offenders in community supervision populations.  As the State works to reduce recidivism and improve outcomes, leadership needs to understand what's driving offender populations, needs easy access to real-time metrics like recidivism, revocations, and supervision success, and needs to be able to track program outcomes.  These capabilities will help leadership understand which interventions are working, for which offenders, at what point in their incarceration life cycle, from admission through re-entry.

**C.   Lack of targeted insights**
The State needs to be able to provide targeted data to the State's staff, enabling everyone from leadership, to management, to lower-level staff to get insights tailored to them.  This will allow the State to set quantifiable goals, identify bottlenecks, implement changes, and track their impact.  Presently, it's challenging to help the State's staff improve client outcomes without actionable, tailored feedback.

The purpose of this initiative is to develop an analytics platform, spanning multiple underlying the State's systems, that provides such insights to the State's administrators and staff.  Open-source infrastructure would allow anyone working at the State or on its behalf to extend the system for the State's benefit, and robust privacy and security compliance would be required to ensure this system meets encryption, access control, and other critical privacy standards.

## Specifications

The State is seeking a Contractor who can:

● Design, build, and maintain automated daily data feeds built on top of pre-existing state data systems.  It should require very little work from state IT or research departments to get up and running.
   ○ Contractor has designed and built an open-source technology platform that integrates with a fragmented set of pre-existing state data sources and systems to maintain automated, integrated daily feeds.  Rather than seeking to upgrade or replace the variety of data systems used across state prisons and parole agencies, our platform is built on top of pre-existing state data systems and pulls (ingests) individual case-level data from these disconnected sources into a cloud setting.  The platform also validates, standardizes, and links previously fragmented records to create a complete

profile for an individual throughout the entire criminal justice system.  New and updated records are automatically ingested and integrated daily, enabling automated monitoring, metrics calculation, and up-to-date analytics.

- Conduct user experience research to determine how the analytics platform can be leveraged and extended to improve client outcomes, including recidivism rate reductions
    - Contractor has extensive experience conducting user experience research early in state projects to support our users as quickly and effectively as possible with real-time, targeted insights around core metrics like recidivism rate or revocation admissions.  Coming from Silicon Valley, UXR is a core part of our organization's culture for product development and has been a core part of our engagement with all other states currently on the platform.  It ensures that Departments of Corrections ("DOC"), in turn, can leverage the platform to improve client outcomes by understanding not just what is occurring in the system, but why it might be occurring.

- Undertake a customized historical analysis for leadership to determine drivers of incarceration in the State and across the criminal justice system in the State as a whole, including an analysis of systemic strengths and opportunities for improvement
    - Contractor will prepare at least two customized historical analyses to help leadership understand the drivers of incarceration in order to determine which levers to pull and how.  The first leverages publicly available data to get an early pulse of trends and directional patterns, even before ingest is complete.  For this, Contractor will synthesize complex, disparate datasets to develop an initial set of hypotheses about drivers of incarceration and supervision, identifying systemic strengths and opportunities for improvement.

    - Following another round of consultations and the completion of case-level data ingest, Contractor will then produce a more comprehensive baseline analysis we call the "State of the State".  With granular State internal data across fragmented systems, we can share a deeper, real-time understanding of the likely drivers of incarceration and supervision over time and across geographies and demographics.  As opportunities for improvement are identified, Contractor will work with the State to make insights actionable for the system and launch leadership tools to enable real-time tracking against any goals set.  The State of the State analysis will be repeated annually.

- Develop interactive dashboards based on case-level records and updated daily, providing timely analytics on metrics critical to decision-making for both leadership and staff
    - Contractor will design and deploy interactive dashboards and reports with analytics on key metrics to staff.  Contractor has significant experience working with states to provide dashboards to leadership, supervisor, and line staff to help highlight trends and real-time metrics that can be critical to making informed day-to-day decisions.

- Build case-level population projections and layer policy and other scenario simulations on top to help leadership prospectively understand impact of changes on populations, costs, and other key metrics
    - Contractor has developed a probabilistic flow model for real-time, case-level population projections, allowing us to forecast both the human and fiscal impact of new policies in depth.  We leverage patterns in historical data and sentencing information to calculate how people flow through the criminal justice system to project five-year impacts on cost, population changes, and life years at each step, without double counting as policies are added.

- Launch a public-facing dashboard that includes metrics considered important for community transparency by State leadership without additional IT lift
    - As Contractor launches leadership tooling that turns fragmented data into real-time, targeted insights, the Contractor will also launch a public dashboard powered by the state's internal data and updated daily.  Users can slice data by age, race, gender, or by judicial district, parole district, or county to explore changes over time.  Visualizations make it easy to highlight the effects of programming, treatment, vocational, and educational opportunities.

- Provide the capacity for ongoing, configurable alerting, such as push notifications, when key targets are met, when metrics may be trending differently from anticipated, and when targeted to reach particular individuals depending on which metrics need to be understood
  - Contractor can design, develop, and deploy situational push notifications to key end-users that are triggered when certain anomalies or events occur, such as a statistically significant spike in violent crime arrests or revocations, or a series of events elevating the risk of violent crime recidivism. Like reports, alerts direct users back to the dashboard, where they dig deeper into more specific and actionable information about root causes.

- Provide State users with the ability to filter and slice the data, including by demographic, offender time served or on parole/probation, and other variables as appropriate or relevant
  - Contractor dashboards and tools are typically explorable by a subset of the following dimensions, which can be sliced and recombined as part of the user's investigation. State users will have the ability to filter by variables such as:
    - Time Period
    - 1 month to 3 years
    - Probation vs. Parole
    - Geographic
    - Judicial district
    - DOC region / district
    - Facilities
    - Home location before/after incarceration
    - Systemic / demographic
    - Race
    - Gender
    - Age
    - Income level
    - Education level
    - Needs (e.g., mental health / substance use)
    - Crime / violation / case type
    - # of previous incarcerations
    - Risk level
    - Discretion
    - Programming
    - Policy

- Enable users to analyze trends over time, between geographic regions, and across scalable timeframes
  - Contractor dashboards allow users to examine trends over time and across geographies, simply by selecting different time periods (e.g. 1 month, 1 year, 3 years), geographic regions (county/judicial district), and other filters for all key metrics mapped onto the data layer from State systems following historical ingest and validation, including for historical data captured prior to dashboard implementation.

- Facilitate partnerships with external state agencies or academic researchers by making it easy for the State to share their data in standard formats, for example via batch download
  - Contractor specializes in making our agency partners' data available in a variety of standard formats so that they can better and more easily collaborate with researchers and technical assistance providers, and so that they can make select data available to the public. We recognize that it takes a village to improve outcomes, and one of the most valuable roles we can play is in helping DOCs make their data available to other researchers and organizations for more varied and nuanced analysis.

- Provide reports for community supervision staff, including individualized, real-time feedback to officers and their supervisors powered by anomaly detection and normative comparison

- ○ Line staff tools provide individualized, real-time feedback to help probation and parole officers proactively intervene to increase the number of people who get off of supervision successfully. They show officers which clients from their caseload need help finding housing or a job; they alert officers to individuals who already seem eligible for supervision downgrades or earned discharge; they even help compare an officer's client outcomes to peers' in their district, state goals, and to their own performance over time.

- ○ Contractors reports and alerts pull data from case management systems, so information never has to be entered twice. Officers get key insights delivered directly to their inbox, without having to wade through complex software systems. By looking at trends in data, we can flag supervisees who would benefit from proactive support in areas like housing, employment, and treatment. We provide context on supervision outcomes, showing officers how their own caseload outcomes change over time, compare to their state or district, or compare to officers with caseloads similar to their own.

- Enable the continuous validation of risk instruments based on the State's local population
  - ○ The leadership tools Contractor provide disaggregate populations in several ways, including race, gender, and risk level (based on LSI-R, ORAS, or whichever risk assessment framework is used by the DOC). This ongoing comparison makes it easy to continuously validate risk instruments by identifying discrepancies between risk assessment output and actual outcomes, both at the aggregate level as well as for sub-populations based on region, race, or gender.

- Enable cross-system analysis, providing State leadership with insight on how corrections, the judiciary, the parole commission, and supervision officers are each contributing to downstream outcomes
  - ○ Contractor will build a population model that enables cross-system analyses. Specifically, the model uses the case level data to understand exactly who is moving through the system and where in the system they are, which is broken down by groups such as charge types, sentences/durations, gender, race, etc. By doing so, Contractor can provide a clear picture of where the system is having challenges, when formerly incarcerated individuals are returning into corrections, and how to identify whether that's due to judicial district variation, sentence types, crime types, etc. — all to ultimately understand the flow of the system holistically rather than in a fragmented manner, and help the State improve practices through timely and targeted insights.

- Contractor agrees and will comply with the following State requirements:
  - ○ The above requirements are based on a data schema that is specifically built for criminal justice data and the complexity and nuance of corrections data
  - ○ Includes entity-linking algorithms, so that data from multiple underlying systems can be analyzed by the same platform
  - ○ Uses open-source infrastructure so that State staff can extend the platform or contract with other vendors as needed
  - ○ Has robust data privacy and security standards and has previously been certified as SOC-II compliant
  - ○ Gives State ownership over all data at all times, and provides them access to data that has been standardized and linked by the platform directly, including in the event of partnership termination

SCHEDULE B – PRICING

Pricing table below includes all associated costs to complete this contract.

| Term | Description | Flat Fee |
|:---:|:---|---:|
| Year 2 | Annual Maintenance Fee | $500,000 |
| Year 3 | Annual Maintenance Fee | $500,000 |

SCHEDULE C - INSURANCE SCHEDULE

Required Coverage.

1.1 **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 Permitted 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 an company with an A.M. Best rating of "A" or better and a financial size of VII or better.

| Insurance Type | Additional Requirements |
|---|---|
| **Commercial General Liability Insurance** | |
| Minimal Limits:<br><br>$1,000,000 Each Occurrence Limit<br><br>$1,000,000 Personal & Advertising Injury Limit<br>$2,000,000 General Aggregate Limit<br><br>$2,000,000 Products/Completed Operations<br><br>Deductible Maximum:<br><br>$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 0. |
| **Umbrella or Excess Liability Insurance** | |
| Minimal Limits:<br><br>$5,000,000 General Aggregate | Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds. |
| **Workers' Compensation Insurance** | |
| Minimal Limits:<br><br>Coverage according to applicable laws governing work activities. | Waiver of subrogation, except where waiver is prohibited by law. |
| **Employers Liability Insurance** | |
| Minimal Limits:<br><br>$500,000      Each Accident<br><br>$500,000      Each Employee by Disease<br><br>$500,000      Aggregate Disease. | |

| Insurance Type | Additional Requirements |
|---|---|
| **Privacy and Security Liability (Cyber Liability) Insurance** | |
| Minimal Limits:<br><br>$1,000,000 Each Occurrence<br><br>$1,000,000 Annual Aggregate | Contractor must have their policy:<br>(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. |
| **Professional Liability (Errors and Omissions) Insurance** | |
| Minimal Limits:<br><br>$3,000,000 Each Occurrence<br><br>$3,000,000 Annual Aggregate<br><br>Deductible Maximum:<br><br>$50,000 Per Loss | |

1.2     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.

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

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

Non-waiver.  This Insurance Schedule is not intended to and is not to be construed in any manner to waive, restrict or limit the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

## SCHEDULE D - SERVICE LEVEL AGREEMENT

The State, along with Contractor, agree to create a change notice to the contract to add program specific Service Level Agreements after the completion of the first year of the contract.

SCHEDULE E – DATA SECURITY REQUIREMENTS

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

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

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

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

"**Hosting Provider**" means any Permitted Subcontractor that is providing any or all of the Hosted Services under this Contract.

"**NIST**" means the National Institute of Standards and Technology.

"**PCI**" means the Payment Card Industry.

"**PSP**" or "**PSPs**" means the State's IT Policies, Standards and Procedures.

"**SSAE**" means Statement on Standards for Attestation Engagements.

"**Security Accreditation Process**" has the meaning set forth in **Section 6** of this Schedule

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

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

> (a)   ensure the security and confidentiality of the State Data;
>
> (b)   protect against any anticipated threats or hazards to the security or integrity of the State Data;
>
> (c)   protect against unauthorized disclosure, access to, or use of the State Data;
>
> (d)   ensure the proper disposal of any State Data in Contractor's or its subcontractor's possession; and
>
> (e)   ensure that all Contractor Representatives comply with the foregoing.

The State has established Information Technology (IT) PSPs to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy.  In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable public and non-public State IT policies and standards, of which the publicly available ones are at https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html.

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

**4.    Acceptable Use Policy.**  To the extent that Contractor has access to the State's IT environment, Contractor must comply with the State's Acceptable Use Policy, see https://www.michigan.gov/documents/dtmb/1340.00.01_Acceptable_Use_of_Information_Technology_Standard_458958_7.pdf.  All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing State systems.  The State reserves the right to terminate Contractor's and/or subcontractor(s) or any Contractor Personnel's access to State systems if the State determines a violation has occurred.

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

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

5.2    for Hosted Services provided by the Contractor, maintain either a FedRAMP authorization or an annual SSAE 18 SOC 2 Type II audit based on State required NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs.

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

5.4    maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State Data that complies with the requirements of the State's data security policies as set forth in this Contract, and must, at a minimum, remain compliant with FISMA and NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs;

5.5    provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, encryption, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of State Data and the nature of such State Data, consistent with best industry practice and applicable standards (including, but not limited to, compliance with FISMA, NIST, CMS, IRS, FBI, SSA, HIPAA, FERPA and PCI requirements as applicable);

5.6    take all reasonable measures to:

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

(b)    prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Services; (ii) State Data 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 Data;

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

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

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

**6.     Reserved.**

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

**8.     Reserved.**

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

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

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

(a)     Contractor must either a) grant the State the right to dynamically scan a deployed version of the Software; or b) in lieu of the State performing the scan, Contractor must dynamically scan a deployed version of the Software using a State approved application scanning tool, and provide the State a vulnerabilities assessment after Contractor has completed such scan.  These scans and assessments i) must be completed and provided to the State quarterly (dates to be provided by the State) and for each major release; and ii) scans must be completed in a non-production environment with verifiable matching source code and supporting infrastructure configurations or the actual production environment.

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

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

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

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

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

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

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

## 10. Infrastructure Scanning.

10.1     For Hosted Services, Contractor must ensure the infrastructure and applications are scanned using an approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least monthly and provide the scan's assessments to the State in a format that is specified by the State and used to track the remediation.  Contractor will ensure the remediation of issues identified in the scan according to the remediation time requirements documented in the State's PSPs.

## 11. Nonexclusive Remedy for Security Breach.

11.1     Any failure of the Services to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract.

SCHEDULE F – DATA SHARING AGREEMENT

## 1. CERTAIN DEFINITIONS

The following capitalized words and expressions have the following meanings unless the context otherwise requires:

"**API**" means an application programming interface provided by Contractor;

"**Data**" means Shared Data and Reports;

"**Data Breach**" means any unauthorized access and exfiltration, theft, or disclosure of the Data suffered by either party or any of its subcontractors;

"**DSA**" means this Data Sharing Agreement, its schedules and any other documents attached to or referred to as forming part of this DSA, which are hereby incorporated into this DSA by reference.

"**Individual**" means an individual to whom the Shared Data relates, as further described in Schedule 1;

"**Permitted Purposes**" means the purposes for which Contractor may process and use Shared Data, specifically: (a) to provide the Services contemplated under this DSA; (b) to create Resulting Data and use such Resulting Data to improve the Services and Contractor's products and services, and (c) any other specific purposes as described in Schedule F-1 hereto.

"**Personal Information**" means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular Individual or household.

"**Privacy Laws**" means all applicable laws and regulations related to privacy, data protection or the processing of personal information;

"**Process**" or "**Processing**" means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

"**Report**" means a tangible copy of reports or output of the Services provided to the State;

"**Resulting Data**" means the non-Personal Information in aggregated and anonymized form, resulting from the Processing of Shared Data by the Contractor;

"**Services**" means the services provided by or on behalf of either party under or in connection with this DSA, including, without limitation, Processing of Shared Data and preparation of Reports by Contractor; and

"**Shared Data**" means the Personal Information and non-Personal Information shared or to be shared by or on behalf of the State or otherwise Processed under or in connection with the DSA, including in the provision of the Services, as further described in Schedule 1.

## 2. RESERVED

## 3. POINTS OF CONTACT

3.1 Each party shall appoint a single point of contact ("**SPoC**") who shall work together in good faith to reach agreement with regards to any issues arising from this DSA.  Each party may change their respective SPoC at any time upon prior written notice to the other party.

3.2 The points of contact for each of the parties as at the Effective Date are:

3.2.1 **Contractor**: Clementine Jacoby, Cofounder and CEO, Recidiviz, legal@recidiviz.org 1655 Pine Lane, Provo, Utah 84604; and

3.2.2 **The State**: Lia Gulick, Deputy Director, Michigan Department of Corrections, gulickl@michigan.gov, 206 E. Michigan Avenue, Lansing, Michigan 48933.

**4.    SCOPE OF SHARING**

4.1    **Reserved**.

4.2    **Reserved**.

4.3    **Reports**. Contractor may send Reports to the State via the API and Software. Subject to the terms and conditions hereof, Contractor hereby assigns, transfers and conveys to the State the tangible copy of the Reports. Contractor agrees to provide the State at least 30 days to review, provide comments, and provide written approval of any Reports. Contractor agrees not to publish without the State Director's written approval. If the Report is approved by the State, the State hereby grants to Contractor a royalty-free, perpetual, non-exclusive, transferable, sublicensable (through multiple tiers of sublicenses) license to reproduce, use, distribute, modify, perform, create derivative works of, and display Reports, both during and after the Term, for the Permitted Purposes.

4.4    **Reserved**.

4.5    **Shared Data License**. To the extent required for the provision of the Services by Contractor to the State, the State shall provide Shared Data to Contractor, subject to the terms and conditions set out in this DSA. By submitting Shared Data to Contractor, the State hereby grants, and represents and warrants that it has all rights necessary to grant, all rights and licenses to the Shared Data required for Contractor and its subcontractors and service providers to perform the Services. Contractor shall only Process the Shared Data for the Permitted Purposes. The State acknowledges and agrees that its collection, use, storage and disclosure of Shared Data is or may be regulated by Privacy Laws. Contractor shall have no right to sublicense or resell Shared Data, except however, that Contractor may collect, analyze, and use aggregated and anonymized Shared Data, which may include data about the State's, and its users' access and use of the API, for the Permitted Purposes and for purposes of operating, analyzing, improving, or marketing the API and any related services.

4.6    **Feedback**. If the State or any of its employees or contractors sends or transmits any communications or materials to Contractor, suggesting or recommending changes to the Services or any of Contractor's products or services, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), Contractor is free to use such Feedback irrespective of any other obligation or limitation between the parties governing such Feedback. Contractor is not required to use any Feedback from the State.

4.7    **Ownership**. As between Contractor and the State: (a) all Shared Data and Reports are and will remain the sole and exclusive property of the State; and (b) the Software and API are and will remain the sole and exclusive property of Contractor. Contractor hereby reserves all other rights including all rights to the Resulting Data.

**5.    COMPLIANCE WITH PRIVACY LAWS**

5.1    Each party shall comply in full with the Privacy Laws with regard to its respective Processing of the Shared Data.

5.2    Neither party is aware of any conflict between the use of Shared Data for the Permitted Purposes and the Privacy Laws.  If either party becomes aware of any such conflict, such party shall promptly notify the other party in writing of such conflict.

5.3    Each party shall, upon reasonable request of the other party provide reasonable assistance to furnish such information evidencing that it has complied with the provisions of this DSA.

**6.**      **RESERVED**

**7.**      **DATA QUALITY**

7.1     Each party shall promptly inform the other party in writing of any inaccuracies in the Data of which it becomes aware which need correcting or erasing.

7.2     The parties shall record and share all Data using compatible and agreed technological methods and security measures.

**8.**      **SECURITY AND TRAINING**

8.1     Taking into account the state of the art, the costs of implementation and the nature, scope, context and the Permitted Purposes for Processing the Shared Data, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the Processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Shared Data transmitted, stored or otherwise Processed, the parties shall implement appropriate technical and organizational security measures to secure the Shared Data which are appropriate to the risk.

8.2     It is the responsibility of each party to ensure that its staff members are appropriately trained to handle and Process the Shared Data in accordance with the Privacy Laws. The State will take the necessary technical precautions to ensure that Contractor has read-only access to live criminal justice data systems, and that Contractor cannot edit, alter, or delete records in those systems.

**9.**      **RESERVED**

**10.**     **WARRANTIES**

10.1    The State warrants and undertakes that:

       10.1.1   it is entitled to share the Shared Data with Contractor and that such sharing will be carried out in accordance with the Privacy Laws; and

       10.1.2   so far as it is aware, the Shared Data will be accurate and up-to-date on the date of sharing the Shared Data with Contractor.

**EXCEPT AS EXPRESSLY STATED IN THIS DSA, ALL WARRANTIES, CONDITIONS AND TERMS, WHETHER EXPRESS OR IMPLIED BY STATUTE, COMMON LAW OR OTHERWISE ARE HEREBY EXCLUDED TO THE EXTENT PERMITTED BY LAW.**

# SCHEDULE F-1

## SCOPE OF PROCESSING

This Schedule forms an integral part of the DSA and must be completed by the parties.

## Part A: PURPOSE OF SHARING

The purpose(s) of the Processing to be carried out by the State in respect of the Shared Data include(s) without limitation the following:

Data will be shared with Contractor to assist in the ongoing curation of datasets suitable for detailed and timely analysis of the criminal justice systems within the State. With these datasets, Contractor will produce analysis and measurements related to the performance and outcomes of these systems, including variance along dimensions within the data, trends over time, patterns across offices, patterns across state geography, and other such breakdowns which serve to provide sufficiently detailed and useful analysis. This analysis is to be provided to leadership and staff within the State's Department of Corrections to assist in the guidance of department policy and practice.

## Part B: SHARED DATA TO BE PROCESSED

The Shared Data includes the following categories of non-personal information:

- Assessments - assessments of a particular person at a particular time, e.g., STATIC-99

- Sentence Groups - groups of related sentences to incarceration and supervision

- Fines - fines imposed as part of sentencing

- Incarceration Sentences - sentences of a person to a period of incarceration

- Supervision Sentences - sentences of a person to a period of supervision

- Charges - charges brought against a person for a particular offense

- Arrests - records of arrests related to the aforementioned charges

- Bonds - bonds held prior to a particular court appearance or case

- Court Cases - cases carried out in court for some set of charges

- Incarceration Periods - periods of incarceration experienced in some facility/institution by a particular person

- Incarceration Incidents - behavioral or disciplinary incidents involving some incarcerated person

- Parole Decisions - decisions by the parole board as to whether to grant parole or not

- Supervision Periods - periods of supervision experienced either in some facility/institution or in the field by a particular person

- Supervision Violations - violations of supervision committed by (or accused towards) a particular person under supervision

- Supervision Violation Responses - measures imposed/executed by criminal justice agents in response to particular supervision violations

- Supervision Contacts - records of contacts between supervision officers and the people they supervise

- Program Metadata - information about programs (e.g. rehabilitation, treatment, education, training) available to persons incarcerated or supervised within the state

- Program Participation - records of participation by particular people in the aforementioned programs


The Shared Data includes the following categories of personal information:

- Person - metadata about an individual who has interacted with the criminal justice systems in the State, including information to assist in entity matching so that we can link different records of persons in different incoming datasets. This includes identifiable information, namely some subset of state-provided identifiers, agency-provided identifiers, full names, aliases, birthdays, genders, races, ethnicities, and addresses.

## Part C: INDIVIDUALS

The Shared Data relates to the following categories of Individuals:

Any persons for whom records exist indicating that they have interacted with the criminal justice systems in the State. This includes individuals who have been arrested, charged, sentenced, incarcerated, or placed under community supervision. This may include individuals who were sentenced within the State but served that sentence in other states or commonwealths, as well as individuals who were sentenced in other states or commonwealths and served those sentences within the State.