



**STATE OF MICHIGAN PROCUREMENT**  
 Department of Technology, Management & Budget  
 320 S. Walnut Street, Lansing, MI 48909

**NOTICE OF CONTRACT**

NOTICE OF CONTRACT NO. **171-24000000428**  
 between  
 THE STATE OF MICHIGAN  
 and

<b>CONTRACTOR</b>	Alcohol Monitoring Systems, Inc.
	1241 West Mineral Avenue, Suite 200
	Littleton, CO 80120
	Josh Fobes
	303-775-3919
	JFobes@scramsystems.com
	CV0013492

<b>STATE</b>	Program Manager	Various	MDOC
	Contract Administrator	Nichole Harrell	DTMB
		517-449-9245	
		harrelln@michigan.gov	

<b>CONTRACT SUMMARY</b>			
<b>DESCRIPTION: Alcohol Monitoring Solutions</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
6/1/2024	5/31/2029	Five 1-Year (Through 5/31/2034)	N/A
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
MISCELLANEOUS INFORMATION			
New contract established via RFP 171-230000001926. Approved by State Administrative Board on 2/27/2024.  Program Managers: 1. MDOC: William Dunham, 517-281-7730, dunhamb@michigan.gov 2. DTMB: Jason Bojl, 517-242-6496, boylj@michigan.gov			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$7,454,843.75</b>

**FOR THE CONTRACTOR:**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Authorized Agent Signature**

\_\_\_\_\_  
**Authorized Agent** (Print or Type)

\_\_\_\_\_  
**Date**

**FOR THE STATE:**

\_\_\_\_\_  
**Signature**

**Jennifer Bronz – IT Category Manager**  
Name & Title

**DTMB – Central Procurement Services**  
Agency

\_\_\_\_\_  
**Date**

# SOFTWARE CONTRACT TERMS AND CONDITIONS

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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 Alcohol Monitoring Systems, Inc. (“**Contractor**”), a Delaware corporation. This Contract is effective on 6/1/2024 (“**Effective Date**”), and unless terminated, will expire five years from the Effective Date. On 5/31/2029 (the “**Term**”).

This Contract may be renewed for up to five additional one-year period(s) (potentially through 5/31/2034). 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 a 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**.

“**Acceptance Tests**” means such tests as may be conducted in as described in **Section 9** and any applicable 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**.

“**Approved Third Party Components**” means all third party components, including Open-Source Components, that are included in or used in connection with the Software and are specifically identified by Contractor in the Contractor’s Bid Response or as part of the State’s Security Accreditation Process defined in Schedule E – Data Security Requirements.

“**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.

“**Contract Change**” has the meaning set forth in **Subsection 2.2**.

“**Change Notice**” means a writing executed by the parties to the Contract memorializing a change to the Contract.

“**Change Proposal**” has the meaning set forth in **Subsection 2.2**.

**“Change Request”** has the meaning set forth in **Subsection 2.2.**

**“Confidential Information”** has the meaning set forth in **Subsection 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 Schedule A or subsequent Change Notices.

**“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 Schedule A or subsequent Change Notices 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.

**“Customization”** means State-specific changes to the Software's underlying Source Code or structural data model changes.

**“Deliverables”** means the Software, Services, Documentation, any Hardware, 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.

**“Deposit Material”** refers to material required to be deposited pursuant to **Section 28.**

**“Disaster Recovery Plan”** refers to the set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations and to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives.

**“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 Deliverable.

**“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 **Subsection 23.1**.

**“Hardware”** means all computer hardware or other equipment provided by Contractor under this Contract, if any, including but not limited to any related accessories.

**“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.

**“Hosted Services”** means the hosting, management and operation of the Operating Environment, Software, other services (including support and subcontracted services), and related resources for 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**.

**“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.

**“Loss or Losses”** means all losses, including but not limited to, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

**“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.

**“Nonconformity”** or **“Nonconformities”** means any failure or failures of a Deliverable, to conform to the requirements of this Contract.

**“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 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, have access to or have the ability to control 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 any physical location(s) designated by the State in, or in accordance with, this Contract or a Statement of Work for delivery and installation of the Deliverable, if applicable.

“**Software**” means Contractor’s software as set forth in a Statement of Work, and any Maintenance Releases or New Versions provided to the State and any Customizations or Configurations made by or for the State pursuant to this Contract, and all copies of the foregoing permitted under this Contract.

“**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, RFP 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**.

“**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 but not limited to documents, data, know-how, ideas, methodologies, specifications, software, hardware, 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 Deliverables; and (c) perform other duties as may be specified in a Statement of Work. Program Managers will be identified in Schedule A or subsequent Change Notices.

“**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 maintenance and support services Contractor is required to or otherwise does provide to the State under the Service Level Agreement.

“**System**” has the meaning set forth in **Schedule I**.

“**System Acceptance**” has the meaning set forth in **Schedule I**.

“**System Integration Testing**” has the meaning set forth in **Schedule I**.

“**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**.

“**Transition Period**” has the meaning set forth in **Section 16**.

“**Transition Responsibilities**” has the meaning set forth in **Section 16**.

“**Unauthorized Removal**” has the meaning set forth in **Subsection 2.5**.

“**Unauthorized Removal Credit**” has the meaning set forth in **Subsection 2.5**.

“**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 of user derived Information or additional user input.

“**Warranty Period**” means the 90 calendar-day period commencing on the date of the State's Acceptance of the Software or System (if Contractor is providing Hardware under this Contract) 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 Customizations, 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 Deliverables pursuant to Statement(s) of Work entered into under this Contract. Contractor will provide all 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 Statement of Work Requirements. 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 that time is of the essence with respect to Contractor's obligations under each Statement of Work 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 strictly required.

2.2 Change Control Process. The State may at any time request in writing (each, a "**Change Request**") changes to the Contract generally or any Statement of Work, including changes to the Services and Implementation Plan (each, a "**Contract Change**"). Upon the State's submission of a Change Request, the parties will evaluate and implement all Changes in accordance with this Section.

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

- (i) a written description of the proposed Changes to any Deliverables;
- (ii) an amended Implementation Plan reflecting: (A) the schedule for commencing and completing any additional or modified 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 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. Upon the State's approval of the Change Proposal or the parties' agreement on all proposed modifications, as the case may be, each parties' Contractor Administrator will sign a Change Notice.,

(c) However, if the parties fail to enter into a Change Notice within 15 Business Days following the State's response to a Change Proposal, the State may, in its discretion:

- (i) require Contractor to perform or provide the Deliverables under the existing Statement of Work without the Change;
- (ii) require Contractor to continue to negotiate a Change Notice;
- (iii) initiate a Dispute Resolution Procedure; or
- (iv) notwithstanding any provision to the contrary in a Statement of Work, terminate this Contract under **Subsection 16.1**.

(d) No Change will be effective until the parties have executed a Change Notice. Notwithstanding the foregoing, no Statement of Work or Change Notice executed after the Effective Date will be construed to amend or modify this Contract in any way, unless it specifically states its intent to do so and cites the section or sections amended. 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 best 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 Nonconformities 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.

(f) Contractor may, on its own initiative and at its own expense, prepare and submit its own Change Request to the State. However, the State will be under no obligation to approve or otherwise respond to a Change Request initiated by Contractor.

### 2.3 Contractor Personnel.

(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 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 request, or as otherwise specified in a Statement of Work, perform background checks on all Contractor Personnel prior to their assignment. The scope is at the

discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks. 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, 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.

(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) Upon the occurrence of any event set forth in **Subsections 2.4(c)(i-iii)** above, Contractor will promptly replace its Contractor Project Manager. 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.

(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 Deliverables, will be deemed Contractor Personnel) to the same extent as if such acts or omissions were by Contractor or its employees;

(b) name the State a third-party beneficiary under Contractor's Contract with each Permitted Subcontractor with respect to the Services;

(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:
Nichole Harrell 320 S. Walnut Lansing, MI 48933 harrelln@michigan.gov 517-449-9245	Josh Fobes 1241 W. Mineral Avenue Littleton, CO 80120 jfobes@scramsystems.com 303-755-3919

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

**5. Software License.**

**5.1 Perpetual License.** If Contractor is providing the State with a license to use its Software indefinitely, then Contractor hereby grants to the State and its Authorized Users a non-exclusive, royalty-free, perpetual, irrevocable right and license to use the Software and Documentation in accordance with the terms and conditions of this Contract, provided that:

(a) The State is prohibited from reverse engineering or decompiling the Software, making derivative works, modifying, adapting or copying the Software except as is expressly permitted by this Contract or required to be permitted by law;

(b) The State is authorized to make copies of the Software for backup, disaster recovery, and archival purposes;

(c) The State is authorized to make copies of the Software to establish a test environment to conduct Acceptance Testing;

(d) Title to and ownership of the Software shall at all times remain with Contractor and/or its licensors, as applicable; and

(e) Except as expressly agreed in writing, the State is not permitted to sub-license the use of the Software or any accompanying Documentation.

**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) Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, irrevocable 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 governmental 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 or useful 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 **Subsection 5.2(c)** below.

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

(c) Use. 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. Such Fees will be Contractor's sole and exclusive remedy for use of the Software, including any excess use.

**5.3 Certification.** 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**. Such written certification may occur no more than once in any 24 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. Payment under this provision shall be Contractor's sole and exclusive remedy to cure these issues.

**5.4 State License Grant to Contractor.** 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. Third Party Components.** At least 30 days prior to adding new Third Party Components, Contractor will provide the State with notification information identifying and describing the addition. Throughout the Term, on an annual basis, Contractor will provide updated information identifying and describing any Approved Third Party Components included in the Software.

## **7. Intellectual Property Rights**

### 7.1 Ownership Rights in Software

- (a) For purposes of this **Section 7** only, the term "Software" does not include Customizations.
- (b) Subject to the rights and licenses granted by Contractor in this Contract and the provisions of **Subsection 7.1(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.
- (c) 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** The State is and will be the sole and exclusive owner of all right, title, and interest in and to all Work Product developed exclusively for the State under this Contract, including all Intellectual Property Rights. In furtherance of the foregoing:

- (a) Contractor will create all Work Product as work made for hire as defined in Section 101 of the Copyright Act of 1976; and
- (b) to the extent any Work Product, or Intellectual Property Rights do not qualify as, or otherwise fails to be, work made for hire, Contractor hereby:
  - (i) assigns, transfers, and otherwise conveys to the State, irrevocably and in perpetuity, throughout the universe, all right, title, and interest in and to such Work Product, including all Intellectual Property Rights; and
  - (ii) irrevocably waives any and all claims Contractor may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of *droit moral* with respect to the Work Product.

## 8. Software Implementation.

8.1 Implementation. Contractor will as applicable; deliver, install, configure, integrate, and otherwise provide and make fully 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 Site Preparation. 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 provide such 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** 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 referenced in **Subsection 9.1(a)**, and be conducted diligently for up to 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 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 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 this **Section**.

(b) The State may suspend Acceptance Tests and the corresponding Testing Period by written notice to Contractor if the State discovers a material Nonconformity in the tested Software or



part or feature of the Software. In such event, Contractor will immediately, and in any case within 10 Business Days, correct such Nonconformity, 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 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 Nonconformity in the tested Software.

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

(b) If such notice is provided by the State, is signed by the State Program Managers or their designees, and identifies no Nonconformities, 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 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 Nonconformities, on the completion of which the State will, as appropriate:

(i) notify Contractor in writing of Nonconformities 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 **Subsection 9.4** and **Subsection 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 Failure of Acceptance Tests.** If Acceptance Tests identify any Non-Conformities, Contractor, at Contractor's sole cost and expense, will remedy all such Nonconformities and re-deliver the Software, in accordance with the requirements set forth in the Contract. Redelivery will occur as promptly as commercially possible and, in any case, within 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 **Subsection 9. (a)** or **(c)(i)**, identifying any Nonconformities.

**9.5 Repeated Failure of Acceptance Tests.** If Acceptance Tests identify any Nonconformity 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 in accordance with **Section 16**.

9.6 Acceptance. Acceptance (“**Acceptance**”) of the Software (subject, where applicable, to the State’s right to Integration Testing) will occur on the date that is the earliest of the State’s delivery of a notice accepting the Software under **Subsection 9.3(b)**, or **(c)(ii)**. Acceptance of the Software may be conditioned upon System Acceptance, if Contractor is providing Hardware, under the terms of this Contract.

## **10. Non-Software Acceptance.**

10.1 If Contractor is providing Hardware under this Contract, Contractor will comply with the requirements for delivery, acceptance and warranty of Hardware as set forth in **Schedule H**.

10.2 System Acceptance. If Contractor is providing Hardware under this Contract, Contractor will comply with the requirements for acceptance testing of the Software and Hardware together as a System, as set forth in **Schedule I**.

10.3 All other non-Software 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 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 Deliverables are accepted but noted deficiencies must be corrected; or (b) the non-Software Deliverables are rejected. If the State finds material deficiencies, it may: (i) reject the non-Software Deliverables without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with **Section 16**.

10.4 Within 10 business days from the date of Contractor’s receipt of notification of acceptance with deficiencies or rejection of any non-Software Deliverables, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable non-Software Deliverables to the State. If acceptance with deficiencies or rejection of the non-Software Deliverables impacts the content or delivery of other non-completed non-Software 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.

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

**11. Assignment.** Contractor may not assign this Contract or any of its rights or delegate any of its duties or obligations hereunder, voluntarily, or involuntarily, whether by merger (regardless of whether it is the surviving or disappearing entity), conversion, consolidation, dissolution, or operation of law to any other party without the prior written approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other governmental entity if such assignment is made reasonably necessary by operation of controlling law or regulation. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

**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 Deliverables provided as specified in Statement(s) of Work. Invoices must include an itemized statement of all charges.

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

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.

13.4 Right of Setoff. 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.

13.5 Taxes. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if 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 this Section.

(a) The Fees will not be increased at any time except for the addition of additional licenses, the fees for which licenses will also remain firm in accordance with the Pricing set forth in the Pricing Schedule.

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

#### **14. Liquidated Damages.**

14.1 The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law.

14.2 The parties acknowledge and agree that Contractor could incur liquidated damages for more than one event.

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 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 suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either:

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

(b) terminate the Contract or delivery order. The State will not pay for activities that have been suspended, 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) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State:

i) endangers the value, integrity, or security of State Systems, State Data, or the State's facilities or personnel;

(ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; or

(iii) breaches any of its material duties or obligations under this Contract. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

(b) If the State terminates this Contract under this **Subsection 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 convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in **Subsection 16.2**.

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

16.2 Termination for Convenience. The State may immediately terminate this Contract in whole or in part, without penalty and for any reason or no reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must:

(a) cease performance 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 **Subsection 16.3**. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities to the extent the funds are available.

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, 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 22**, including without limitation, 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.

## **17. Indemnification**

17.1 General Indemnification. Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to:

- (a) any breach by Contractor (or any of Contractor’s employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract;
- (b) any infringement, misappropriation, or other violation of any Intellectual Property Right or other right of any third party;
- (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor’s employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and
- (d) any acts or omissions of Contractor (or any of Contractor’s employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

- (a) regular updates on proceeding status;
- (b) participate in the defense of the proceeding;

(c) employ its own counsel; 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 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 are in addition to, and not in lieu of, all other remedies that may be available to the State under this Contract or otherwise, including the State's right to be indemnified for such actions.

18.2 If any Deliverable, 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 Deliverable, 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 Deliverable and all of its components non-infringing while providing fully equivalent features and functionality.

18.3 If neither of the foregoing is possible notwithstanding Contractor's best 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 such Allegedly Infringing Materials and any other aspects of the Deliverable provided under a Statement of Work for the Allegedly Infringing Materials that the State cannot reasonably use as intended under this Contract; and

(b) in any case, at its sole cost and expense, secure the right for the State to continue using the Allegedly Infringing Materials for a transition period of up to 6 months to allow the State to replace the affected features of the Deliverable without disruption.

18.4 If Contractor directs the State to cease using any Deliverable under **Subsection 18.3**, the State, at its sole discretion, will be entitled to declare such a direction from the Contractor to cease use a material breach of the Contract and may terminate this Contract under **Section 16**. Unless the claim arose against the Deliverable 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 Deliverable by the State without the prior knowledge and approval of Contractor.

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

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

19.2 The State's Limitation of Liability. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.

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

- (a) User Data; and
- (b) any other 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) protected 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 Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Services, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Services. Contractor must:

- (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss;
- (b) use and disclose State Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law;
- (c) keep and maintain State Data in the continental United States and
- (d) not use, sell, rent, transfer, mine, distribute, commercially exploit, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. Contractor's misuse of State Data may violate state or federal laws, including but not limited to MCL 752.795.

21.4 Third-Party Requests. Contractor will immediately notify the State upon receipt of any third-party requests which in any way might reasonably require access to State Data. Contractor will notify the State Program Managers or their designees by the fastest means available and also in writing. Contractor must provide such notification within twenty-four (24) hours from Contractor's receipt of the request. Contractor will not respond to subpoenas, service of process, FOIA requests, and other legal requests related to the State without first notifying the State. Upon request by the State, Contractor must provide to the State, its proposed response to the third-party request with adequate time for the State to review, and, as it deems necessary, to revise the response, object, or take other action.

21.5 Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, 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 24 hours of becoming aware of such occurrence;

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

21.6 The parties agree that any damages arising out of a breach of the terms set forth in this **Section** are to be considered direct damages and not consequential damages.

**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.

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

**22.2 Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to the Contractor’s subcontractor is permissible where:

- (a) the subcontractor is a Permitted Subcontractor;
- (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Permitted Subcontractor's responsibilities; and
- (c) Contractor obligates the Permitted Subcontractor in a written contract to maintain the State’s Confidential Information in confidence. At the State’s request, any of the Contractor’s and Permitted Subcontractor’s Representatives may be required to execute a separate agreement to be bound by the provisions of this **Subsection 22.2**.

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

**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 and obtain injunctive relief against the breach or threatened breach of the foregoing

undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

22.5 Surrender of Confidential Information. Upon termination or expiration of this Contract or a Statement of Work, in whole or in part, each party must, within 5 Business Days from the date of termination or expiration, 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 sanitization methods or as otherwise instructed by the State. If the State determines that the return of any Confidential Information is not feasible or necessary, Contractor must destroy the Confidential Information as specified above. The Contractor must certify the destruction of Confidential Information (including State Data) in writing within 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. 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 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 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Services are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of this Contract must be paid or refunded within 45 calendar days.

23.3 Application. This **Section 23** applies to Contractor, any Affiliate, and any Permitted Subcontractor that performs Services in connection with this Contract.

**24. Support Services.** 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, in consideration of the State's payment of Fees for such services in accordance with the rates set forth in the Pricing Schedule.

**25. 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.

**26. Training.** Contractor will provide, at no additional charge, training on the Deliverable provided 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 the Deliverables 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.

## **27. Maintenance Releases; New Versions**

27.1 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.

27.2 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.

27.3 Installation. The State has no obligation to install or use any Maintenance Release or New Versions. If the State wishes to install any Maintenance Release or New Version, the State will have the right to have such Maintenance Release or New Version installed, in the State's discretion, by Contractor or other authorized party as set forth in a Statement of Work. Contractor will provide the State, at no additional charge, adequate Documentation for installation of the Maintenance Release or New Version, which has been developed and tested by Contractor and Accepted Tested by the State. The State's decision not to install or implement a Maintenance Release or New Version of the Software will not affect its right to receive Support Services throughout the Term of this Contract.

27.4 Supported Third Party and Open-Source Components. Contractor will utilize only currently supported versions of all Third Party or Open-Source Components and will notify the State when not using the most recently published Third Party and Open-Source Components.

## **28. Source Code Escrow**

28.1 Escrow Contract. The parties may enter into a separate intellectual property escrow agreement. Such escrow agreement will govern all aspects of Source Code escrow and release. The cost of the escrow will be the sole responsibility of Contractor.

28.2 Deposit. Within 30 business days of the Effective Date, Contractor will deposit with the escrow agent, pursuant to the procedures of the escrow agreement, the Source Code for the Software, as well as the Documentation and names and contact information for each author or other creator of the Software. Promptly after release of any update, upgrade, patch, bug fix, enhancement, new version, or other revision to the Software, Contractor will deposit updated Source Code, documentation, names, and contact information with the escrow agent (all of which is collectively referred to herein as "**Deposit Material**").

28.3 Verification. At State's request and expense, the escrow agent may at any time verify the Deposit Material, including without limitation by compiling Source Code, comparing it to the Software, and reviewing the completeness and accuracy of any and all material. In the event that the Deposit Material does not conform to the requirements of **Subsection 28.2** above:

(a) Contractor will promptly deposit conforming Deposit Material; and

(b) Contractor will pay the escrow agent for subsequent verification of the new Deposit Material. Any breach of the provisions of this **Section 28** will constitute material breach of this Contract, and no further payments will be due from the State until such breach is cured, in addition to any other remedies the State may have.

**28.4 Deposit Material License.** Contractor hereby grants the State a license to use, reproduce, and create derivative works from the Deposit Material, provided the State may not distribute or sublicense the Deposit Material or make any use of it whatsoever except for such internal or governmental uses as necessary to maintain and support the Software. Copies of the Deposit Material created or transferred pursuant to this Contract are licensed, not sold, and the State receives no title to or ownership of any copy or of the Deposit Material itself. The Deposit Material constitutes Confidential Information of Contractor pursuant to **Section 22** (Non-disclosure of Confidential Information) of this Contract (provided no provision of **Subsection 22.4** calling for return of Confidential Information before termination of this Contract will apply to the Deposit Material).

## **29. Contractor Representations and Warranties.**

**29.1 Authority.** Contractor represents and warrants to the State that:

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

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

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

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

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

**29.2 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 purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Bidder to the RFP; 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) 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 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 immediately to the Contract Administrator.

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

(a) Contractor 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;

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

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

(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) neither its grant of the license, nor its performance under this Contract does or to its knowledge 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) 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) as provided by Contractor, the Software and Services do not and will not at any time during the Term contain any:

(i) Harmful Code; or

(ii) Third party or Open-Source Components that operate in such a way that it is developed or compiled with or linked to any third party or Open-Source Components,

other than Approved Third Party Components specifically described in a Statement of Work.

(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) Contractor 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.

(j) when used in the Operating Environment (or any successor thereto) in accordance with the Documentation, all Software as provided by Contractor, will be fully operable, meet all applicable specifications, and function in all 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) no Maintenance Release or New Version, when properly installed in accordance with this Contract, will have a material adverse effect on the functionality or operability of the Software.

(m) all Configurations or Customizations made during the Term will be forward-compatible with future Maintenance Releases or New Versions and be fully supported without additional costs.

(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.



29.4 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS CONTRACT, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THIS CONTRACT.

**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 including an offer of employment; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any Permitted Subcontractor that provides 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 this Contract if the name of the Contractor, or the name of a subcontractor, manufacturer, or supplier of the Contractor, subsequently appears on the Unfair Labor Practice register compiled under MCL 423.322.

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

**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.** Any right, obligation, or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.

**42. Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract for transactions with MiDEAL members, and other states (including governmental subdivisions and authorized entities). For clarity, Contractor will not be obligated to pay an additional 1% administrative fee for payments made to the Contractor under the Contract for transactions with the State itself. Administrative fee payments must be made online by check or credit card at: <https://www.thepayplace.com/mi/dtmb/adminfee>

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to [MiDeal@michigan.gov](mailto: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](http://www.michigan.gov/mideal).

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

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

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

**44. Contract Modification.** This Contract may not be amended or modified in any way, except by a properly signed **Change Notice**. Notwithstanding the foregoing, no subsequent Statement of Work or 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 **Subsection 16.1**.

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

46.5 Failure to comply with the requirements in this **Section 47** 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. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.

**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 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 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 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:

<b>Schedule A</b>	Statement of Work
<b>Schedule B</b>	Pricing Schedule
<b>Schedule C</b>	Insurance Schedule
<b>Schedule D</b>	Service Level Agreement
<b>Schedule E</b>	Data Security Requirements
<b>Schedule F</b>	Disaster Recovery Plan
<b>Schedule G</b>	Hardware
<b>Schedule H</b>	System Acceptance Testing

**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.

# SCHEDULE A – STATEMENT OF WORK

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## 1. DEFINITIONS

The following terms have the meanings set forth below. All initial capitalized terms that are not defined in this Schedule shall have the respective meanings given to them in Section 1 of the Contract Terms and Conditions.

Term	Definition
Offender	An individual who is under the jurisdiction of and actively supervised by the MDOC or other sentencing jurisdiction.
Parolee	A term of community supervision afforded by the Parole Board to a prisoner who has served the minimum portion of his or her sentence, less good time or disciplinary credits if applicable.
Probationer	Court ordered community supervision of an individual who has been convicted of a misdemeanor or felony.

## 2. PURPOSE

Contractor will provide alcohol monitoring hardware and monitoring support services in a Contractor-Hosted Software Solution for MDOC offender populations including, but not limited to, out-of-state offenders monitored by the State of Michigan.

The State currently owns 1,846 SCRAM CAM + Landline Base stations, 422 SCRAM Wireless Base Stations and 51 SCRAM Remote Breath Pro. Contractor will support these devices for the duration of the contract regardless of any network, hardware or software changes. If for any reason Contractor cannot support these devices for the whole contract life cycle, Contractor will replace them at no expense to the State.

Contractor will provide:

**SCRAM Continuous Alcohol Monitoring (SCRAM CAM).** The ankle-worn device tests for alcohol 24/7 by automatically sampling the wearer’s perspiration every 30 minutes. It is the only system with a thorough record of independent testing and court admissibility. With a 99.3% average daily compliance rate, it has proven its ability to deter drinking and support long-term behavior change. Our next generation CAM device will include location data and faster alcohol detection, as we strive to remain the world leader in transdermal continuous alcohol technology.

**SCRAM Remote Breath Pro.** A discreet, mobile breath testing device that detects alcohol consumption and provides a GPS location with both taken and missed tests. The system also saves time with government security-grade facial verification—reducing manual matching by 90-95%. This is the newest remote testing breathalyzer on the market, and the new LCD screen provides multiple options for future enhancements.

**SCRAM Optix™.** Officers can access data for all SCRAM Systems products through SCRAM Optix. Instead of logging on to multiple systems, SCRAM Optix puts all technologies on one dashboard. Officers have efficient and well-organized access to data, saving time and effort. The software has a mobile-adaptive design that means the full software application is available 24/7 via any Internet-enabled device, including tablets and smartphones. SCRAM Optix allows officers to manage their entire electronic monitoring caseload with a single login.

**Monitoring Services.** We include all the value-add services needed for optimal program support. This

includes 24/7 customer support, analytics and reporting, court support, and beyond.

**Account Management.** Contractor will continue to provide account management services by its local Michigan team, which will be available for any needed troubleshooting, training, or onsite services.

### **Offenders Located Outside the State Of Michigan**

Contractor has locations throughout the US and a vast service provider network that can provide device maintenance services for offenders located outside the State of Michigan. Contractor's Account Manager will coordinate services with the SCRAM agency nearest the offender's location as a courtesy to prevent any lengthy and potentially costly travel hardship for the offender.

**Shipping of Equipment/Supplies:** Regardless of work location, Contractor will be responsible for the cost of shipping and delivery for all electronic monitoring equipment and supplies throughout the period of service. In addition, Contractor will be responsible for all shipping costs related to repairs and/or maintenance of equipment that is not fully functioning, including those where the offender may have damaged or degraded the equipment. At no additional cost to the State, the integrated hardware components provided to the MDOC will be of the latest technology available from the manufacturer of the equipment. All devices provided to the State will be new equipment which have not been previously used unless the State approves the use of refurbished units in writing in advance.

Contractor's pricing includes standard 3-day shipping. Expedited shipping is available upon request. However, because we supply a large shelf stock, this is rarely needed. Through our standard Return Merchandise Authorization (RMA) procedures, Contractor will pay for all RMA return shipping costs related to repairs and/or maintenance of equipment that is not fully functioning through no fault of the MDOC. Contractor ensures that all equipment used will be the current version and will be new or perform "like new." All equipment will be continuously upgraded through the life of the contract, with the MDOC receiving the latest revision at no additional cost.

## **3. IT ENVIRONMENT RESPONSIBILITIES**

### **Definitions:**

- **Facilities** – Physical buildings containing Infrastructure and supporting services, including physical access security, power connectivity and generators, HVAC systems, communications connectivity access and safety systems such as fire suppression.
- **Infrastructure** – Hardware, firmware, software, and networks, provided to develop, test, deliver, monitor, manage, and support IT services which are not included under Platform and Application.
- **Platform** – Computing server software components including operating system (OS), middleware (e.g., Java runtime, .NET runtime, integration, etc.), database and other services to host applications.
- **Application** – Software programs which provide functionality for end user and Contractor services.
- **Storage** – Physical data storage devices, usually implemented using virtual partitioning, which store software and data for IT system operations.
- **Backup** – Storage and services that provide online and offline redundant copies of software and data.
- **Development** - Process of creating, testing and maintaining software components.



<b>Component Matrix</b>	Identify contract components with contractor and/or subcontractor name(s), if applicable
Facilities	Contractor will provide. No Subcontractors used.
Infrastructure	Contractor will provide. No Subcontractors used.
Platform	Contractor will provide. No Subcontractors used.
Application	Contractor will provide. No Subcontractors used.
Storage	Contractor will provide. No Subcontractors used.
Backup	Contractor will provide. No Subcontractors used.
Development	Contractor will provide. No Subcontractors used.

#### 4. 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.

**Offenders with Disabilities:** The Contractor must have the ability to provide equipment and/or supplies to enable access to the electronic monitoring program for program offenders with disabilities.

#### 5. USER TYPE AND CAPACITY

Contractor's Solution must meet the expected number of concurrent Users detailed below:

Type of User	Access Type	Number of Users	Number of Concurrent Users
State Employee	Read, Write, & Admin	100	50
State Employee	Read & Write	1000	250
Approved Third Parties (e.g., law enforcement agencies, juvenile detention officers, county jail officials, district court officials)	Read & Write	100	25
<b>TOTAL</b>		<b>1200</b>	<b>325</b>

#### 6. 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 Administrative Guide ([1340.00.020.08 Enterprise Identity and Access Management Services Standard \(michigan.gov\)](#)), which consist of:

- 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.

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

To integrate with the SOM MILogin solution, the Contractor's solution must support SAML, or OAuth or OpenID interfaces for the SSO purposes.

## **7. DATA RETENTION AND REMOVAL**

The Solution must allow the State to retain all data for the entire length of the Contract. The Solution must allow the State to delete data, even data that may be stored off-line or in backups. The Solution must allow the State to retrieve data, even data that may be stored off-line or in backups.

To ensure availability of all data, Contractor will replicate all data daily to online storage arrays at multiple geographic locations. The database will be tested weekly to ensure system backup can be used on recovery of any system. In addition, Contractor completes a data "snapshot" every four hours to maintain backups. Transaction logs for all activity ensure that a data restore will be complete, and that each transaction is available. A full mirror of the database is maintained, which is approximately 20 seconds behind the production database, with full replication and data journaling in a near real-time mode.

Data Backups:

- Backup files are created every 24 hours and a new backup is restored every 30 days to test the backup process to ensure 100% backup validation with benchmarks for restoration.
- Backups are copied to online SANs (Storage Array Networks) in multiple data centers.
- Backups are tested weekly by restoring the backup to a secondary database server, then running reports to ensure the backup is complete. The configuration of this secondary server is similar to Contractor' production database nodes; hence, this server can be pressed into service as a production replacement in the unlikely event of a catastrophic failure. The server ensures that data from the previous day's backup are restored and running as of 4:00 AM each morning.
- Back-ups are kept online (not on tape) for faster restores and prompt availability.
- Due to privacy laws, 90 days of backups are stored online. However, all data is archived indefinitely for the length of the contract. Upon request, Contractor will provide the State with a copy of all data via physical media or an electronic copy or remove all data. Should the contract end, Contractor will work with the agency and applicable privacy laws to determine how offender data should be handled.

Contractor is the processor of data and not the owner. Contractor will retain data until directed to delete / eliminate data records by the State. Data will not be deleted except by request from the State. Backup data will age out of the system after 30 days. In the event Contractor deletes data at the State's request, data would be irretrievable 30 days after deletion.

## 8. END USER AND IT OPERATING ENVIRONMENT

The SOM IT environment includes currently supported versions of X86 VMware, IBM Power VM, MS Azure/Hyper-V and Oracle VM, with supporting platforms, enterprise storage, monitoring, and management running in house and in cloud hosting provides.

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 plug-ins or extensions. The rules used to base the minimum browser requirements include:

- Over 2% of desktop and mobile & tablet site traffic, measured using Michigan.gov sessions statistics and
- The current browser identified and approved as the State of Michigan standard

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

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

## 9. SOFTWARE

Software requirements are identified in **Schedule A – Table 1 Business Specifications Worksheet**.

Contractor must provide a list of any third party components, and open source component included with or used in connection with the deliverables defined within this Contract. This information must be provided to the State on a quarterly basis and/or if a new third party or open source component is used in the performance of this Contract.

### Look and Feel Standards

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

### Mobile Responsiveness

If the software will be used on a mobile device, the Software must utilize responsive design practices to ensure the application is accessible via a mobile device.

### SOM IT Environment Access

If Contractor must access State environments, it must do so using one or more of the following methods:

- State provided VDI (Virtual Desktop Infrastructure) where compliant.
- State provided and managed workstation device.
- Contractor owned and managed workstation maintained to all State policies and standards.
- Contractor required interface with State systems which must be maintained in compliance with State policies and standards as set forth in **Schedule E – Data Security Requirements**.
- From locations within the United States and jurisdictional territories.

### Third-Party & Open Source Components

- For SCRAM Systems TouchPoint application, Contractor leverages Auth0 by Okta for user authentication.

- Silicon Labs CP210x Drivers are required for 'Direct Connect' (used in SCRAM CAM installation).
- Microsoft .Net Framework 4 is required to run 'Direct Connect'.

## 10. INTEGRATION

Other than Contractor's solution integrating with the State's IT Identity and Access Management (IAM) detailed in Statement of Work Section 7 above, no additional system integration services are required at this time.

## 11. MIGRATION

Data migration services are not required at this time.

## 12. HARDWARE

Contractor will provide all Hardware, parts, supplies, supportive consumables and equipment necessary to fulfill the scope and ensure functionality of the device(s), including anything needed to install and remove devices. The State is open to proposals for either buying or leasing the Hardware and associated items.

Contractor will provide the following:

**SCRAM CAM.** The patented SCRAM CAM Bracelet is attached to the client's ankle and worn 24/7. It monitors alcohol consumption by sampling the insensible (gaseous) perspiration constantly being emitted from the body. The bracelet transmits data by RF signal to the SCRAM Base Station. When data is received by the base station, it is transmitted to the monitoring software, SCRAM Optix, by telephone landline, Ethernet, Wi-Fi, or cellular communication.

- SCRAM CAM Bracelet hardware and consumables include: the CAM device, Direct Connect, batteries, faceplates, tamper clips, exhaust caps, straps, faceplates, removal tools, Torx drivers, shear cutters, and magnets.
- SCRAM Base Station hardware and consumables include: base station, batteries, phone cord, Ethernet cord, and chargers.

**SCRAM Remote Breath Pro.** The compact and durable SCRAM Remote Breath Pro provides versatile breath alcohol monitoring with options for scheduled, random, on-demand, and client-initiated testing, and the system takes a GPS location with both taken and missed tests. All results are transmitted cellularly to the monitoring software, SCRAM Optix.

- SCRAM Remote Breath Pro hardware, parts, and consumables include: the breath testing device, a fitted carrying case, mouthpieces/straws, and a charger.

Officers can access data for all SCRAM Systems products through SCRAM Optix. Instead of logging on to multiple systems, SCRAM Optix puts information for all clients on all technologies on one dashboard. Officers have efficient and well-organized access to data, saving time and effort. With a mobile-adaptive design, Optix is fully accessible 24/7 via any Internet-enabled device, including tablets and smartphones.

## 13. TRAINING SERVICES

The Contractor must provide administration and end-user training for implementation, go-live support, and transition to customer self-sufficiency. Contractor must provide a training environment in which users can learn the to use system without harming the production environment. At the State's request, Contractor

will provide follow up training. On an ongoing basis, Contractor will also train staff newly employed or new to Alcohol Monitoring at the State's request. The State may, at its option, require training to be either in-person or web-based. Contractor will provide all training materials and equipment necessary to complete in-person training sessions.

## **SCRAM Systems Training**

Contractor will continue to provide on-site, hands-on, customized training for anyone who manages equipment or clients—all at no cost. Upon contract execution, Contractor will meet with key personnel to establish a plan of action that outlines the training logistics, a timeline, and unique program needs. Contractor will also continue to provide Level 2 (court) training.

In addition, all training and written documentation are available online at SCRAM Systems University.

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*The MDOC will receive initial and ongoing training for all SCRAM equipment and software at no cost.*

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## **Curriculum**

**General Overview.** The following elements of training apply to all products regardless of monitoring type:

- Enrolling a client
- Assigning equipment
- Selecting monitoring rate plan
- Selecting notification methods
- Setting notification parameters
- Understanding software dashboard features
- Managing alerts
- Installing device
- Anti-tamper features
- Battery replacement
- Strap replacement
- Inventory maintenance and management
- Using mobile access
- Understanding reports

**Product-Specific.** In addition to the general curriculum applicable to all products, Contractor will dedicate resources to focus on each specific product to be used by the MDOC. Contractor will work with the State to customize the curriculum and emphasize how that product can be best used within the protocols of the State's program.

Product-specific areas of concentration include:

- **SCRAM CAM** training concentrates on device function and what factors can affect 24/7 CAM monitoring. The curriculum includes discussion around the science of CAM and how our team of analysts determine an environmental vs. ingested drinking event, what constitutes a tamper attempt, notification of confirmed violations, available court support, and how SCRAM CAM can increase compliance rates for the MDOC.
- **SCRAM Remote Breath Pro** training covers essential basics of the hardware and how to enroll a client, creating a baseline for future alcohol testing. The training highlights the merits of automated facial identification and enhanced authentication. We also demonstrate how to set up testing, providing officers with hands-on experience. Officers will become familiar with the client prompts and viewing results in the software.

- **SCRAM Optix** software training focuses on the unique dashboard functionalities, applicable to a single device type, in addition to general software navigation. We demonstrate the “how-to” for each area of supervision, emphasizing dashboard options, alert criteria, client and case detail, and equipment configuration. Our team will work with the MDOC to customize training levels, including read-only, officer, administrative, or customized roles, depending on program needs.

### **Training Approach**

Contractor will provide live training, in person or via webinar; expert field services support; and dynamic training online resources available 24/7.

**Interactive Training.** Contractor will provide on-site, classroom-style training and live webinar training for all new customers. Our regional sales manager and account manager are experts at carefully and systematically ensuring that new customer training is applicable, comprehensive, timely, and delivered in a manner that best fulfills the MDOC’s needs. They will bring in subject matter experts and our field support services team, as needed, to ensure that all the MDOC’s needs are addressed from the program’s inception. Once the program is implemented, the account manager will continue to accommodate live training as needed, throughout the life of the contract.

**Customized Training Agenda.** When creating a training agenda, SCRAM Systems will work with the MDOC to ensure it is customized to meet their unique needs. Elements to consider when tailoring a plan may include, but are not limited to:

- |  |   |
|--|---|
| • Contract award date                  | • Training facility and resources available |
| • Program implementation date          | • Number of trainees and availability       |
| • Selected product types               | • Level of access required by user type     |
| • Program size                         | • Internal policies and protocols           |
| • Training location (onsite or remote) | • Follow-up training needs                  |

**Field Services Support.** The field support services team is comprised of highly trained product specialists and industry experts who provide professional service and support for SCRAM Systems customers. They assist with both onsite initial and refresher training, equipment installations for new programs, and additional maintenance and support when needed.

### **14. TRANSITION RESPONSIBILITIES**

The State needs to have access to the State Data collected during the term of this contract. Contractor must return all State Data to the State prior to the cessation of providing services in a format designated by the State in a manner consistent with the **Contract Terms Section 16.3**.

### **15. DOCUMENTATION**

Contractor must provide all user manuals, operating manuals, technical manuals, training materials 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.

Contractor will continue to ensure the latest documentation is always available online for immediate access 24/7 and will continue to provide additional SCRAM Systems user manuals and product information for all contracted products.

## 16. 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.

<b>Contractor</b>
John Hennessey 1241 W. Mineral Ave, Littleton, CO 80210 815-342-4469 jhennessey@scramsystems.com

## 17. 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.

<b>Contractor</b>
Amy Rieser 7361 N 41st St. Augusta, MI 49012 616-204-9643 arieser@scramsystems.com

**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 must inform the State of any change to this resource.

<b>Contractor</b>
Fred Beck 1241 W. Mineral Ave, Littleton, CO 80210 303-979-7641 fbeck@scramsystems.com

## 18. CONTRACTOR PERSONNEL REQUIREMENTS

**Background Checks.** Contractor must present certifications evidencing satisfactory ICHAT and drug test results for all staff identified for assignment to this project to the State of Michigan Program Manager designated for this Contract. In addition, proposed Contractor personnel will be required to complete a Michigan State Police background check and/or submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC), if required by project.

Annually, Contractor must perform an ICHAT for all staff identified for assignment to this project. Annual background check results will be reported to the State of Michigan Program Manager designated for this Contract.

Contractor, while employed with DTMB, will disclose to the State of Michigan Program Manager for this Contract, in writing at or before the beginning of the next scheduled duty shift:

- a. A felony or misdemeanor court conviction, whether by guilty plea, no contest plea or trial.
- b. A felony arraignment.
- c. Restriction, suspension, or loss of driving privileges for any reason, if the employee's current position requires possession of a valid driver's license.

Contractor will pay for all costs associated with ensuring its staff meet all requirements.

**Offshore Resources.** Use of Offshore Resources is prohibited per the Schedule E – Data Security Requirements. Contractor must comply with the data security and other requirements in this Contract.

**Disclosure of Subcontractors.** If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

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

## 19. 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.

<b>State Contract Administrator</b>
Nichole Harrell 517-449-9245 harrelln@michigan.gov



**Program Managers.** The DTMB and Agency Program Managers (or designee) will jointly approve all Deliverables and day to day activities.

<b>DTMB Program Manager</b>
Jason Boyl 517-242-6596 Boylj@michigan.gov

<b>Agency Program Manager</b>
Bill Dunham 517-281-7730 dunhamb@michigan.gov

## 20. MEETINGS

Contractor must facilitate monthly meetings (or more or less if determined necessary by the parties) to ensure ongoing support success.

## 21. REPORTS

Contractor will provide the following reports monthly:

### SCRAM Optix Analytics

Powered by Microsoft® PowerBI®, SCRAM Optix has a variety of dynamic, interactive analytic reports enabling users to visualize program activity, statistics, trends, and identify areas for improvement across all SCRAM technologies. The MDOC can filter by a number of program criteria to determine program performance across all caseloads, allowing quick access to analyze trends, present key performance metrics, and make informed decisions.

**Inventory.** These reports enable users to review the total utilization and inventory status for a program’s equipment, including current inventory, inventory detail, current RMA, inventory trends over time, and device specifics. This resource helps our providers make decisions about how best to distribute devices across program locations and provides insight into how much of the device inventory is truly being used over time, promoting inventory efficiency.

**Monitoring and Compliance.** Designed to help optimize a monitoring program by providing detailed data on the types of clients being monitored, the referring authorities, the types of alerts generated, and client compliance. This can be used to help evaluate business operation efficiencies and identify areas for growth or improvement.

**GPS Compliance.** Designed to provide information on client demographics, compliance rate, the amount and types of alerts generated, and the average number of days clients are on the program before the first alert is generated. Each report can be filtered to pinpoint desired the desired critical data.

### SCRAM Optix Program Reports

SCRAM Optix monitoring program reports offer unprecedented options to acquire, store, analyze, evaluate, and convert raw data into valuable information—such as compliance rates and average monitoring periods, as well as behavioral trends based on age, gender, severity of offense, and duration

of monitoring. Unique data visualization provides quantitative and qualitative views along with powerful reporting that delivers instant access to program performance. Flexible templates deliver visual Key Performance Indicators (KPIs) for commonly accessed program performance metrics such as: compliance by officer; alert analysis; and breakdown by device, client, and courts. This unparalleled insight into an agency's program is easily accessed and intuitively queried so program efficacy can always be measured.

**Alert Analysis Report.** This report provides a graphical breakdown of alerts that can be displayed by device monitoring type for the previous month, quarter, or year. This analytical resource provides customers an efficient, time-saving tool by which to compare percentage of clients with violations as opposed to violations generated overall. Alert information is broken down by day of the week and each month of the year to help analyze client trends.

**Client Breakdown Report.** This report provides a graphical breakdown of clients by offense type, client type, and referring court. In this report, data is displayed for completed clients monitored by offense or offender type, or specific court, during the time period specified. Each monitoring type displays the total clients monitored; average monitoring days; compliance percentage; and average days to the first violation over the last month, quarter, or year.

**Client Compliance Report.** Caseload management is simplified when data is straightforward and easily reviewed. This report shows daily compliance percentage per equipment type, providing the number of clients monitored, amount of violations by type, and average number of monitoring days. The report can be displayed by week, month, or year. Officers can accurately assess program needs and compare individual program statistics to the national average by product type, providing the MDOC a simple and effective means to easily analyze program strengths and weaknesses.

**Inventory Breakdown Report.** This report provides a graphical breakdown of total equipment inventory by status, utilization percentage by month, and returned units (RMAs) broken down by type and month for a 12-month period. Officers can select any date and quickly view data by type, to assist in reconciling inventory records and establishing program trends for utilization and RMAs.

### **Standard Offender Monitoring Reports**

The monitoring software provides a wide range of reports and graphs, such as a snapshot of a single non-compliance event or a comprehensive view of an offender's behavior over time. It allows supervising authorities to customize and tailor reporting that best suits their needs, further helping to reduce officer workload through exception-based reporting. Standard reports are available at multiple levels including operations, management, inventory, and billing and can be generated as applicable by customer, agency, court, judge, officer, or specific client. Reports can be viewed online, printed, saved, and emailed or downloaded as PDFs, Excel files, or Word documents. Following is a listing of reports by category.

### **SCRAM CAM Reports**

**Daily Action Plan.** Agencies receive a Daily Action Plan that contains an analysis of any violations and necessary actions pertaining to the previous day's activity.

**CAM Activity Report.** Compiles all client compliance activity for a period of time.

**Compliance Summary.** Supplies the number of confirmed compliant clients and shows the number of non-compliance events for a given period of time or date range. This can run by agency or agent/officer.

**Usage Report.** Compiles the number of clients started, added, inactivated, and ended for each caseload in an agency.

**Non-Compliance Report.** Combines all collected data related to an alcohol or tamper event.

**Client Report.** Displays specific information for a single client. This report is highly configurable, using search filters in order to display specific information, such as alcohol graphs, unresolved alerts, all readings/messages, etc.

**Consumables by Location Report.** Displays the number of "Battery/Faceplate" and "Adjustable Strap Replacement" kits that should be stocked at each servicing location.

**Agency Activity Report.** Displays the number of alerts generated by all clients assigned to an agent/officer during a specified date range.

**Client Office Download Schedule Report.** Lists all the manual data upload days for each client in an agency.

### **SCRAM Remote Breath Reports**

**Daily Action Plan.** Agencies receive a Daily Action Plan that contains an analysis of any violations and necessary actions pertaining to the previous day's activity.

**Remote Breath Results Summary.** Provides a listing of all events/breath test results and alert events generated during a specified time frame. Includes summary totals of the various event types. The content of the report is relative to how the user filters and sorts the web page. Therefore, the report could be comprised of all events generated for that client for a specified timeframe, or a subset of events based upon selected category, alerts only, or time frames.

**Remote Breath Result Details.** Accessed from the Remote Breath Results page whenever a user selects any listed event (alert or non-alert) to view the results details. Each report is specific to a single event or breath test result and includes a map as to where the test was (or was not) taken when scheduled.

**Remote Breath Testing Schedule.** Displays the scheduled tests for a specified date range, along with optional user fields for specifying: 1) Next Meeting Date; 2) Bring to Next Meeting; and 3) Notes.

**Remote Breath Battery Charge Summary.** Displays a summary for all charging activity, including plug in times, unplug times, total charging time, and whether the device reached a full charge or not.

**Remote Breath Events.** This is a screen print of the listing of events/breath tests results, but in a clean .pdf format. See Remote Breath Results Summary for image.

### **Reports Applicable to CAM & Remote Breath**

**Caseload Management Calendar Report.** Contains a calendar with the names of all clients with some type of scheduled activity during the next two weeks, such as an equipment installation, equipment maintenance, or equipment removal. This report can display all clients with pending or upcoming activities for an entire agency or all clients with pending or upcoming activities that are being managed by a specific agent/officer.

**Clients Added/Removed Report.** Supplies the user with a list of clients that have been added or removed from a device during a specified period of time.

**Usage by Agent Report.** Provides client change-in-status data for a given agency. This report can also be run by court.

**Client Snapshot Report.** Provides an agency's current client workload.

**Current Inventory Report.** Assists as a checklist while conducting a physical inventory and verifying the status of all equipment. It can be sorted by device type and/or inventory status.

**Inventory Tracking.** Used as a checklist while conducting a physical inventory and verifying the status of your equipment.

**Equipment by Status Report.** Provides a unique point-in-time view regarding the number of devices. Improves the process of determining future orders, returns, and overall inventory status by listing the current equipment by status.

**Active Clients without Equipment Report.** Lists all active clients that do not have equipment assigned to them.

**Equipment by Location Report.** Provides a snapshot of where devices are located in each servicing location. This report can also be broken down by region if necessary.

**Monthly Device Assignments Report.** Provides the necessary level of detail to reconcile the daily numbers that appear in the service/billing invoice sent to agencies each month. This report is available at the end of each month.

**Billing Summary Report.** Provides a running count of the number of bracelets assigned for any given day during the current month. At the end of each month, this report is regenerated as the Monthly Billing Summary Report.

**Monthly Billing Summary Report.** This report displays the daily number of clients being monitored using one of SCRAM Systems' products.

**Client Summary.** Supplies a summarized view of a client's performance for the selected time period date range. This report can be run by agent/officer, agency, or court.

**Installs & Removals Report.** This report displays a detailed history of an agency's inventory installations and removals for the last 30 days. The information generated includes device serial number, client's name, install and removal dates, agent name, and caseload name.

## **SCRAM GPS Reports**

**Client Profile Report.** This report displays client profile information and can be printed for one or more active or inactive clients. If more than one client is selected, each client's profile will be on a separate page.

**Daily Activity Report.** The Daily Activity report gives the officer a graphical and textual representation of where the client spent his/her time by zone.

**Daily Event Summary Report.** An auto-generated email report that sends a summary of the previous day's events to an officer.

**Device Inventory Report.** Lists all devices in the selected agency/customer account, indicating the current inventory status of the devices, when the status was changed, and who changed the status.

**Device History Report.** Provides assignment/unassignment dates for each client being managed.

**Event Details Report.** Displays profile, current status, and device information for a single client, as well as all events that occurred during the specified period of time.

**Event Report.** Displays selected client events for the specified period of time. It includes the ability to

track the number of infractions. Events can be filtered by the infraction setting and data can be grouped by client and the date that the event occurred.

**Active Event Report.** Lists all active (uncleared) events.

**Location History Report.** Provides the history of a client's movements during a specified time period.

**Notification Report.** Provides detailed notification information for all selected clients during the specified period of time. This report can be filtered by client or recipient.

**Audit Report.** Tracks activities performed by the users as they relate to specific clients. The report can be run for a single client, or an administrator can choose to run the report by user to see exactly what actions were taken by specific users over the entered date range.

**Last Known Location.** This report shows where a client wearing a SCRAM GPS tracking device was last located.

**Proximity Report.** This reports the proximity of a client to a specific address (or latitude/longitude location) over a defined time period in sequence. This GPS client tracking data is available at any time from the web-based dashboard and can be compared by date and location to crime incident data collected by local law enforcement agencies.

**Charging Event Report.** This report displays charging behavior for a selected client. It can span up to a 31-day window of time within the last 90 days. The "Report Summary" section displays the minimum, maximum, and average charge time as well as the number of charges during the report period. The "Daily Summary" section displays the minimum, maximum, and average charge time and the number of times charged for each specific day. The report also indicates whether a Battery Low or Battery Critical event was generated prior to plugging the device in. The "Charging Details" section indicates if the Fully Charged event was received and displays the total time from plugin to full charge.

**End of Service Report.** A list of clients who have an established end-of-service date.

**Case Assignment Report.** Shows primary agents (officers) and their assigned clients, as well as any clients that do not have primary agents assigned.

**Case Notes Report.** Lists all of the event notes and case notes for a specific client.

**Officer Assignment Report.** Lists the clients assigned to each officer, as well as clients without an assigned officer.

**Program Assignment Report.** An overview of each client's program assessment, how many clients are assigned to each program, and the clients who are not assigned to any program.

**Schedule Exceptions Report.** Lists the schedule exceptions for specified clients for the selected date range.

**Command Report.** Shows which users sent commands to which clients' device and when the command was sent.

**Account Analysis Report.** Evaluates the cost savings created by having clients wear bracelets versus having them incarcerated. The report shows how many clients are currently in the program, the average duration they have been in the program, and the total number of days all clients within the date range have been in the program ("Saved Bed Days"). Risk analysis data is also included.

**Monthly Monitored Days Report.** Provides information on active days in a given month for all clients in an account. It includes the client's device information as well as start and end dates.

**Daily Roster Report.** This report shows a roster of all clients who are scheduled to test at a specific location on the current date.

**No Show List Report.** This report lists those clients who are scheduled to test on the current date and test results have not yet been entered in the system. As a client's test results are entered, that client is immediately removed from the report.

**Annual Boilerplate Report**

BOILERPLATE: Yearly program statistics to include number of CAM devices added/removed per month broken down by client type. Number of Remote breath added/removed per month by client type.

**Ad Hoc Reporting Capabilities**

Contractor will also provide the State the ability to run ad hoc reports via custom built queries from the system also. The MDOC must be able to access all of its data via the reporting product for the purpose of running ad hoc reports and queries without vendor assistance. The reporting product technology must not require any installed component on the user desktop.

**22. ADDITIONAL INFORMATION**

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

## **SCHEDULE A, TABLE 1 – BUSINESS SPECIFICATIONS WORKSHEET**

This Business Specifications Worksheet contains four attachments:

- Attachment A – General Requirements
- Attachment B – Technical Requirements
- Attachment C – Alcohol Monitoring Requirements – SCRAM CAM
- Attachment D – Alcohol Monitoring Requirements – SCRAM Remote Breath Pro

Each Attachment in the Business Specifications Worksheet contains columns defined as follows:

**Column A:** Requirement number.

**Column B:** Requirement. Describes the business specification.

**Column C:** Indicates whether the business specification is Required or Optional. “**Required**” specifications are items that the State requires to be part of the Solution. “Required” items will be evaluated and scored upon per the State evaluation process. “**Optional**” specifications are items that are not required at the time of the solicitation but may be desired by the State in the future. Such “Optional” items will be evaluated and used in a best value award recommendation.

**Column D** - This column indicates whether a bidder can comply with or fulfill a particular requirement. Bidder must enter either “Yes” or “No”.

**Column E** - This column indicates how a bidder will comply with a particular requirement. Bidder must enter the appropriate letter (A, B, C, D, or E) as defined below:

- A. Currently provided within the standard service.
- B. Currently provided as an enhancement to standard service at no additional cost.
- C. Currently provided as an enhancement to standard service at an additional cost detailed in the cost proposal.
- D. Not currently provided but will be added at the additional cost detailed in the cost proposal.
- E. Service will not be provided.

**Column F** – Bidder must explain how it will deliver the business specification including details of any configuration/customization and the impacted risk that may be caused if configured or customized to meet the business specification.

## ATTACHMENT A – GENERAL REQUIREMENTS

A	B	C	D	E	F
Req No.	Requirement	Required (R) Optional (O)	Bidder Response (Yes / No)	Bidder Response (A, B, C, D, E)	Contractor must explain how it will deliver the business Specification including details of any configuration/customization and the impacted risk that may be caused if configured or customized to meet the business specification.
<b>1. Applies to the Alcohol technology solution, Curfew technology solution and Location technology solution</b>					
1.1	Contractor must establish a toll-free hotline to provide twenty-four (24) hour per day, seven (7) day a week, and support for answering questions relative to the services provided under the contract (e.g., installation, monitoring and software). The call center must be staffed with employees that are experienced and have technical knowledge of the integrated hardware components	R	Yes	A	SCRAM Systems is a current provider to MDOC, with a toll-free number and staffed call center available 24/7.
1.2	<b>Orientation Session:</b> Contractor must provide minimally one (1) onsite orientation session for DOC staff prior to initiating services under the contractual agreement. The session goal would be to provide an overview of system operation and capabilities. The number of staff members would likely not exceed twenty (20) persons and would be held at a location within Michigan.	R	Yes	A	SCRAM Systems has been providing onsite trainings for the MDOC and will continue to do so, at the cadence requested by the MDOC.
1.3	The DOC reserves the right to require additional orientation session(s) in the event the scope of services change. Additional sessions would be held in Michigan, but at various locations throughout Michigan.	R	Yes	A	SCRAM Systems agrees to additional orientation sessions as necessary. We can accommodate Michigan locations.



1.4	<b>Warranties:</b> The Contractor must provide all manufacturers' warranties to the DOC and act as liaison for the manufacturer in reconciling problems with equipment performance and/or malfunction. The Contractor must provide proof of internal customer support from the original equipment manufacturer.	R	Yes	A	All equipment proposed will be warranted against manufacturer defect for the life of the contract.
1.5	<b>Specialization of Equipment:</b> All alcohol equipment, curfew equipment and location equipment must be specifically designed and may not be adaptations of readily and/or commercially available products and/or equipment designed for some other purpose. The Equipment (Alcohol equipment, curfew equipment and location equipment) must not have any real or perceived open market value.	R	Yes	A	All SCRAM Systems equipment is meant for the corrections market and is not commercially available.
1.6	Contractor software must be compatible with "Auto-dial" software which allows call center staff to telephone offenders directly from the application without having to manually dial the offender telephone number.	O	Yes	B	SCRAM Systems will work with the MDOC to provide this feature if needed.
1.7	<b>Equipment Upgrades:</b> Contractor must provide any and all hardware and software upgrades to equipment as technology is improved at no additional cost to the SOM. This to include existing hardware that is improved and re-branded with another identifier.	R	Yes	A	SCRAM Systems provides all hardware and software upgrades at no additional cost..
1.8	<b>Shipping of Equipment/Supplies:</b> The Contractor must be responsible for the cost of shipping and delivery to and from the SOM of all equipment and supplies.	R	Yes	A	Standard shipping and delivery is included in our pricing.

1.9	<p><b>Service/Maintenance Agreement:</b> All equipment provided under the terms of the contract must be serviced and maintained by the Contractor through the contract period. Contractor must describe the proposed service and maintenance plan in Column F..</p>	R	Yes	A	<p>SCRAM Systems ensures that all equipment used will be the current version and will be new or perform "like new" (if leased). All equipment will be continuously upgraded through the life of the contract, with the DOC receiving the latest version at no additional cost.</p> <p>SCRAM Systems performs all alcohol equipment maintenance, including recalibration, to ensure proper working order. Monthly reminders for recalibrations can be sent as needed. Our standard policy is to bring devices back once per year for re-calibration. This is done by issuing a "Scheduled Maintenance" RMA at the time the device is due.</p> <p>All service/maintenance that requires the alcohol monitoring devices proposed herein will be serviced by SCRAM Systems.</p>
1.10	<p>Contractor solution must have the ability to assign equipment to an offender at no cost to the SOM.</p> <p>The contractor must not bill for monitoring until the equipment is activated</p>	O	Yes	A	<p>The MDOC will continue to pay for equipment only once activated.</p>
1.11	<p>The delivery service used must track receipt of shipments and make such tracking information available via the Internet.</p>	O	Yes	A	<p>SCRAM Systems will continue to track delivery receipts and make them available as necessary.</p>
1.12	<p>The device must operate through the range of temperatures that will be experienced in a typical client environment</p>	R	Yes	A	<p>SCRAM Systems devices operate in the range of temperatures that are experienced in a typical client environment.</p>

1.13	The strap and required fasteners must not be available to the general public either commercially or through any mail order outlet	R	Yes	A	All SCRAM Systems equipment is meant for the corrections market and is not commercially available.
1.14	The integrated hardware components must use digital telephone lines, wireless, cellular (minimum 4G network), or similar means to communicate between the device and the server.	R	Yes	A	All SCRAM Systems equipment offers digital communications.
1.15	The integrated hardware components provided to the MDOC must be of the latest technology available from the manufacturer of the equipment. This to include existing hardware that is improved and re-branded with another identifier. All devices purchased must be new equipment which has not been previously used unless the State agrees to refurbished hardware in advance.	R	Yes	A	SCRAM Systems ensures that all equipment used will be the current version and will be new or perform "like new." All equipment will be continuously upgraded through the life of the contract, with the MDOC receiving the latest version, at no additional cost, for leased equipment.
1.16	The exchange of monitoring information (including enrollment data changes monitoring reports and terminations) between agencies and Contractor's monitoring facility must occur via secure real-time access to Contractors' web-based system by officers using existing agency computers/internet access.	R	Yes	A	SCRAM Systems software features secure, real-time access and is available on existing equipment.
1.17	The system must be capable of providing both demand and on-line automatic reports	R	Yes	A	SCRAM Systems software can provide automatic reports and can also create on-demand reports.
1.18	Demand Reports: must include, but are not limited to, offender history, background data, inventory tracking, schedules, etc.	R	Yes	A	The MDOC will continue to receive the required information in all reporting.
1.19	The DOC reserves the right to change reporting requirements and/or request additional custom reports during the period of service of this contract.	R	Yes	A	SCRAM Systems will work with The MDOC on any needed change reporting requirements or custom reports.
1.20	All wearable devices must be at a minimum, shock, water and tamper-resistant	R	Yes	A	All SCRAM Systems wearable devices are shock, water, and tamper resistant.

1.21	The brand and type of Device must have a documented history of its monitoring results being admissible in a court of law. A list of evidentiary level hearings that the proposed product has been upheld in must be provided.	R	Yes	A	SCRAM CAM and SCRAM GPS have been upheld in every state in which it has been challenged. Court hearings are listed in Attachment B, SCRAM Evidentiary Hearings.
1.22	The MDOC must pay a daily monitoring fee only for devices which have been activated on offenders. Monitoring fees will cease immediately upon deactivation	R	Yes	A	All SCRAM pricing is for devices that are active and monitoring clients.
1.23	The system must provide for easy web-based administration of participants with multiple reporting functions.	R	Yes	A	SCRAM Optix fulfills these requirements.
1.24	The system must include inventory tracking and management features.	R	Yes	A	SCRAM Optix fulfills these requirements.
1.25	Summary management reports regarding individual participants, dates of system use, agency wide equipment inventory status, and billing details provided upon request in an easy-to-read format.	R	Yes	A	SCRAM Optix fulfills these requirements.
1.26	The SOM must have the ability to request executable ad hoc reports which must be provided within 30 business days. Executable ad hoc reports means that once a report is created the SOM can run the report as often as needed with current data	R	Yes	B	SCRAM Optix fulfills these requirements.
1.27	The Contractor software must have a homepage which must open to a caseload overview. This homepage must indicate the current status of all offenders being monitored at the time.	O	Yes	A	SCRAM Optix fulfills these requirements.
1.28	The Contractor must provide a pricing in the pricing table for monitoring units,	R	Yes	A	Pricing has been provided in the separate Cost Proposal.

1.29	The contractor must not change any device manufacturer without the prior written approval of the MDOC	R	Yes	A	SCRAM Systems will not change any device manufacturer without written approval from the MDOC.
1.30	The bidder must identify the system manufacturers and devices proposed. For the term of the contract, the contractor must not be authorized to change the device without the prior written approval of the MDOC.	R	Yes	A	We propose SCRAM Systems products for this contract, including SCRAM CAM, SCRAM Remote Breath Pro, and SCRAM GPS.
1.31	The Contractor must provide any and all consumables/supplies and tools related to the performance of any contract awarded as a result of this RFP. The cost for these supplies must be included in the daily unit rate proposed by the Contractor for the units regardless of whether the supplies apply to regular, mobile, breath-alcohol, GPS Tracking, Voice Verification or other equipment items that may be offered in response to this RFP	O	Yes	A	All consumables are included in our proposed pricing.
1.32	Describe all consumable items necessary to properly operate the equipment.	R	Yes	A	SCRAM CAM: battery, faceplate, locking clips [2 in a set], exhaust cap, straps,  SCRAM Remote Breath Pro: straws, case.  SCRAM GPS: strap, backplate, charger, locking pins [2 in a set], dustcover spare.

1.33	Describe any tools needed for installation, maintenance, and de-installation of all monitoring equipment.	R	Yes	A	<p>SCRAM CAM: faceplate removal tool, Torx L-Key, shear cutter, Direct Connect Kit, magnet.</p> <p>Removal requires the addition of shear cutters and a flat custom tool, which are only supplied by SCRAM Systems. They are not commercially available.</p> <p>SCRAM Remote Breath Pro: There are no tools involved for installation and de-installation. For maintenance, the MDOC can calibrate the devices on site with SCRAM Systems-provided calibration canisters or they can send them back to SCRAM Systems for calibration.</p> <p>SCRAM GPS: small flathead screwdriver (only used for removal of locking pin).</p>
1.34	Device must be usable in conjunction with other electronic monitoring equipment.	R	Yes	A	SCRAM Systems devices are usable in conjunction with other monitoring equipment.
1.35	The Contractor must provide an in-state account manager.	O	Yes	A	Nathan Spielbusch will remain the in-state account manager.
1.36	Contractor must provide capable staff to provide expert testimony on behalf of the SOM at the Contractor's expense	R	Yes	A	SCRAM Systems will continue to provide expert testimony as needed.
1.37	The SOM must not provide workspace for the Contractor except in the event required for services under the contract	R	Yes	A	SCRAM Systems agrees.

**2. Transition Plan**

2.1	The Contractor must convert the previous seven years of data from the current Contractor to ensure that historical data is retained and readily available to the SOM.	R	Yes	A	SCRAM Systems agrees to convert any data from the current contract to ensure data is retained.
2.2	The Contractor must be responsible for replacement of all equipment (includes, but not limited to, previously worn, activated or not activated, regardless of physical location).	R	Yes	A	SCRAM Systems agrees to replace all equipment as needed.
2.3	The Contractor must provide a written transition plan, including timeline, conversion of data approach/method and training.	R	Yes	A	A written transition plan has been included.
		R	Yes	B	Removed per Addendum 1
		R	Yes	B	Removed per Addendum 1

## ATTACHMENT B – TECHNICAL REQUIREMENTS

A	B	C	D	E	F
Req. No.	Requirement	Required (R) Optional (O)	Bidder Response (Yes / No)	Bidder Response (A, B, C, D, E)	Bidder Comments
<b>3. Equipment</b>					
3.1	The device must function with a web based real-time hosting environment that allows 24/7/365 real-time access to offender data.	R	Yes	A	SCRAM Optix fulfills these requirements.
3.2	The Contractor must provide a monitoring system located in a secure hosting environment to receive, record and store data at a central location	R	Yes	A	SCRAM Optix fulfills these requirements.
3.3	All information related to offenders must be stored in a retrievable format and retained for a minimum of seven years	R	Yes	A	SCRAM Optix fulfills these requirements.
3.4	Integrated hardware components and devices must have all required Federal Communications Commission (FCC) certification.	R	Yes	A	All SCRAM Systems devices are certified by the FCC.



3.5	<p>Contractor must work with SOM to provide deliverables for the MDOC EMC Middleware Solution. Deliverables include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Web-based application/portal available to the EMC and probation/parole agents via the State of Michigan (SOM) Intranet to include alerts of potential violations and agent caseload information</li> <li>• Application Programming Interface (API) document that defines requirements for web services</li> <li>• Single Sign-on</li> </ul> <p>Web services, include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Web service to allow Contractors to send current alerts for display in the web portal</li> <li>• Web service to allow Contractors to provide agent caseload information for display in the web portal</li> <li>• Web service to provide basic offender information from DOC offender management system to Contractor application</li> <li>• Web service to save notes/comments from Contractor applications into DOC offender management system</li> <li>• Web services to auto-update DOC offender management system with new registrations and deletions for each Contractor application</li> </ul>	R	Yes	B	<p>SCRAM Optix creates an integrated, dynamic user experience that allows officers to manage their entire electronic monitoring caseload with a single login. Through this secure platform, officers can enroll clients, manage alerts, adjust device settings, enter and edit schedules, select notification methods or parameters, manage inventory, access full caseload details, and configure a variety of reports. The mobile-adaptive software is accessible 24/7 via any Internet-enabled device, including tablets and smartphones.</p>
3.6	<p>The Contractor application must process in/outbound signals while allowing multi-task (printing, database updates, etc.) and multi-user (making calls, answering calls, etc.) operation</p>	R	Yes	A	<p>SCRAM Optix meets these requirements.</p>
<p><b>4. Documentation and Standard</b></p>					

4.1	Provide a logical network diagram that describes how the infrastructure components will meet the functional requirements.	R	Yes	A	
4.2	Provide conceptual and logical data-flow diagrams.	R	Yes	A	
4.3	Provide a high-level architecture diagram, including logical and physical components.	R	Yes	A	

4.4	System documentation must describe Disaster Recovery capabilities (including Hot and Cold standby options, licensing implications, and critical vs. non-critical functionality and data).	R	Yes	A	<p>SCRAM Systems has multiple data centers, which are capable of processing 100% of all demand from our customers. In the event of a disaster, electrical, or equipment failure, the backup center will go live as the recovery data center within 20 seconds. Backup files are also created every 24 hours, and a new backup is restored every 30 days to test the backup process in order to ensure 100% backup validation with bench marks for restoration.</p> <p>Our disaster recovery is based on a Hot active (not standby) model. Meaning, the database is being mirrored to our secondary data center. If the primary data center is lost, the mirrored data center becomes the primary data center. The other servers, web, and applications are active and sharing workload at both data centers with enough redundancy to absorb the full workload of either data center. In the case of both data centers being rendered inoperable, we have remote disk backups that can be restored to a new set of hardware (cold backup) to protect data should the worst case scenario occur.</p> <p>There are no licensing implications as this is part of our standard product offering. Critical versus non-critical functionality and data is determined by the resources needed to process the data. All</p>
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					SCRAM Systems data is considered critical and is replicated to each data center.
4.5	System documentation must describe any batch processing requirements for the application.	R	Yes	A	SCRAM Systems is providing a vendor-hosted solution.
4.6	System documentation must describe required application maintenance activities and time frames.	R	Yes	A	The redundancy designed into the system allows for system maintenance (software updates, and infrastructure improvements) to be completed without any downtime in most cases. If a maintenance activity could impact system availability, then the maintenance is scheduled and coordinated with customer representatives. Coordinated maintenance is not performed more frequently than quarterly and is scheduled at least two weeks in advance.
4.7	Application/System documentation must provide FAQ and/or Support Information for frequent issues staff/users may encounter.	R	Yes	A	SCRAM Systems is providing a vendor-hosted solution. Our IT personnel will support any issues encountered.
<b>5. Installation</b>					
5.1	Provide a detailed work plan (in hours) and duration (in days) of a typical installation of the base package, including all modules. Include both SOM and Contractor effort.	R	Yes	A	SCRAM Systems is providing a vendor-hosted, web-based solution. There is no installation required.
5.2	Provide a high-level project plan outlining activity description, work effort, duration, and resources for a typical base-package installation.	R	Yes	A	SCRAM Systems is providing a vendor-hosted, web-based solution. There is no installation required.

5.3	Provide a description of the skill sets of all resources required for a typical install of the base package.	R	Yes	A	SCRAM Systems is providing a vendor-hosted, web-based solution. There is no installation required. This is not applicable.
5.4	Provide a list of <b>functional</b> issues encountered by other users during a typical implementation of your software.	R	Yes	A	SCRAM Systems is providing a vendor-hosted, web-based solution. There is no installation required. This is not applicable.
5.5	Provide a list of <b>technical</b> issues encountered by other users during a typical implementation of your software.	R	Yes	A	Proposed software is a web-based, vendor-hosted solution. Web security should be set so that it does not block the website. Ports 443 and 80 for the software application need to be open should there be a firewall or Proxy server used.
5.6	Provide a detailed list of any browser plug-ins (e.g., ActiveX, Java, Flash) required by the application.	R	Yes	A	No browser plug-ins are needed.
5.7	Provide a detailed list of client components (e.g., ODBC, JDBC, Java Beans, other) required by the application, including permission(s) levels.	R	Yes	A	No client components are needed.
5.8	All agents and bots used for monitoring or maintenance of servers and software must be listed including function, install location, permission level, and resource usage.	R	Yes	A	SCRAM Systems is providing a vendor-hosted, web-based solution. This is not applicable.
5.9	Provide a detailed list of any third-party tools or software required by the application and how they will be supported over the System Development Life Cycle (SDLC).	R	Yes	A	SCRAM Systems is providing a vendor-hosted, web-based solution. This is not applicable.
<b>6. Reporting</b>					
6.1	The reporting product technology must be compatible with desktop virtualization.	R	Yes	A	Proposed software is web-based.

6.2	The reporting product technology must not require any installed component on the user desktop.	R	Yes	A	Proposed software is web-based.
6.3	The reporting product technology must not require any installed component in the user browser other than the following:  Adobe Acrobat Reader	R	Yes	A	Nothing further needs to be installed. Proposed software is web-based.
6.4	The reporting product technology must support ad-hoc reporting via custom-built queries.	R	Yes	B	SCRAM Systems will develop and deliver reports on an agreed-upon basis.
6.5	The MDOC must be able to access all its data via the reporting product for the purpose of running ad hoc reports and queries without Contractor assistance.	R	Yes	B	SCRAM Systems will develop and deliver reports on an agreed-upon basis. As done in the past on the current contract, we will continue to work with the MDOC and create reports to access desired information.
<b>7. Application Security</b>					
7.1	Application access must be logged and have a viewable audit trail(s).	R	Yes	A	Data items that can be modified have a corresponding audit record that records when a change was made and by whom. Software changes are stored in a source code repository and all changes are recorded with a full audit trail.
7.2	Changes to user permissions must be logged and have a viewable audit trail(s).	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
7.3	Access to audit trail logs must be able to be restricted to approved administrators.	R	Yes	A	

7.4	<p>Application access and changes to application access must log the following information:</p> <ul style="list-style-type: none"> <li>• Date/time</li> <li>• Nature of operation</li> <li>• Name of changed item</li> <li>• Name of who made the change</li> <li>• Before and after value of the changed item</li> </ul>	R	Yes	A	Information can be provided upon request.
7.5	<p>The following application change event(s) must be logged:</p> <ul style="list-style-type: none"> <li>• Changes to individual permission level</li> <li>• Changes to role membership</li> <li>• Changes to role permissions</li> <li>• Changes to access to application functions</li> </ul>	R	Yes	B	Information can be provided upon request.
7.6	The System Administrator must be able to control access to audit trail logs.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
7.7	Access to program libraries (e.g., base code) must be restricted and controlled.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
7.8	Session State must be stored and maintained in an encrypted manner.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
7.9	<p>Session State must be stored and maintained in one or more of the following manners:</p> <ul style="list-style-type: none"> <li>• Cookie</li> <li>• URL String</li> <li>• Database</li> </ul> <p>Describe if other method is used</p>	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
7.10	Client application must support encryption of data both at rest and in motion.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.

7.11	End-user software applications, or components thereof, must <b>not</b> require privileged, super-user or administrator mode in order to function properly.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>8. Network Security</b>					
8.1	Web interface or browser technology must use TCP/IP protocol through Ports 80 or 443.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
8.2	Application communication between users and system components over the network must be logged and the log file accessible to the system administrator.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>9. Server Security</b>					
9.1	Application servers must be hardened prior to placing in production.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted solution.
9.2	Servers must have the most recent security patches applied to them and be configured in least privileged mode prior to placing in production in a non-secure environment.	R	Yes	A	
9.3	All server-based agents, bots and monitoring components must be listed along with a description of their function, required permission level and resource usage.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted solution. This is not applicable.
<b>10. Database Server</b>					
10.1	The database server must support rapid recovery of databases, tables, etc.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted solution. This is not applicable.
10.2	The database server must support parallel indexing operations.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.



10.3	The database server must support manual tuning and configuration.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.4	The database server must support automatic tuning and configuration.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.5	The database must support transactions and support transaction rollback.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.6	The database must support encryption at the database table/column level.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.7	The database must restrict access to data using views, queries, roles and groups.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.8	The database must provide data archival functionality.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.9	The database must support assured record destruction by secure and permanent record deletion.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.10	The database transaction strategies must be configurable, allowing growth, shrinkage, and backup-recovery.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.11	The database must allow full text indexing and search.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.12	The database must provide support for spatial data.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.

10.13	The database server must support auditing and logging for DML events (insert, update, delete).	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.14	The database server must support auditing and logging for DCL events (grant, revoke, deny).	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
10.15	The database must not require users to have elevated database privileges/accounts for normal operation.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>11. Web Server</b>					
11.1	The application must support clustering and/or load balancing across several servers.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>12. Solution Architecture</b>					
12.1	The application's minimum technology requirements, including Operating System (OS) versions, Contractor versions, and release level of each product, must be provided.	R	Yes	A	Supported Web Browsers: <ul style="list-style-type: none"> <li>• Edge (versions released within the last 3 years)</li> <li>• Mozilla Firefox 20 (latest version)</li> <li>• Google Chrome (latest Version)</li> </ul>
12.2	A detailed network/server diagram must be provided illustrating the relative architecture of the proposed system including: <ul style="list-style-type: none"> <li>• Network security zones and firewalls</li> <li>• Server types and network components (e.g., switches)</li> <li>• Ports and protocols used to cross security zones</li> <li>• How users will access the system</li> <li>• Clustering of servers</li> </ul>	R	Yes	A	

12.3	The solution/application must support installation and operation in one or more disparate hosting centers. Fail-over from one hosting center to another must be possible without exceeding parameters specified in the Service Level Agreement (SLA).	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.4	The solution/application must support distributed deployment of application components and database tier components (n-Tier architecture).	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.5	The solution/application must have an approved Enterprise Architecture (EA) Solution Assessment, prior to production.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.6	Provide a technology roadmap for the proposed system showing a five (5) year plan for migrating to new software versions and when to de-implement dated versions as they reach end of life.	R	Yes	A	We are constantly updating to new versions. There are no plans to de-implement any software due to end of life.
12.7	Provide conceptual and logical application data-flow models.	R	Yes	A	
12.8	Provide a logical network diagram that describes how the infrastructure components will meet the functional requirements.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.9	Provide a technology roadmap for the proposed system showing a five (5) year plan for new software version releases, support window, and sun setting.	R	Yes	A	A five-year roadmap can be provided. Because of the confidential nature of this information, it will be discussed with the SOM, if requested.
12.10	Provide a high-level architecture diagram, including logical and physical components.	R	Yes	A	

12.11	<p>The hosting system must perform full volume back-ups on a weekly basis and <i>incremental back-ups each evening</i>. The system must perform on-request back-ups as needed by the SOM. The system must be able to restore from back-ups that allow the recovery of the current state of the application as well as the database. Backups must be kept for 30 days.</p>	R	Yes	A	<p>Due to privacy laws, 90 days of backups are stored online. However, all data is archived indefinitely for the length of the contract. SCRAM Systems can provide the agency with a copy of all data via physical media or an electronic copy. SCRAM Systems can also remove all data at the agency's discretion. Should the contract end, SCRAM Systems will work with the agency and applicable privacy laws to determine how offender data should be handled.</p>
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12.12	<p>The hosting Contractor must develop, maintain, and execute off-site media storage procedures for archival and recovery purposes, utilizing an authorized off-site third-party Contractor(s), for all back-up media, including:</p> <ul style="list-style-type: none"> <li>• Log and track media both on and off-site</li> <li>• Perform required rotation of media</li> <li>• Pay all fees and costs associated with off-site media storage</li> </ul>	R	Yes	A	<p>To ensure availability of all data, SCRAM Systems replicates all data daily to online storage arrays at multiple geographic locations. The database is tested weekly to ensure system backup can be used on recovery of any system. In addition, SCRAM Systems completes a data “snapshot” every four hours to maintain backups. Transaction logs for all activity ensure that a data restore will be complete, and that each transaction is available. A full mirror of the database is maintained, which is approximately 20 seconds behind the production data base with full replication and data journaling in a near real-time mode.</p> <p>Data Backups:</p> <ul style="list-style-type: none"> <li>• Backup files are created every 24 hours and a new backup is restored every 30 days to test the backup process in order to ensure 100% backup validation with benchmarks for restoration.</li> <li>• Backups are copied to online SANs (Storage Array Networks) in multiple data centers.</li> <li>• Backups are tested weekly by restoring the backup to a secondary database server,</li> </ul>
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					<p>then running reports to ensure the backup is complete. The configuration of this secondary server is similar to SCRAM Systems' production database nodes; hence this server can be pressed into service as a production replacement in the unlikely event of a catastrophic failure. The server ensures that data from the previous day's backup are restored and running as of 4:00 AM each morning.</p> <ul style="list-style-type: none"> <li>• Backups are kept online (not on tape) for faster restores and prompt availability.</li> </ul>
12.13	The contractor must provide high availability and redundancy in all system components such as network devices, network communication paths, processors, data storage, application files etc. The hosting Contractor must design and document the high availability and redundancy to handle failure situations that include environment, hardware, software, data, and network. There must be no single point of failure.	R	Yes	A	We have multiple layers of redundancy within a site and across our data centers. The data centers have SSAE 16 SOC 2 ratings.
12.14	The system must have the ability to handle "surge capacity" in times of emergency and crisis, without the shutdown of the system and/or limitation on the number of users. The system must have a means of "journaling" to ensure that data is not lost from the time of the last backup to the time the system failure occurred	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.

12.15	The hosting Contractor must provide documentation related to proposed technology design changes; that will be reviewed and approved by the DTMB Project Manager, or other appropriate SOM staff prior to implementation.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.16	The hosting Contractor must maintain and provide copies of a recommended Disaster Recovery Plan to the DTMB Project Manager within 15 days of the issuance of this contract. This plan is to be followed when the system becomes unusable.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.17	After the acceptance of the initial Disaster Recovery Plan by the SOM, the hosting Contractor must review and update the Disaster Recovery Plan at a timeframe designated by the DTMB Project manager. The DTMB Project manager will approve the initial plan and each subsequent update.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.18	At a minimum, the hosting Contractor must conduct an annual Disaster Recovery Test that will adequately demonstrate the Contractor's ability to recover the application and data, transfer of operations to a recovery site and communicate with the SOM's IT staff. The Contractor and SOM staff will be actively involved in executing the disaster recovery test.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
12.19	The system must be capable of performing Data Integrity tests as part of normal maintenance and after restoration of data files.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>13. Solution Integration</b>					
13.1		R	Yes	A	Removed per Addendum 1.

13.2	An Application Programming Interface (API) must be supplied and supported for the following technologies:  • .NET (standard)	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
13.3	Provide a method to import data from the following proprietary sources: • MDOC Offender Management software (via MDOC Middleware solution)	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
13.4	The solution must be able to import and export data to and from the following external source(s): • Microsoft Office 2003, 2010 and 365 • MDOC Middleware solution	R	Yes	B	SCRAM Systems is proposing a vendor-hosted SaaS web application.
13.5		R	Yes	A	Removed per Addendum 1
<b>14. System Administration and Licensing</b>					
14.1	Software licensing must be inclusive for all packages included in the solution, unless explicitly listed and detailed.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted solution. The SOM will not have to perform any system administration duties.
14.2	Application/System documentation must provide access to FAQ and/or Support Information for frequent issues administrative staff may encounter.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.3	Documentation must indicate recommended staffing requirements to administer and support the system.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.4	A system maintenance window must be designed into the application which will allow the system to be taken off-line for updates, upgrades, and maintenance.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.



14.5	Documentation must describe how the system will be taken off-line for maintenance, updates, and upgrades.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.6	Documentation must describe the level of effort and anticipated downtime for product upgrade installation.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.7	Documentation must provide the anticipated frequency and requirements of patches (releases, break-fix, 0-day), minor, and major releases.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.8	Documentation must provide information on certification/compatibility with OS patches, Service Pack, and upgrade paths.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.9	Documentation must address upgrade paths and procedures for each component/tier.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.10	System documentation must clearly describe any special requirements (such as middleware, Operating System (OS), hardware, etc.) that could affect the capabilities or performance of the system.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.11	System documentation must clearly describe all critical factors in sizing or configuring the application (e.g., number of concurrent users, specific transaction volumes, number of products, number of layers in the product hierarchy, etc.).	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.12	The contractor must provide the date of the next major release. All costs to configure and deploy a major release are at the contractor's expense	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.

14.13	All upgrades, releases, and fixes must be fully tested at the contractor site with a comparable system to the current MDOC environment at the contractor's expense	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
14.14	All scheduled releases must be made available to the MDOC within three months of the actual release date	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>15. System Performance</b>					
15.1	The application must provide performance-optimization capabilities.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application. The SOM will not have to perform any system administration duties. SCRAM Systems will maintain and monitoring all areas of system performance.
15.2	System documentation must clearly describe all versions of the package that are deployed for different scaling situations.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application. The SOM will not have to perform any system administration duties. SCRAM Systems will maintain and monitoring all areas of system performance.
15.3	System documentation must clearly describe any special requirements (such as middleware, Operating System (OS), hardware, etc.) that could affect the capabilities or performance of the system.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application. The SOM will not have to perform any system administration duties. SCRAM Systems will maintain and monitoring all areas of system performance.

15.4	System documentation must clearly describe what support will be provided to the State for performance optimization activities.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application. The SOM will not have to perform any system administration duties. SCRAM Systems will maintain and monitoring all areas of system performance.
15.5	System documentation must clearly describe the type of caching, if any, the system employs.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application. The SOM will not have to perform any system administration duties. SCRAM Systems will maintain and monitoring all areas of system performance.
15.6	System documentation must clearly describe all activities that affect optimum performance such as service recycling, rebooting, or batch jobs and their frequency.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application. The SOM will not have to perform any system administration duties. SCRAM Systems will maintain and monitoring all areas of system performance.
15.7	The system must meet performance benchmark times for: <ul style="list-style-type: none"> <li>• Page refresh in under three seconds</li> <li>• Database query execution in under two seconds</li> </ul>	R	Yes	A	SCRAM Systems complies.

<b>16. Application Configuration Management – (PCI-DSS)</b>					
16.1	Only one primary function can be implemented per server (i.e., web, database, domain, etc.).	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
16.2	All unnecessary and unsecure services and protocols (those not directly needed to perform the device's specified function) are disabled.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
16.3	All unnecessary functionality is removed, such as: <ul style="list-style-type: none"> <li>• Scripts</li> <li>• Drivers</li> <li>• Features</li> <li>• Subsystems</li> <li>• File Systems</li> <li>• Unnecessary Web Servers</li> </ul>	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>17. COTS Software</b>					
17.1	Commercial Off The Shelf (COTS) third-party libraries included within the application must be owned and supportable by the State. Inclusion of any third-party code library or tool must be approved by the SOM Contract Manager or Project Manager.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
17.2	COTS software must have maintenance and support available from the developer, Contractor, or an approved 3 <sup>rd</sup> party.	R	Yes	A	SCRAM Systems is proposing a vendor-hosted SaaS web application.
<b>18. Information Technology Network and Infrastructure</b>					

18.1	The solution must contain values for projected capacity and special needs requirements covering all aspects of data transport & security across the information technology network and infrastructure.	R	Yes	A	We are constantly updating our system to ensure that there are no security or data transport issues.
18.2	The solution must address projected capacity requirements for all aspects of the information technology network and infrastructure.	R	Yes	A	There is no projected cap for our data storage capacity. We are constantly monitoring and increasing our system capacity to ensure infinite data storage.

**ATTACHMENT C – ALCOHOL MONITORING REQUIREMENTS – SCRAM CAM**

A	B	C	D	E	F
Req. No.	Requirement	Required (R) Optional (O)	Bidder Response (Yes / No)	Bidder Response (A, B, C, D, E)	Bidder Comments
<b>27. Alcohol Equipment and Testing Requirements</b>					
27.1	Device must provide Alcohol Monitoring (AM) that samples and measures for confirmable alcohol consumption on a 24/7 basis.	R	Yes	A	SCRAM Continuous Alcohol Monitoring (CAM) samples perspiration from the participant every second, 24/7 into a controlled sample chamber on the device. Measurements of this perspiration are taken every 30 minutes on a 24/7 basis to determine confirmable alcohol consumption. Often used on more high-risk offenders, SCRAM CAM provides 24/7 alcohol monitoring without any active participation on the part of the offender. SCRAM CAM also has the ability to provide RF Curfew Monitoring along with alcohol monitoring at no additional charge.

27.2	Device is lightweight, poses no health hazard and does not unduly restrict the activities of the participant at home or at work.	R	Yes	A	The SCRAM GPS one-piece device is a slim, lightweight bracelet that attaches to the client's ankle and tracks movements 24/7. It weighs only 8.3 ounces (236 grams).
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27.3	<p>Monitoring equipment must collect information about offender status changes specific to the technology upon the status change occurrence. Information must include, but is not limited to, status, date/time. Contractor must explain in Column F how the proposed solution will meet this requirement.</p>	R	Yes	A	<p>Once detected by SCRAM Systems software, all alcohol-related events are by SCRAM Systems-certified analysts. This ensures that alert notifications are reliably confirmed as valid, so that no additional follow-up testing or examinations, such a blood, breath, or urine in are required to confirm drinking events. The system can distinguish between alcohol consumption and environmental or interfering alcohol-based products, such as lotion, cologne, and spilled alcohol.</p> <p>All confirmed alcohol violations are automatically date- and time-stamped and sent to the MDOC supervising authorities the following morning via the communications method and medium chosen by MDOC. A Daily Action Plan (DAP) is delivered via email every day and shows which offenders had specific violations.</p> <p>All equipment alerts (such as power loss or tampers), as well as curfew violations (if using the RF option), can be set for notification within 15 minutes of the violation. Notification can be made by email, text, or page. Otherwise, the officer will see these alerts the</p>
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					next time the offender's online event log is reviewed, or on the Daily Summary Report.
27.4	Device must be able to test at a minimum of 30 minute intervals.	R	Yes	A	SCRAM CAM automatically tests every 30 minutes.
27.5	Ability for on-demand tests requested by MDOC personnel Contractor must explain in Column F how the proposed solution will meet this requirement.	O	Yes	A	SCRAM CAM tests every 30 minutes, 24/7. However, an on-demand test can be performed by contacting the offender and having them place a magnet on the bracelet, which will initiate a test by forcing the bracelet to take a reading outside of its normal testing cadence."

27.6	<p>The device must require minimal participation by the offender during the collection of the sample for alcohol readings. Contractor must explain in Column F how the proposed solution will meet this requirement.</p>	R		<p>The SCRAM Continuous Alcohol Monitoring device takes an alcohol reading every 30 minutes, 24 hours a day. The process is entirely passive and requires no action or responsibility on the part of the offender.</p> <p>SCRAM CAM tests for alcohol consumption through transdermal means, meaning that alcohol content is measured “through the skin.” Transdermal testing measures the concentration of ingested alcohol present in the insensible perspiration, which is constantly produced and emitted through the skin. The CAM bracelet automatically collects transdermal samples of insensible perspiration from the air above the offender’s skin and transmits this data to a central source for analysis—requiring no effort on the part of the offender or the supervising agency.</p>
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27.7	<p>The Device must monitor for ingested alcohol with a specific numerical measurement of alcohol use in the human body using court-validated testing technology. Please briefly describe how you calculate to confirm the presence of a quantifiable alcohol level. Contractor must explain in Column F how the proposed solution will meet this requirement.</p>	R	Yes	A	<p>SCRAM CAM measures the amount of alcohol that migrates through the skin, a predictable result of alcohol consumption, in order to determine a subject's Transdermal Alcohol Concentration (TAC).</p> <p>SCRAM Systems analyzes seven individual pieces of criteria in order to determine if consumption has taken place uses equations to determine absorption and elimination rates, sample contamination as well as characteristics to determine when a consumption event begins and ends. This process has been validated in numerous court hearings in Michigan and other courts throughout the country.</p>
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27.8	The system must be able to distinguish between ingested alcohol and environmental exposure to alcohol. Contractor to describe the manner in which the system performs this function.	R	Yes	A	<p>SCRAM CAM can conclusively distinguish between ingested and environmental alcohol for the following reasons:</p> <p><b>Controlled, Quantifiable Sample Delivery System:</b> SCRAM CAM is the only CAM device on the market that uses a controlled, quantifiable sampling method that draws a measured sample every 30 minutes. This is the same proven sample delivery system used in evidential breath testing equipment that has been the standard in law enforcement for many decades.</p> <p>Other devices may claim to be “testing” more frequently; however, without a controlled, quantifiable sample, their devices are merely sensors and are more susceptible to environmental false alerts. These devices may also require secondary tests to validate their results.</p> <p><b>Industry-Validated Fuel Cell:</b> The electrochemical fuel cell is the heart of the SCRAM CAM bracelet, which has been proven reliable through decades of research and is accepted by the forensic community in alcohol testing applications. This is the</p>
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				<p>same fuel cell used in evidential breath testing equipment and interlock devices. Electrochemical fuel cells have been independently validated (both directly and indirectly) and are extremely sensitive and ethanol-specific alcohol sensors.</p> <p><b>Thorough Data Analysis and Review Process:</b> All data received from the SCRAM CAM bracelet through SCRAM Systems software is subjected to a rigorous data analysis and review process conducted by SCRAM Systems' team of professionally-trained analysts. Their review process identifies the presence of environmental alcohol and looks at key characteristics of the Transdermal Alcohol Concentration (TAC) curve—which is similar to a BAC (Blood Alcohol Concentration) to ensure that only true drinking episodes are confirmed (such as alcohol absorption and elimination rates).</p>
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27.9	The system must also provide security and tamper measures that prevent anyone other than the offender from completing the test.	R	Yes	A	The SCRAM CAM bracelet is equipped with industry-leading, anti-tamper technology that features five sensors to detect and report attempted tampers. These sensors determine whether the bracelet has been cut, removed, obstructed, or submerged. The bracelet's intelligent self-diagnostic capabilities constantly monitor and report its functionality. Any attempts to tamper with the bracelet or its functionality will be immediately detected by the SCRAM CAM system.
27.10	The device must have ability to determine device proximity to the body of the offender being monitored, including detection of attempts to circumvent monitoring.	O	Yes	A	SCRAM CAM's IR sensor determines if an object has been placed between the device and the offender's body in an attempt to circumvent monitoring.
27.11	The technology must have single source admissibility, meaning the AM device does not require agency staff to issue a secondary testing methodology to verify consumption on an alcohol alert	R	Yes	A	SCRAM CAM is court-validated—meaning it has been upheld as valid and reliable by the Daubert, Frye, and FRE 702 and 703 standards of admissibility in every state where it's been challenged.

27.12	The Contractor must have the ability to deliver up to 1,200 alcohol monitoring devices. If leased, at the contractor's expense an additional 30% spare device ratio over the number of activated devices must be provided to the MDOC at no cost.	R	Yes	A	We are confident in our ability to continue to provide alcohol monitoring equipment and services to the MDOC< including delivering up to 1,200 alcohol monitoring devices. Our pricing proposal includes a 30% spare allowance on leased equipment.
27.13	OEM (Original Equipment Manufacturer) of AM device must have three (3) years' experience demonstrating the ability to provide Alcohol Monitoring equipment and monitoring services to the criminal justice marketplace.	R	Yes	A	As the pioneer of CAM technology, SCRAM Systems launched the original Secure Continuous Remote Alcohol Monitor (SCRAM) system to the criminal justice market in 2003. In 2010, built-in RF house arrest capabilities were added to the bracelet to provide the option for dual functionality in the same device. Known today as SCRAM CAM, it is part of the SCRAM Systems line of electronic monitoring and corrections software solutions. SCRAM CAM has monitored more clients worldwide than all other transdermal devices combined.

27.14	OEM (Original Equipment Manufacturer) of AM device must have demonstrated a history of outside research or published studies by an entity other than the manufacturer itself, highlighting the validity of the AM product or establishing general acceptance in the scientific community. (References of outside research studies published on the proposed solution must be provided).	O	Yes	A	<p>SCRAM Systems has been involved in a number of articles, third party research, lab and field studies, and court documents that pertain to transdermal alcohol testing. Completed studies include:</p> <ul style="list-style-type: none"> <li>• National Highway Traffic Safety Administration (NHTSA): “Evaluating Transdermal Alcohol Measuring Devices”</li> <li>• University of Colorado Health Sciences: “Validity of Transdermal Alcohol Monitoring: Fixed and Self-Regulated Dosing”</li> <li>• Traffic Injury Research Foundation (TIRF): Comprehensive Overview of CAM and SCRAM</li> <li>• Other Studies: National Law Enforcement and Corrections Technology Center, Acadiana Criminalistics Laboratory, Michigan Department of Corrections</li> </ul> <p>SCRAM Systems is also currently involved in a number of studies designed to provide case studies of successful SCRAM programs:</p>
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					<ul style="list-style-type: none"> <li>• NHTSA-Sponsored Study (Pacific Institute for Research and Evaluation); SCRAM Case Studies</li> <li>• NHTSA-Sponsored Study (Preusser Research Group); Evaluation of the SCRAM Device as a Tool in Monitoring Impaired-Driving Offenders and Its Potential Effect in Reducing Recidivism</li> <li>• National Institute on Alcohol Abuse and Alcoholism (NIAAA)-Sponsored Study (RAND Corporation, Drug Research Center); Effectiveness of the South Dakota 24/7 Sobriety Program</li> <li>• Nebraska Supreme Court Division of Probation (Univ. of NE, Omaha); Continuous Alcohol Monitoring Evaluation</li> <li>• Portage County, Ohio (Kent State University); Analysis of the Effect of SCRAM on Probation Violations and Offender Recidivism</li> </ul> <p>In addition, following are industry reports involving SCRAM technology:</p> <ul style="list-style-type: none"> <li>• <u>Field and Laboratory Alcohol Detection With 2 Types of</u></li> </ul>
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					<p><u>Transdermal Devices</u> (2009) Alcoholism: Clinical and Experimental Research, Vol. 33, No. 4, April 2009</p> <ul style="list-style-type: none"> <li>• <u>Get Involved: Hardcore Drunk Driving Prosecutorial Guide</u> (2009) The Century Council</li> <li>• <u>NCSC Study</u> (2009). The National Center for State Courts (NCSC)</li> </ul> <p><u>The South Dakota 24/7 Sobriety Project: A Summary Report</u> (2009) South Dakota Attorney General Larry Long and Robert DuPont (President of the Institute for Behavior and Health)</p>
<b>28. System and Monitoring Requirements</b>					
28.1	Collects, transfers and stores historical participant information 24 hour, 7 days per week, 365 days per year in an encrypted manner and retrievable upon request. Must be compatible with SOM technology as described in Attachment E SOM Technical Requirements.	R	Yes	A	The SCRAM Continuous Alcohol Monitoring (SCRAM CAM) device provides 24/7 alcohol monitoring for higher-risk/higher-need alcohol clients. It is the most widely used and the only scientifically proven and court-validated device of its kind.

28.2	The device must be capable of storing at least 14 days of time stamped participant data with the ability to download the data to a server. Please describe the steps necessary to download the data.	R	Yes	A	The SCRAM CAM device has the capability to store up to 160 days of time stamped data. The maximum number of days is determined by how much data each reading or message generates. See 28.3 of this section for upload description.
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28.3	Explain how the data is downloaded to the server and at what frequency.	R	Yes	A	<p>SCRAM CAM uses three methods to upload data to the server: a SCRAM CAM base station with standard phone line, a Direct Connect device, or a SCRAM wireless device with base station. At predetermined times assigned by the agent, one of the three methods are utilized to accept data from the bracelet that has been stored from the previous upload. That information is then sent via phone line, cellular signal, or USB cable through a computer to SCRAM Systems servers for review. If offenders have a landline or cellular device, data is uploaded daily, although the system has the capability to do up to 6 uploads per day. Offenders without landlines or cellular devices typically report to a probation/parole office once or twice a week and a Direct Connect device is used to transfer the data from the bracelet to the SCRAM Systems server.</p>
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28.4	<p>Contractor must provide any required analysis no later than 1 business day of a notification to agency staff of alcohol readings, tamper alerts, communication failures, equipment issues, maintenance needs and/or malfunctions.</p> <p>Contractor must explain in Column F how the proposed solution will meet this requirement.</p>	R	Yes	A	<p>All SCRAM CAM alerts are reviewed by SCRAM Systems' certified data analysts with no need for officers to initiate or request confirmation results; thus, reducing officers/agency workloads. This means SCRAM Systems provides single-source admissibility and does not require a secondary test to confirm a drinking event vs. environmental interferants.</p> <p>All SCRAM Systems monitoring center personnel must undergo at least 316 hours of operational training, as well as ongoing training and certification.</p>
28.5	Any data analysis must be performed by the Contractor.	R	Yes	A	SCRAM Systems performs all data analysis.
28.6	The system must provide easy-to-read non-compliance reports which include detailed information that provide a numeric result which accurately indicates the alcohol level.	R	Yes	A	SCRAM Systems will continue to provide the non-compliance reports requested by the MDOC.

**ATTACHMENT D – ALCOHOL MONITORING REQUIREMENTS – SCRAM Remote Breath Pro**

A	B	C	D	E	F
Req. No.	Requirement	Required (R) Optional (O)	Bidder Response (Yes / No)	Bidder Response (A, B, C, D, E)	Bidder Comments
<b>27. Alcohol Equipment and Testing Requirements</b>					
27.1	Device must provide Alcohol Monitoring (AM) that samples and measures for confirmable alcohol consumption on a 24/7 basis.	R	Yes	A	For lower-risk offenders, SCRAM Systems offers SCRAM Remote Breath Pro—a handheld, wireless breath alcohol device, which is the first to incorporate automated facial recognition and a GPS location with every test. Whether it’s scheduled, random, or on-demand testing, SCRAM Remote Breath Pro provides discrete and flexible breath testing that is both scalable and manageable. Tests can be done at any time of the day, 24/7.
27.2	Device is lightweight, poses no health hazard and does not unduly restrict the activities of the participant at home or at work.	R	Yes	A	SCRAM Remote Breath Pro is sleek, lightweight, and compact. The device measures 2.9” x 6.5” with a 1.2” depth.

27.3	Monitoring equipment must collect information about offender status changes specific to the technology upon the status change occurrence. Information must include, but is not limited to, status, date/time. Contractor must explain in Column F how the proposed solution will meet this requirement.	R	Yes	A	<p>SCRAM Remote Breath Pro offers flexible notification to offenders in order to alert them when it's time to take a test. These alerts can be sent audibly or via vibrations to the device. In addition, breath test reminders can be sent automatically to the offender's cell phone via text message at customizable time frames, such as 15 minutes prior to a test time. Text reminders can also be programmed for automatic client notification when a test is missed. For positive tests, a secondary confirmation test is scheduled 20 minutes after the initial positive test is detected.</p> <p>Results are reported immediately after each test. Unlike devices that only send the BrAC result, SCRAM Remote Breath Pro provides real-time BrAC results along with Automated Facial Intelligence, which uses government security level facial recognition software and camera technology to automatically determine if the client's identity at the time of the test was a positive or failed match. Systems without this technology required a manual comparison of thousands of test photos per week in order to verify a client's identity.</p>
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					Other systems may rely on a remote monitoring center representative to use their judgment in order to confirm the two photos as they come in, or once per day.
27.4	Device must be able to test at a minimum of 30 minute intervals.	R	Yes	A	SCRAM Remote Breath Pro can be set to test every 30 minutes.
27.5	Ability for on-demand tests requested by MDOC personnel Contractor must explain in Column F how the proposed solution will meet this requirement.	O	Yes	A	SCRAM Remote Breath Pro allows the MDOC personnel to initiate tests on-demand at any time from any internet-enabled device.
27.6	The device must require minimal participation by the offender during the collection of the sample for alcohol readings. Contractor must explain in Column F how the proposed solution will meet this requirement.	R	Yes	A	The offender is notified by the device at the testing time to provide a breath sample. All prompts and instructions are visible on the LED screen.



27.7	<p>The Device must monitor for ingested alcohol with a specific numerical measurement of alcohol use in the human body using court-validated testing technology. Please briefly describe how you calculate to confirm the presence of a quantifiable alcohol level. Contractor must explain in Column F how the proposed solution will meet this requirement.</p>	R	Yes	A	<p>SCRAM Remote Breath Pro utilizes the same fuel cell and pump as the Lifeloc FC10 breathalyzer, which is made in the USA, DOT-conforming, and NHTSA-approved as an evidential instrument. The FC10 is one of the most widely used breathalyzers by Law Enforcement and Corrections officials today. Upon blowing into SCRAM Remote Breath, a positive identification is determined through automated facial recognition, and a Breath Alcohol Concentration unit of measure is provided from 0 to .600 BrAC.</p>
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27.8	The system must be able to distinguish between ingested alcohol and environmental exposure to alcohol. Contractor to describe the manner in which the system performs this function.	R	Yes	A	To aid in the distinction between environmental and ingested alcohol, SCRAM Remote Breath Pro requires a secondary confirmation test 20 minutes after a positive test is detected. While remote breath testing cannot definitively determine ingested vs. environmental alcohol, a photograph of the offender taking the test, coupled with positive BrAC results from both the initial and the confirmation tests, provide a great deal of insight to non-compliance. For example, in cases of environmental or residual detection (mouthwash, cough syrup), alcohol is quickly evaporated, which would show a significant drop in BrAC on the confirmation test 20 minutes after the initial detection. Likewise, if ingested alcohol is detected, the confirmation test typically will show a similar BrAC reading to the initial positive test just 20 minutes prior.
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27.9	The system must also provide security and tamper measures that prevent anyone other than the offender from completing the test.	R	Yes	A	<p>SCRAM Remote Breath was the first breath alcohol testing system to utilize Automated Facial Intelligence (AFI). This government grade facial recognition software, coupled with a high resolution 5 megapixel lens, ensures that if anyone other than the assigned offender takes the test, the system will detect the violation and send an alert. Both the enrollment photo and the failed AFI photo, along with the BrAC are sent to the officer via email or smart phone. Other breath testing systems require that someone manually review potentially thousands of photographs every week to ensure the right person is taking the test. With poor image quality and rapid reviews, accuracy in matching photos drops significantly. With AFI, approximately 95% of client images are automatically and accurately matched on the first test.</p> <p>When testing, the device prompts users with visual clues to ensure that the offender's face is aligned during testing. The device will prompt the offender to first align their face, showing a red border. Then when ready, the screen</p>
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					<p>changes to indicate that the offender should blow, showing a green border. This helps the offender take successful tests, increases offender compliance, and reduces the need for multiple tests.</p> <p>If SCRAM Remote Breath Pro is unable to match the offender, the device will tell the offender it was unable to determine a match and prompt the offender to take another test. This virtually eliminates the need for an officer to review photographs on compliant participants. With this exception-based reporting, only tests that require officer attention, such as positive BrAC, missed tests, or failed identification alerts require review by an officer.</p>
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27.1 0	The device must have ability to determine device proximity to the body of the offender being monitored, including detection of attempts to circumvent monitoring.	O	Yes	A	The high resolution camera displays the offender's face and the Remote Breath Pro device shows the proximity to the body. If Remote Breath Pro is unable to match the offender's face to the enrollment image, or if the offender does not blow sufficiently to provide a sample, the offender is prompted to take a retest. Three retests are allowed within the testing period. A failure to take the test or to provide a valid test will result in an alert to the officer.
27.1 1	The technology must have single source admissibility, meaning the AM device does not require agency staff to issue a secondary testing methodology to verify consumption on an alcohol alert	R	Yes	A	SCRAM Remote Breath Pro is a single-source admissible breath testing device. It does not require a secondary test to verify consumption.
27.1 2	The Contractor must have the ability to deliver up to 1,200 alcohol monitoring devices. If leased, at the contractor's expense an additional 30% spare device ratio over the number of activated devices must be provided to the MDOC at no cost.	R	Yes	A	SCRAM Systems is confident in our ability to meet these requirements. We have included a 30% shelf stock for leased equipment in our proposed pricing.

27.1 3	OEM (Original Equipment Manufacturer) of AM device must have three (3) years' experience demonstrating the ability to provide Alcohol Monitoring equipment and monitoring services to the criminal justice marketplace.	R	Yes	A	In May 2014, SCRAM Systems introduced SCRAM Remote Breath, offering options for scheduled, random, on-demand, and client-initiated testing for low-risk clients or those who have earned less intensive testing and monitoring. Government-grade facial verification software decreases manual photo review by up to 95%, allowing officers more time to spend on their caseloads and clients. The 2nd generation released in early 2022, SCRAM Remote Breath Pro, is 40% smaller and offers the same features, as well as additional enhancements.
27.1 4	OEM (Original Equipment Manufacturer) of AM device must have demonstrated a history of outside research or published studies by an entity other than the manufacturer itself, highlighting the validity of the AM product or establishing general acceptance in the scientific community. (References of outside research studies published on the proposed solution must be provided).	O	Yes	A	The electrochemical fuel cell used in SCRAM Remote Breath Pro has been validated through decades of research and experience. It is considered the most reliable in alcohol testing applications. This is the same fuel cell used in evidential breath testing and interlock devices and consists of extremely sensitive ethanol-specific alcohol sensors.
<b>28. System and Monitoring Requirements</b>					

28.1	Collects, transfers and stores historical participant information 24 hour, 7 days per week, 365 days per year in an encrypted manner and retrievable upon request. Must be compatible with SOM technology as described in Attachment E SOM Technical Requirements.	R	Yes	A	The Remote Breath Pro unit transmits data to SCRAM Optix immediately after each test, which stores information 24/7/365. This is the same system that the MDOC has been using for over 10 years and has been proven to be compatible with SOM Technical Requirements.
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28.2	<p>The device must be capable of storing at least 14 days of time stamped participant data with the ability to download the data to a server. Please describe the steps necessary to download the data.</p>	R	Yes	A	<p>SCRAM Remote Breath Pro is designed to automatically upload test results immediately upon completion via the LTE AT&amp;T cellular data network. In the event cellular service is not available, the device has the memory capacity to store at least 30 days of time-stamped test results. This is more data than any other remote breath device on the market. Also, since Automated Facial Intelligence (AFI) is performed within the device, it does not require cellular service to automatically match a client's test image with the enrollment photo. Scheduled tests are always prompted, regardless of cell coverage, as they are stored in the device. If a test is performed in an area with no cellular coverage, the results will either be uploaded automatically as soon as cellular coverage is restored, or the data can be directly retrieved with SCRAM Systems Direct Connect, a USB cable connection that allows uploading from SCRAM Remote Breath Pro directly into any Internet-enabled computer with a USB connection.</p>
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28.3	Explain how the data is downloaded to the server and at what frequency.	R	Yes	A	Data is uploaded to the software immediately and are viewable within one minute of each breath test.
28.4	Contractor must provide any required analysis no later than 1 business day of a notification to agency staff of alcohol readings, tamper alerts, communication failures, equipment issues, maintenance needs and/or malfunctions.  Contractor must explain in Column F how the proposed solution will meet this requirement.	R	Yes	A	All test results are sent to the agency immediately after the test is completed. MDOC staff will be trained on interpretation of these results. If any further analysis is required, SCRAM Systems has a 24/7 monitoring center with SCRAM Systems data analysts who can assist with data interpretation. All SCRAM Systems data analysts must undergo at least 316 hours of operational training, as well as ongoing training and certification.
28.5	Any data analysis must be performed by the Contractor.	R	Yes	A	SCRAM Systems will provide data analysis.
28.6	The system must provide easy-to-read non-compliance reports which include detailed information that provide a numeric result which accurately indicates the alcohol level.	R	Yes	A	SCRAM Systems will continue to provide any required non-compliance reports.

## SCHEDULE B – PRICING

The following pricing will apply for the duration of this Contract.

### Alcohol Monitoring Cost Tables

#### Option A: Purchase

Purchase Quantity*	Device description, manufacturer, model number	Purchase Price per Unit	Daily Monitoring Fee – Alcohol**	Replacement cost for lost or damaged devices
1 – 499	SCRAM CAM	\$999	\$3.60	\$999
500 – 999	SCRAM CAM	\$950	\$3.55	\$950
1000 – 1999	SCRAM CAM	\$925	\$3.40	\$925
2000+	SCRAM CAM	\$900	\$3.29	\$900
As Needed	SCRAM Wireless Base Station	\$500	\$0.35	\$500
As Needed	SCRAM Base Station - Landline	\$300	N/A	\$300
As Needed	SCRAM Base Station - Ethernet	\$300	\$0.35	\$300
1 – 499	SCRAM Remote Breath Pro	\$650	\$2.25	\$650
500+	SCRAM Remote Breath Pro	\$600	\$2.19	\$600

\*Purchase quantity pricing refers only to the purchase price per product type.

\*\*The Daily Monitoring fee will be based off the total active unit count by product, i.e., the Daily Monitoring Fee will only be accessed on those devices that have been assigned to an offender, not on devices that are awaiting use. The daily monitoring fee could fluctuate throughout the year, but only if there is growth, and the State's cost would not increase. For example, if the number of actively monitored clients increase from 400 in January to 600 in February, the daily rate would decrease from \$3.60 to \$3.55. Once the higher tier is reached, Contractor would notify the State that its rate will be reduced starting on the first day of the month. However, if the number of actively monitored clients falls from 600 in January to 400 in February, Contractor will not increase the rate. Rate increases would be handled on an annual basis.

The initial daily monitoring fee will be set at the outset of the contract based on the number of active users at that time. Thereafter, the annual rate evaluation will occur each June to be effective for the immediately following fiscal year (October 1<sup>st</sup> through September 30<sup>th</sup>).

#### Option B: Lease

Lease Quantity	Device description, manufacturer, model number*	Lease Price per Unit	Daily Monitoring Fee – Alcohol*	Replacement cost for lost or damaged devices
1 – 499	SCRAM CAM	\$1.70	\$3.60	\$999
500 – 999	SCRAM CAM	\$1.65	\$3.55	\$950
1000 – 1999	SCRAM CAM	\$1.60	\$3.40	\$925
2000+	SCRAM CAM	\$1.56	\$3.29	\$900
As Needed	SCRAM Wireless Base Station	\$0.85	\$0.35	\$500
As Needed	SCRAM Base Station - Landline	\$0.55	N/A	\$300
As Needed	SCRAM Base Station - Ethernet	\$0.55	\$0.35	\$300
1 – 499	SCRAM Remote Breath Pro	\$1.50	\$2.25	\$650
500+	SCRAM Remote Breath Pro	\$1.45	\$2.19	\$600

\*The Daily Monitoring fee will be based off the total active unit count by product, i.e., the Daily Monitoring Fee will only be accessed on those devices that have been assigned to an offender, not on devices that are awaiting use. The note to Option A (Purchase) above regarding daily monitoring fee increases and decreases applies to this Option B (Lease) also.

**Replacement Consumables and Services**

For both purchased and leased equipment, Contractor will provide the replacement consumables and replacement services listed below at no cost to the State:

<b>Quantity</b>	<b>Description</b>	<b>Purchase Price Per Unit</b>
As Needed	SCRAM CAM Battery and Faceplate Kit Includes: Faceplate (1) Battery (1) Tamper Clips (2)	Free
As Needed	SCRAM CAM Direct Connect, HID Includes: Direct Connect Device (1) USB Cable (1) Direct Connect Quick Guide (1)	Free
As Needed	SCRAM CAM Tool Kit Includes: Magnet (1) Shear Cutters (1) Torx/Flat Screwdriver (1) Faceplate Removal Tool (1)	Free
As Needed	SCRAM Remote Breath Pro – Breath Tubes	Free
As Needed	SCRAM CAM Landline, Wireless Base Station, and Remote Breath Pro Chargers	Free
As Needed	SCRAM Base Station Phone Cords and Ethernet Cords	Free
As Needed	SCRAM Remote Breath Pro Carrying Case	Free
As Needed	SCRAM Remote Breath Pro Calibration Kit Includes: Regulator (1) Gas Canister (1) Recycling Tool (1) Safety Glasses (1) Instruction Card (1) Breath Tube (1) Rubber Tubing (1) Calibration Guide (1) Recycling Procedure (1)	Free

**Travel and Expenses**

The State does not pay for overtime or travel expenses.

# SCHEDULE C – INSURANCE REQUIREMENTS

**1. General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.

**2. Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.

**3. Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.

**4. Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:

- a. Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
- b. Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract.

**5. Proof of Insurance.**

- a. Insurance certificates showing evidence of coverage as required herein must be submitted to [DTMB-RiskManagement@michigan.gov](mailto:DTMB-RiskManagement@michigan.gov) within 10 days of the contract execution date.
- b. Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
- c. Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
- d. All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
- e. The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification/authorization, and balance sheets.
- f. In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to DTMB Enterprise Risk Management no later than 5 business days following such cancellation or nonrenewal.

**6. Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.

**7. Limits of Coverage & Specific Endorsements.**

Required Limits	Additional Requirements
<b>Commercial General Liability Insurance</b>	

<b>Minimum Limits:</b> <b>\$1,000,000 Each Occurrence</b> <b>\$1,000,000 Personal &amp; Advertising Injury</b> <b>\$2,000,000 Products/Completed Operations</b> <b>\$2,000,000 General Aggregate</b>	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.
<b>Automobile Liability Insurance</b>	
<b>Minimum Limits:</b> <b>\$1,000,000 Per Accident</b>	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
<b>Workers' Compensation Insurance</b>	
<b>Minimum Limits:</b> <b>Coverage according to applicable laws governing work activities.</b>	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<b>Minimum Limits:</b> <b>\$500,000 Each Accident</b> <b>\$500,000 Each Employee by Disease</b> <b>\$500,000 Aggregate Disease</b>	
<b>Privacy and Security Liability (Cyber Liability) Insurance</b>	
<b>Minimum Limits:</b> <b>\$1,000,000 Each Occurrence</b> <b>\$1,000,000 Annual Aggregate</b>	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
<b>Professional Liability (Errors and Omissions) Insurance</b>	
<b>Minimum Limits:</b> <b>\$3,000,000 Each Occurrence</b> <b>\$3,000,000 Annual Aggregate</b>	

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

# **SCHEDULE D – SERVICE LEVEL AGREEMENT**

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## **IF THE SOFTWARE IS CONTRACTOR HOSTED, then the following applies:**

1. For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Schedule** shall have the respective meanings given to them in the Contract Terms and Conditions. “**Actual Uptime**” means the total minutes in the Service Period that the Hosted Services are Available.

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

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

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

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

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

“**Critical Service Error**” has the meaning set forth in **Subsection 3.5, Support Request Table**.

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

“**High Service Error**” has the meaning set forth in **Subsection 3.5, Support Request Table**.

“**Low Service Error**” has the meaning set forth in **Subsection 3.5, Support Request Table**.

“**Medium Service Error**” has the meaning set forth in **Subsection 3.5, Support Request Table**.

“**Resolve**” has the meaning set forth in **Subsection 3.6**.

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

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

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

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

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

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

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

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

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

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

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

“**Support Hours**” means 24 hours per day, 7 days per week, every day of the year.

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

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

## **2. Service Availability and Service Available Credits.**

2.1 Availability Requirement. Contractor will make the Hosted Services and Software Available, as measured over the course of each calendar month during the Term and any additional periods during which Contractor does or is required to perform any Hosted Services (each such calendar month, a “**Service Period**”), at least 99.98% of the time, excluding only the time the Hosted Services are not Available solely as a result of one or more Exceptions (the “**Availability Requirement**”). “**Available**” means the Hosted Services and Software are available and operable for access and use by the State and its Authorized Users over the Internet in material conformity with the Contract. “**Availability**” has a correlative meaning. The Hosted Services and Software are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services and Software, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows:  $(\text{Actual Uptime} - \text{Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception}) \div (\text{Scheduled Uptime} - \text{Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception}) \times 100 = \text{Availability}$ .

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

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

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

2.4 Software Response Time. Software response time, defined as the interval from the time the end user sends a transaction to the time a visual confirmation of transaction completion is received, must be less than two (2) seconds for 98% of all transactions. Unacceptable response

times shall be considered to make the Software unavailable and will count against the Availability Requirement.

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

2.6 Remedies for Service Availability Failures.

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

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

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

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

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

3.1 Support Service Responsibilities. Contractor will:

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



- (b) provide unlimited telephone support during Support Hours;
- (c) provide unlimited online support 24 hours a day, seven days a week;
- (d) provide online access to technical support bulletins and other user support information and forums, to the full extent Contractor makes such resources available to its other customers; and
- (e) respond to and Resolve Support Requests as specified in this **Section 3**.

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

- (a) proactively monitoring on a twenty-four (24) hour by seven (7) day basis all Hosted Service functions, servers, firewall and other components of Hosted Service security;
- (b) if such monitoring identifies, or Contractor otherwise becomes aware of, any circumstance that is reasonably likely to threaten the Availability of the Hosted Service, taking all necessary and reasonable remedial measures to promptly eliminate such threat and ensure full Availability; and
- (c) if Contractor receives knowledge that the Hosted Service or any Hosted Service function or component is not Available (including by written notice from the State pursuant to the procedures set forth herein):
  - (i) confirming (or disconfirming) the outage by a direct check of the associated facility or facilities;
  - (ii) If Contractor's facility check in accordance with clause (i) above confirms a Hosted Service outage in whole or in part: (A) notifying the State in writing pursuant to the procedures set forth herein that an outage has occurred, providing such details as may be available, including a Contractor trouble ticket number, if appropriate, and time of outage; and (B) working all problems causing and caused by the outage until they are Resolved as Critical Service Errors in accordance with the Support Request Classification set forth in **Subsections 3.5 and 3.6**, or, if determined to be an internet provider problem, open a trouble ticket with the internet provider; and
  - (iii) Notifying the State that Contractor has fully corrected the outage and any related problems, along with any pertinent findings or action taken to close the trouble ticket.

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

- (a) all updates, bug fixes, enhancements, Maintenance Releases, New Versions and other improvements to the Hosted Services and Software, including the Software, that Contractor provides at no additional charge to its other similarly situated customers; provided that Contractor shall consult with the State and is required to receive State approval prior to modifying or upgrading Hosted Services and Software, including Maintenance Releases and New Versions of Software; and

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

3.4 Support Service Level Requirements. Contractor will correct all Service Errors and respond to and Resolve all Support Requests in accordance with the required times and other terms and conditions set forth in this **Section 3 (“Support Service Level Requirements”)**, and the Contract.

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

**SUPPORT REQUEST TABLE**

<b>Support Request Classification</b>	<b>Description: Any Service Error Comprising or Causing any of the Following Events or Effects</b>
Critical Service Error	<ul style="list-style-type: none"> <li>• Issue affecting entire system or single critical production function;</li> <li>• System down or operating in materially degraded state;</li> <li>• Data integrity at risk;</li> <li>• Declared a Critical Support Request by the State; or</li> <li>• Widespread access interruptions.</li> <li>• Hardware not operable</li> </ul>
High Service Error	<ul style="list-style-type: none"> <li>• Primary component failure that materially impairs its performance; or</li> <li>• Data entry or access is materially impaired on a limited basis.</li> </ul>
Medium Service Error	<ul style="list-style-type: none"> <li>• Hosted Services and Software is operating with minor issues that can be addressed with an acceptable (as determined by the State) temporary work around.</li> </ul>
Low Service Error	<ul style="list-style-type: none"> <li>• Request for assistance, information, or services that are routine in nature.</li> </ul>

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

**RESPONSE AND RESOLUTION TIME SERVICE TABLE**

Support Request Classification	Service Level Metric (Required Response Time)	Service Level Metric (Required Resolution Time)	Service Level Credits (For Failure to Respond to any Support Request Within the Corresponding Response Time)	Service Level Credits (For Failure to Resolve any Support Request Within the Corresponding Required Resolution Time)
Critical Service Error	One (1) hour	<b>For Hosted Services and Software</b> Three (3) hours.  <b>For Hardware:</b> One (1) Business Day. See Section 4 below.	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Five percent (5%) of the Fees for the month in which the initial Service Level Failure begins and five percent (5%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
High Service Error	One (1) hour	Four (4) hours	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for each additional hour or portion thereof that the corresponding Service Error is not responded to within the required response time.	Three percent (3%) of the Fees for the month in which the initial Service Level Failure begins and three percent (3%) of such monthly Fees for the first additional hour or portion thereof that the corresponding Service Error remains un-Resolved, which amount will thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

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

3.8 Support Service Level Credits. Failure to achieve any of the Support Service Level Requirements for Critical and High Service Errors will constitute a Service Level Failure for which Contractor will issue to the State the corresponding service credits set forth in **Subsection 3.1 (“Service Level Credits”)** in accordance with payment terms set forth in the Contract.

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

**4. Hardware.** When the Contractor receives calls for repair and/or replacement of Hardware, the Contractor must correct such problems within 1 Business Day of notification by the State. The Contractor must maintain sufficient inventory of spare equipment to meet the 1 Business Day requirement. Failure to repair or replace the Hardware within this timeframe will result in the assessment of liquidated damages of \$100 per day until resolved.

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

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

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

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

5.4 Disaster Recovery. Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will maintain and operate a backup and disaster

recovery plan to achieve a Recovery Point Objective (RPO) of **0 hours (no data loss)**, and a Recovery Time Objective (RTO) of **2 hours** (the "**DR Plan**") and implement such DR Plan in the event of any unplanned interruption of the Hosted Services. Contractor's current DR Plan, revision history, and any reports or summaries relating to past testing of or pursuant to the DR Plan are attached as **Schedule F**. Contractor will actively test, review and update the DR Plan on at least an annual basis using industry best practices as guidance. Contractor will provide the State with copies of all such updates to the Plan within fifteen (15) days of its adoption by Contractor. All updates to the DR Plan are subject to the requirements of this **Section 4**; and provide the State with copies of all reports resulting from any testing of or pursuant to the DR Plan promptly after Contractor's receipt or preparation. If Contractor fails to reinstate all material Hosted Services and Software within the periods of time set forth in the DR Plan, the State may, in addition to any other remedies available under this Contract, in its sole discretion, immediately terminate this Contract as a non-curable default.

## **SCHEDULE D, ATTACHMENT 1 – CONTACT LIST**

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Contractor will provide 24/7 service with live personnel ready to assist with real-time responses to questions and prompt follow-up when needed.

### **First Contact**

Nathan Spielbusch  
Account Manager (will be the MDOC's first person to contact.)  
248-563-6923  
nspielbusch@scramsystems.com

Customer service can also be reached 24/7 by calling 303-785-7879 or via email  
CustomerService@scramsystems.com.

### **Secondary Contacts**

Amy Rieser  
Director of Account Management  
616-204-9643  
arieser@scramsystems.com

Josh Fobes  
Director of Sales  
303-755-3919  
Jfobes@scramsystems.com

# SCHEDULE E – DATA SECURITY REQUIREMENTS

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**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 Personnel comply with the foregoing.

The State has established Information Technology (IT) PSPs to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy. In no case will the safeguards of

Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times 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/policies/it-policies>.

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

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

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

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

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

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

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

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

5.6 provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, encryption, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of State Data and the nature of such State Data, consistent with 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);

5.7 take all reasonable measures to:

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

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

5.8 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;

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

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

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

**6. Security Accreditation Process.** Throughout the Term, Contractor will assist the State, at no additional cost, with its **Security Accreditation Process**, which includes the development, completion and on-going maintenance of a system security plan (SSP) using the State’s automated governance, risk and compliance (GRC) platform, which requires Contractor to submit evidence, upon request from the State, in order to validate Contractor’s security controls within two weeks of the State’s request. On an annual basis, or as otherwise required by the State such as for significant changes, re-assessment of the system’s controls will be required to receive and maintain authority to operate (ATO). All identified risks from the SSP will be remediated through a Plan of Action and Milestones (POAM) process with remediation time frames and required evidence based on the risk level of the identified risk. For all findings associated with the Contractor’s solution, at no additional cost, Contractor will be required to create or assist with the creation of State approved POAMs, perform related remediation activities, and provide evidence of compliance. The State will make any decisions on acceptable risk, Contractor may request risk acceptance, supported by compensating controls, however only the State may formally accept risk. Failure to comply with this section will be deemed a material breach of the Contract.

**7. Unauthorized Access.** Contractor may not access, and must not permit any access to, State systems, in whole or in part, whether through the Hosted Services or otherwise, without the State’s express prior written authorization. Such authorization may be revoked by the State in writing at any time in its sole discretion. Any access to State systems must be solely in accordance with the Contract and

this Schedule, and in no case exceed the scope of the State's authorization pursuant to this Section. All State-authorized connectivity or attempted connectivity to State systems shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.

## **8. Security Audits.**

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

8.2 Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Services and from time to time during the term of this Contract. The State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. If the State chooses to perform an on-site audit, Contractor will, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by the State or an independent data security expert that is reasonably acceptable to Contractor, provided that the State: (i) gives Contractor at least five (5) Business Days prior notice of any such audit; (ii) undertakes such audit no more than once per calendar year, except for good cause shown; and (iii) conducts or causes to be conducted such audit in a manner designed to minimize disruption of Contractor's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of the Contract. The State may, but is not obligated to, perform such security audits, which shall, at the State's option and request, include penetration and security tests, of any and all Hosted Services and their housing facilities and operating environments.

8.3 During the Term, Contractor will, when requested by the State, provide a copy of Contractor's and Hosting Provider's FedRAMP System Security Plan(s) or SOC 2 Type 2 report(s) to the State within two weeks of the State's request. The System Security Plan and SSAE audit reports will be recognized as Contractor's Confidential Information.

8.4 With respect to State Data, Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.

8.5 The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this **Section 8**.

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

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

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

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

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

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

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

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

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

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

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

## **10. Infrastructure Scanning.**

10.1 For Hosted Services, Contractor must ensure the infrastructure and applications are scanned using an approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least monthly and provide the scan's assessments to the State in a format that is specified by

the State and used to track the remediation. Contractor will ensure the remediation of issues identified in the scan according to the remediation time requirements documented in the State's PSPs.

**11. Nonexclusive Remedy for Security Breach.**

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 for which the State, at its option, may terminate the Contract immediately upon written notice to Contractor without any notice or cure period, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.

## **SCHEDULE F – DISASTER RECOVERY PLAN**

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The Disaster Recovery Plan that Contractor provided to the State is incorporated into this Contract by reference but is redacted from this public copy for security purposes.

## SCHEDULE G – HARDWARE

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1. **Definitions.** All initial capitalized terms in this Schedule that are not defined herein shall have the respective meanings given to them in the Contract.
2. **Hardware.** Contractor must provide fully functioning Hardware that fully integrates with the Software and performs in accordance with the requirements and specifications set forth in the Contract.
3. **Delivery.** Contractor must deliver the Hardware to the locations designated by the State by the delivery date specified in the Statement of Work, or as otherwise specified in writing by the State. Five (5) Business Days prior to the actual delivery date, Contractor must give written notice to the State specifying the precise delivery date and time. Contractor must pay all costs associated with replacing any item damaged in transit to the final destination. Contractor acknowledges that no item will be considered delivered on the delivery date if it is damaged or otherwise not ready for the State to begin its acceptance procedures. Contractor must, at a minimum, package the Hardware according to industry standards and include a packing slip with each shipment. Contractor must also arrange for any rigging and drayage necessary to deliver the Hardware. All costs associated with packaging, shipping, transportation, delivery and insurance are to be borne by Contractor.
4. **Installation, Integration and Configuration.**
  - a. Contractor must unpack, assemble, install, integrate, interconnect, configure and otherwise provide and make fully operational all the Hardware at the locations specified by the State prior to the applicable dates in accordance with the criteria set forth by the State. Where necessary to complete installation, Contractor must provide all required moving and installation resources, including but not limited to personnel, packing material, and floor protection panels as necessary. After completing installation, Contractor must provide the State with written notification that the Hardware is ready for use and acceptance.
  - b. Contractor must supply all materials required to complete the assembly, installation, integration, interconnection, and configuration of the Hardware at the locations specified by the State so that it is ready for use and acceptance, including providing and setting up all required connections to the power supply and any other necessary cables and any other accessories or supplies.
  - c. Contractor must leave all work areas clean once installation is complete, which includes removing and disposing of all packing materials.
  - d. Unless otherwise provided for in the Pricing Schedule, all costs associated with the installation services described in this Section are to be borne by Contractor.
5. **Documentation.** Contractor must provide to the State all end-user documentation for the Hardware. The documentation, at a minimum, must include all the documentation available to consumers from the manufacturer of the Hardware about the technical specifications of the Hardware, installation requirements, and operating instructions, as well as details about the software programs with which the Hardware functions.

- 6. Acceptance.** This Section applies to the acceptance of the Hardware itself. Acceptance of the Hardware may be conditioned on System Acceptance in Schedule I.
- a. The Hardware is subject to inspection and acceptance by the State. As part of its acceptance process, the State may test any function of the Hardware to determine whether it meets the requirements set forth in this Contract. If the State accepts the Hardware, the State will notify Contractor in writing. Unless otherwise provided in the Statement of Work, if the Hardware is not fully accepted by the State, the State will notify Contractor in writing that either: (a) the Hardware is accepted but noted deficiencies must be corrected; or (b) the Hardware is rejected. If the State finds material deficiencies, it may: (i) reject the Hardware without performing any further inspections; (ii) demand performance at no additional cost; or (iii) deem such material deficiencies to be a breach of the Contractor's obligations under the terms of the Contract and terminate this Contract in accordance with Section 16.
  - b. Within 10 Business Days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Hardware, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Hardware to the State. If acceptance with deficiencies or rejection of the Hardware impacts the content or delivery of 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.
  - c. If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may provide the Hardware and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.
  - d. Acceptance by the State does not relieve Contractor of its responsibility for defects in the Hardware or other failures to meet the requirements of the Contract or of its support and maintenance obligations.
- 7. Support and Warranty for Hardware.**
- a. Throughout the Term, Contractor will provide maintenance and support of the Hardware and will repair, service, or replace any defective or nonconforming Hardware in accordance with the requirements set forth in this Contract, including without limitation the Service Level Agreement.
  - b. Contractor will provide and assign or otherwise transfer to the State or its designee all manufacturer's warranties regarding all Hardware or as otherwise provided for in the Contract.
- 8. Further Representations and Warranties.** Contractor represents and warrants that:
- a. all Hardware is delivered free from any security interest, lien, or encumbrance and will continue in that respect;
  - b. the Hardware will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party;
  - c. it has and will retain the unconditional and irrevocable right, power and authority to provide to the State the Hardware throughout the Term and any additional periods during which Contractor does or is required to provide Hardware to the State; and
  - d. all hardware includes the manufacturing warranty.

9. **Risk of Loss and Title.** Until final Acceptance, title and risk of loss or damage to Hardware remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Hardware, Contractor must remove the Hardware from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or nonconforming Hardware remains with Contractor. Rejected Hardware not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Hardware. Title passes to the State upon final Acceptance of the Hardware.



# SCHEDULE H – SYSTEM ACCEPTANCE

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

“**System**” has the meaning set forth in Subsection 2.1(a) of this Schedule.

“**System Acceptance**” has the meaning set forth in Subsection 2.6 of this Schedule.

“**System Acceptance Tests**” means such tests as may be conducted in accordance with this **Schedule** to determine whether the System meets the requirements of this Contract.

“**System Integration Testing**” has the meaning set forth in Subsection 2.2(a) of this Schedule.

“**System Testing Period**” has the meaning set forth in Subsection 2.1(b) of this Schedule.

## 2. System Acceptance Testing.

### 2.1 Acceptance Testing.

(a) Unless otherwise specified in a Statement of Work, upon installation of the Software and Hardware together (the “**System**”), or upon any changes to such System, System Acceptance Tests will be conducted as set forth in this **Schedule** to ensure the System as a whole conforms to the requirements of this Contract, including the applicable Specifications and Documentation.

(b) All System 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 the receipt by the State of written notification that the System is ready to have System Acceptance Tests performed, and be conducted diligently for up to 30 Business Days, or such other period as may be set forth in a Statement of Work (the “**System Testing Period**”). System 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 System Acceptance Tests conducted by the State, if requested by the State, Contractor will make suitable Contractor Personnel available to observe or participate in such System Acceptance Tests; and
- (ii) for System Acceptance Tests conducted by Contractor, the State has the right to observe or participate in all or any part of such System Acceptance Tests.

2.2 Contractor is solely responsible for all costs and expenses related to Contractor’s performance of, participation in, and observation of System Acceptance Tests.

(a) Upon delivery and installation of any application programming interfaces, applicable Work Product, Configuration or Customizations to the Software, or additions or changes to the Hardware, under a Statement of Work, additional System Acceptance Tests may be performed on the modified System as a whole to ensure full operability, integration, and compatibility among all elements of the System

("System Integration Testing"). System Integration Testing is subject to all procedural and other terms and conditions set forth in this Schedule.

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

2.3 Notices of Completion, Nonconformities, and Acceptance. Within 15 Business Days following the completion of any System Acceptance Tests, 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 Nonconformity in the tested System.

(a) If such notice is provided by either party and identifies any Nonconformities, the parties' rights, remedies, and obligations will be as set forth in **Subsections 2.4 and 2.5.**

(b) If such notice is provided by the State, is signed by the State Program Managers or their designees, and identifies no Nonconformities, such notice constitutes the State's acceptance of such System.

(c) If such notice is provided by Contractor and identifies no Nonconformities, the State will have 30 Business Days to use the System in the Operating Environment and determine, in the exercise of its sole discretion, whether it is satisfied that the System contains no Nonconformities, on the completion of which the State will, as appropriate:

- (i) notify Contractor in writing of Nonconformities the State has observed in the System and of the State's non-acceptance thereof, whereupon the parties' rights, remedies and obligations will be as set forth in **Subsections 2.4 and 2.5**; or
- (ii) provide Contractor with a written notice of its acceptance of such System, which must be signed by the State Program Managers or their designees.

2.4 Failure of Acceptance Tests. If System Acceptance Tests identify any Nonconformities, Contractor, at Contractor's sole cost and expense, will remedy all such Nonconformities and re-deliver the System, or relevant portion thereof, 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 30 Business Days following, as applicable, Contractor's:

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

(b) receipt of the State's notice under **Subsections 2.3(a) or 2.3(c)(i)**, identifying any Nonconformities.

2.5 Repeated Failure of Acceptance Tests. If System Acceptance Tests identify any Nonconformity in the System after a second or subsequent delivery, or Contractor fails to re-deliver the System on a timely basis, the State may, in its sole discretion, by written notice to Contractor:

- (a) continue the process set forth in this **Schedule**;

(b) accept the System as nonconforming, in which case the Fees for the System will be reduced equitably to reflect the value of the System as received relative to the value of the System 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 in accordance with **Section 16** of the Contract Terms and Conditions.

2.6 System Acceptance. Acceptance of the System ("**System Acceptance**") (subject, where applicable, to the State's right to System Integration Testing) will occur on the date that is the earliest of the State's delivery of a notice accepting the System under **Subsection 2.3(b), or 2.3(c)(ii)**.