STATE OF MICHIGAN PROCUREMENT

Department Technology, Management and Budget

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **250000000421**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	
	Experis US, LLC
	35055 W 12 Mile Rd Suite 215
	Farmington Hills Michigan 48331
	Chris Wasilk
	(248) 978-2886
	chris.wasilk@jeffersonwells.com
	CV0133453

STATE			
	Program Manager	Adam Helm	DTMB
		517-243-3974	
		HelmA3@michigan.gov	
	Contract Administrator	Adam Ashley	DTMB
		(517) 855-1376	
		ashleya2@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Operational Consulting Services – Prequalification Program			
INITIAL EFFECTIVE DATE	**INITIAL EXPIRATION DATE**	**INITIAL AVAILABLE OPTIONS**	**EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW**
3/11/2025	3/10/2030	2 - 1 Year	3/10/2030
PAYMENT TERMS		**DELIVERY TIMEFRAME**	
NET 45		N/A	
ALTERNATE PAYMENT OPTIONS			**EXTENDED PURCHASING**
☐ P-card ☐ Payment Request (PRC)		☐ Other	☒ Yes ☐ No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER. This Contract is awarded based on the States inquiry bearing the solicitation number 240000003123. Orders for delivery will be issued directly by the utilizing Department via a Delivery Order (DO).			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			**$0.00**

FOR THE CONTRACTOR:

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

Name and Title

Agency

Date

HYBRID CONTRACT TERMS

This HYBRID CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and Experis US ("**Contractor**"), a Wisconsin limited liability company. This Contract is effective on March 11, 2025 ("**Effective Date**"), and unless terminated, will expire on March 10, 2030 (the "**Term**").

This Contract may be renewed for up to 2 additional 1-year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

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

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

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

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

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

If to State:	If to Contractor:
See Contract Administrator information shown below.	Chris Wasilk 35055 W 12 Mile Rd, Suite 215 Farmington Hills, MI 48331

	chris.wasilk@jeffersonwells.com 248.978.2886

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

State:	Contractor:
Adam Ashley 320 S Walnut St, 2 N Lansing, MI 48933 Ashleya2@michigan.gov (517) 855-1376	Paula Patterson 35055 W. 12 Mile Rd., Suite 215 Farmington Hills, MI 48331 paula.patterson@jeffersonwells.com 248.408.3699

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

State:	Contractor:
Adam Helm 320 S Walnut St. Lansing, MI 48933 HelmA3@michigan.gov 517-243-3974	Laurence Talley, CPA, CIA 35055 W. 12 Mile Rd., Suite 215 Farmington Hills, MI 48331 Laurence.talley@jeffersonwells.com 216.533.2293

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in a Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.** See Schedule C – Insurance Requirements.

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

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

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

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

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

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

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

9. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.

10. **Intellectual Property Rights**. If a Statement of Work requires Contractor to create any Contract Activities specifically for the State (hereinafter referred to as "Work Product"), Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Work Product and all associated intellectual property rights, if any. Such Work Product are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Work Product and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Work Product, including all intellectual property rights therein.

11. **Contract Activities including Software**. If Contractor is providing Contract Activities that require the use of Contractor Software, the following terms apply:

    a. **License Grant by Contractor**: Contractor hereby grants to the State and intended users a nonexclusive, royalty-free, irrevocable right and license during the Term and such additional periods, if any, as Contractor is required to provide Contract Activities under this Contract or any Statement of Work, to: (a) 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; (b) generate, print, copy, upload, download, store and otherwise process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Software; (c) prepare, reproduce, print, download and use a reasonable number of copies of the Documentation for any use of the Software under this Contract; and (d) the State to 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 Contract Activities 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 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 below.

b. **License Restrictions on the State**. 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 by the State**. The State will pay Contractor the corresponding Fees set forth in a Statement of Work or Pricing Schedule for all access and use of the Software as intended for the purposes of this Contract. Such Fees will be Contractor's sole and exclusive remedy for use of the Software, including any excess use.

d. **Certification by the State to the Contractor, if applicable**. 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 the Contract. Such written certification may occur no more than once in any twenty four (24) month period during the Term of the Contract. The State will to 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.

e. **Definitions**.

(1) "**Documentation**" means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Software or Contract Activities.

(2) "**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 as intended for the purposes of this Contract and its Authorized Users, including any services and facilities related to disaster recovery obligations.

(3) "**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).

(4) "**Software**" means Contractor's software as set forth in a Statement of Work and provided to the State pursuant to this Contract, including, but not limited to, any third-party software or components, updates or new versions, online portals or other web-based systems, and the Operating Environment (if Contractor hosted).

(5) "**Solution**" means Contract Activities including Software and Services singularly or in any combination thereof, as applicable, set forth in a Statement of Work.

12. Accessibility Requirements

a. All Contract Activities created or provided by Contractor under this Contract in a digital format (hereinafter "Digital Deliverables"), must at all times conform to the State's accessibility standards provided in the SOM Digital Standards, located at https://www.michigan.gov/standards (the "Digital Accessibility Standards"). Throughout the Term of the Contract, at no additional costs to the State, Contractor must:

(1) comply with plans and timelines approved in writing by the State to remediate issues and achieve conformance with the Digital Accessibility Standards in the event of any deficiencies;

(2) promptly respond to and resolve, in a manner acceptable to the State, any complaint the State receives regarding the accessibility of any Digital Deliverables;

(3) ensure that no changes to any Digital Deliverables will have any adverse effect on conformance to the Digital Accessibility Standards; and

(4) upon the State's written request, provide the Digital Deliverables in one or more alternative formats and within timeframes specified by the State.

b. **State of Michigan Digital Standards Review**. Prior to Digital Deliverables being accepted, put into production, or as otherwise required by the State, the State may conduct a review to assess their accessibility and compliance with the State's Digital Accessibility Standards. Contractor must assist the State with each such review, including submitting documentation or other information regarding accessibility and compliance with the State's Digital Accessibility Standards, including without limitation, a completed product accessibility template, including any Information Technology Industry Council Voluntary Product Accessibility Template or VPAT® and/or a description of the evaluation methods used to support the Digital Accessibility Standards conformance claims, including, if applicable, any third-party testing. Contractor must, at its sole cost and expense, remediate all issues resulting from any such review in a manner and timeframe approved in writing by the State, which may include providing a remediation status report.

c. 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.

d. Failure to comply with the requirements in this Section constitutes a material breach of this Contract.

13. **Service Level Agreement for Contract Activities including Software**. To the extent that Contract Activities includes the provision of services through the use of Software, as set forth the Schedule A, Statement of Work, Contractor must comply with the Service Level Agreement set forth in Schedule D of this Contract.

14. **Subcontracting.** Contractor must obtain prior written approval of the State, which consent may be given or withheld in the State's sole discretion, not later than 90 days before engaging any Permitted Subcontractor to provide Contract Activities to the State under this Contract. Engagement of any subcontractor or Permitted Subcontractor by Contractor does not relieve Contractor of its representations, warranties or obligations under this Contract.

a. Without limiting the foregoing, Contractor will:

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

(2) be responsible for all fees and expenses payable to, by or on behalf of each subcontractor and 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

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

b. Contractor, including any subcontractor (Permitted or otherwise), are expressly prohibited from Accessing or Processing State Data outside of the United States.

c. Definitions:

(1) "**Access**" means (1) the ability and means to enter a restricted or locked area, room, or physical container containing State Data; or (2) the ability and means to communicate with or otherwise interact with a system, to use system resources to handle information, to gain the information or knowledge of the information the system contains, or to control system components and functions (including physical or technical controls, or having the ability to modify or bypass any or all security controls).

(2) "**Contractor Personnel**" means all employees of Contractor, or any subcontractors or Permitted Subcontractors involved in the performance of Contract Activities hereunder.

(3) "**Permitted Subcontractor**" means any third party hired by Contractor to perform Contract Activities for the State under this Contract or that will have Access to or have the ability to control access to State Data or both.

(4) "**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.

15. Staffing. The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.

16. 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 Permitted 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 Permitted Subcontractors with the result of such background check. For more

information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in a Statement of Work, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.

17. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

18. **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.

19. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.

20. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in a Statement of Work. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 27, Termination for Cause.

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

    If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference

between the cost to cure and the Contract price plus an additional 10% administrative fee.

21. **Reserved**

22. **Reserved**

23. **Reserved**

24. **Invoices and Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities provided as specified in a Statement of Work. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Contract Activities 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.

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

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

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

25. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in a Statement of Work. The parties understand and agree that
    any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this

Contract, including without limitation, the State's right to terminate this Contract for cause under Section 27 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.

26. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

27. **Termination for Cause.** (a) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (i) endangers the value, integrity, or security of any facility, data, or personnel; (ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (iii) engages in any conduct that may expose the State to liability; (iv) breaches any of its material duties or obligations under this Contract; or (v) fails to cure a breach within the time stated by the State in a notice of breach, if in its sole discretion the State has chosen to provide a time to cure. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

    (b) If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (i) cease performance immediately or (ii) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 28, Termination for Convenience.

    Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contactor for Contract Activities accepted by the State under this Contract. The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. Contractor must promptly reimburse to the State any fees prepaid by the State prorated to the date of such termination, including any prepaid fees. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

28. **Termination for Convenience**. The State may immediately terminate this Contract in whole or in part without penalty and for any reason or no reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately or (b) continue to perform the Contract Activities in accordance with Section 29, Transition Responsibilities. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any

amounts due Contractor for Contract Activities accepted by the State under this Contract. 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.

29. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed **120** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (e) returning all state property as set forth in Section 30, below; and (f) surrendering or destroying all State Confidential Information as set forth in Section 37.e, below (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

30. **Return of State Property Not Including Confidential Information.** Upon termination or expiration of this Contract for any reason, Contractor must take all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to the Contractor by any entity, agent, vendor, or employee of the State.

31. **Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

    The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior

written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

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

32. **Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

33. **Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE LESSER OF: (A) ONE MILLION DOLLARS; OR (B) THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

34. **Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

35. **Reserved**

36. **State Data.**

    a. **Ownership**. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data, user data, and any other data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) all data made available to Contractor for or during the provision of the Contract Activities, including but not limited to all text, sound, video, image files, or software; and (c) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an

individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) protected health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State.

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

c. **Extraction of State Data**. Contractor must, within 5 business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.

d. **Backup and Recovery of State Data**. Unless otherwise specified in a Statement of Work, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in a Statement of Work, Contractor must maintain a contemporaneous backup of State Data that can be recovered within 2 hours at any point in time.

e. **Loss or Compromise of Data**. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than 24 hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-

party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than 24 months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 36** are to be considered direct damages and not consequential damages.

f. Contractor must comply with the requirements of the Data Security Schedule, found in Schedule E.

g. **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.

37. Reserved

38. Data Privacy and Information Security.

a. **Undertaking by Contractor**. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or

integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.

b. **Audit by Contractor**. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.

c. **Right of Audit by the State.** Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.

d. **Audit Findings**. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.

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

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

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

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

40. **Representations and Warranties.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract

Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes;(h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606; (j) that all Contract Activities, including Software, as provided by Contractor do not and will not at any time during the Term contain any Harmful Code or any third party or open source components unless approved in advance by the State; and (k) that Contractor will not, and will not permit, any advertising through any Hosted Services. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 27, Termination for Cause.

a. Definitions.

(1) "Harmful Code" means any software, hardware or other technologies, devices or means, the purpose or effect of which is to: (a) permit unauthorized access to, or to destroy, disrupt, disable, encrypt, modify, copy, or otherwise harm or impede in any manner, any (i) computer, software, firmware, data, hardware, system or network, or (ii) any application or function of any of the foregoing or the integrity, use or operation of any data processed thereby; or (b) prevent the State from accessing or using the Contract Activities 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.

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

42. Compliance with Laws. Contractor must comply with all federal, state and local laws, rules and regulations.

43. Reserved

44. Reserved

45. 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, height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.

46. **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.

47. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.

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

49. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

50. **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.

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

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

Document Title	Document Description
Schedule A	Statement of Work
Schedule B	Pricing
Schedule C	Insurance Requirements
Schedule E	Data Security Requirements for Hybrid Purchases
Federal Provisions Addendum	Federal Provisions Addendum

53. **Entire Agreement and Order of Precedence.** This Contract, which includes Statement of Work, and schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Statement of Work; (b) second, Schedule E – Data Security Requirements for Hybrid Purchases, if applicable; (c) third, Schedule A, the applicable Statement of Work; and (d) fourth, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS. CONTRACTOR MAY NOT INHIBIT USE BY THE STATE'S INTENDED USERS IN A MANNER THAT PREVENTS PERFORMANCE OF THE CONTRACT ACTIVITIES.

54. **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.

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

56. **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.

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

FEDERAL PROVISIONS ADDENDUM

Contractor acknowledges and agrees that the State may utilize funds obtained from the federal government which may have additional contractual requirements. Contractor agrees that, if the State determines that federal rules or regulations require the appendage of specific contractual language to this Contract related to specific types of federal funding, including but not limited to Title 2 of the Code of Federal Regulations (C.F.R.) Part 200 and Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Contractor agrees to, through a Contract Change Notice, append such required contractual language to this Contract if reasonably necessary to keep the State and Contractor in compliance with federal funding requirements and comply with the terms set forth therein.

SCHEDULE A – STATEMENT OF WORK

Contract No. 250000000421

Operational Consulting Services Prequalification Program

This schedule identifies the anticipated requirements of any Contract resulting from this RFP. The term "Contractor" in this document refers to a bidder responding to this RFP, as well as the Contractor who is awarded the contract. The term "Bidder" is used to identify where specific responses to the RFP are required.

BACKGROUND

When opportunities and needs arise, the State takes initiative to improve operations, which may include conducting assessments, setting new strategies, and improving business processes. Occasionally, the State's internal resources may not be available to address such opportunities. In these situations, State agencies may require the assistance of external service providers with experience and skills in improving governmental operations and related processes. The purpose of this Contract is to establish a list of prequalified service providers and a consistent process for State agencies to engage with prequalified service providers. The State's objectives for a list of prequalified operational consulting services vendors include the following:

1. Consistent contract terms
2. Consistent selection criteria and screening processes
3. Single point of contact for prequalified vendors
4. Consistent billing practices

SCOPE

This Contract is for a prequalification program to provide State agencies and MiDEAL members the ability to contract for operational consulting services on a fast-track, as-needed basis.

It is the State's intent to award contracts to multiple service providers who can provide some or all services specified in this Contract.

Awarded Contractors will be eligible to bid on Tier-Two Statements of Work (SOWs) issued by individual State agencies or MiDEAL members which identify a specific scope of work to apply operational consulting services. Those Contractor(s) selected by State agencies or MiDEAL members will be issued delivery orders for which the terms will be governed by this Contract and their identified SOW. If awarded Contractor is not actively responding to Tier-Two RFPs, the State reserves the right to annually review and potentially remove those Contracts from the Prequalification pool.

1. Requirements

1.1. General Requirements

A. Provide services as required by the Tier-Two SOW issued by any State agency or MiDEAL member to develop project work plans, consult with all stakeholders, provide performance metrics, provide recommendations for improvements for projects, and identify, assess, and

prioritize risks to projects. While each SOW will contain unique service levels and requirements, general deliverables may include but are not limited to.

1) Developing a scope or charter to document desired outcomes.
2) Developing project plans to specify timelines and milestones for initiatives.
3) Identifying, capturing, analyzing, researching, and summarizing relevant data.
4) Facilitating meetings with internal and external stakeholders
5) Evaluating existing processes, organizational structures, and best practices to recommend opportunities for improvement.
6) Providing consultation and advisory services to achieve business goals.
7) Developing and documenting improved processes and procedures.
8) Developing implementation or action plans that are appropriate to existing policies and statutory requirements.
9) Developing cost benefit analyses to aid in decision making or provide a calculated Return on Investment (ROI).
10) Supporting the agency during implementation of changes.
11) Transferring knowledge and providing support necessary to sustain long term success.
12) Developing workforce, organizational, and training programs, including deployment strategies.
13) Assisting with technical writing related to strategy or policy development.
14) Facilitating strategic plans with leadership groups.
15) Providing project documentation in secure and accessible formats.
16) Deliverables relating to Independent Verification and Validation (IV&V) and Quality Assurance Services (QA) projects.

B. The State agency or MiDEAL members will issue each Tier-Two SOW to all prequalified Contractors, either through SIGMA Vendor Self-Service (VSS) [SOM] or other approved methods [MiDEAL]. The Tier-Two SOW will identify specific deliverables, period of performance not to exceed the time allowed on this base Contract, identification of specific responses required, work evaluation and payment criteria that apply to that SOW. The State agency or MiDEAL members issuing the Tier-Two SOW request and Contractors responding to the Tier-Two SOW must follow this process:

1) The State agency or MiDEAL member will issue a SOW to all prequalified Contractors with a timeline including due dates for questions, responses, award, and performance period.
2) The Contractor must provide the criteria required in each SOW in their bid response and pricing must not exceed rates provided in the base Contract **Schedule B - Pricing.**
3) Award by the State will be based on best value using the criteria identified in the Tier-Two SOW. MiDEAL members will determine their respective award evaluation criteria.

4) The State has the right to expand project iterations that fall within the same scope of an awarded Tier-Two SOW through a Change Notice, at additional agreed-to cost, beyond the initial service timeframe but not exceeding the time allowed on the base Contract. Examples of what additional project iterations may focus on include continued leadership coaching, pilot projects, and/or data refinement.

C. Contractor confirms proficiency in virtual facilitation of services to be delivered if required by the individual SOW, and the platform must be approved by the State of Michigan. The Contractor:
   1) Is proficient in utilizing various platforms for virtual facilitation of meetings and trainings (i.e. Microsoft Teams, Zoom).
   2) Has the ability to leverage breakout room functionality for training and client meetings.
   3) Has experience conduct hybrid meetings (combination of client facing and virtual attendees).

1.2. Training

Training requirements will be specified in each individual Tier-Two SOW.

1.3. Transition

Contractor is required to provide all work products and supporting documentation in a format that is usable by the State in line with prevailing State standards software upon transition.

1.4. Funding Source Requirements

If there are requirements that are dictated by the funding source, such as Federal requirements associated with a fund or grant that are not covered by the Federal Addendum, the specific requirements will be described in the Tier-Two SOW.

1.5. Specific Standards

IT Policies, Standards and Procedures (PSP)

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

Public IT Policies, Standards and Procedures (PSP):

DTMB - IT Policies, Standards & Procedures (michigan.gov)

Acceptable Use Policy

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

SOM Digital Standards

All software items provided by the Contractor must adhere to the State of Michigan Application/Site Standards which can be found at SOM Applications and Site Standards (michigan.gov).

Mobile Responsiveness

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

If specific mobile requirements are needed they will be specified in each individual Tier-Two SOW.

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 the Digital Accessibility Standards. See Terms and Conditions Section 12 Accessibility Requirements for additional information. Applicable standards can be found at SOM Applications and Site Standards (michigan.gov) under the SOM Digital Accessibility Guidelines heading.

If specific ADA requirements are needed they will be specified in each individual Tier-Two SOW.

1.6. User Type and Capacity

If specific User Type and Capacity requirements are needed, they will be specified in each individual Tier-Two SOW.

1.7. Access Control and Authentication

The Contractor's Software must implement identity federation with the State's MiLogin 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) .

To support federation with the SOM MILogin Software, the Contractor's Software must support SAML, OpenID or OAuth federated identity protocols.

Software running within the States internally managed IT environment may be suitable for integration with the State's Active Directory services as identified in the 1340.00.020.08 standard.

1.8. End-User Operating Environment

The SOM IT environment includes FedRAMP authorized major cloud providers and on-premises market leading virtualization environments, with supporting platforms that includes enterprise storage, monitoring, and management running in house and in cloud hosting providers.

Contractor must accommodate the latest browser versions (including mobile browsers) as well as some pre-existing browsers. To ensure that users are able to access online services, Contractor must ensure applications and websites display and function accurately in, at minimum, the two most recent major versions of the following browsers, without reliance on special plugins or extensions:

- Google Chrome
- Microsoft Edge
- Firefox
- Safari

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

1.9. Required Functionality Relating to Data Retention, Disposal, and Retrieval

The State has legal obligations to retain, dispose, and retrieve State Data along with obligations to manage and secure State Data. To meet these obligations, the Solution must allow the State to:

1) retain all data for the entire length of the Contract.
2) delete its data or request the deletion of its data, even data that may be stored offline or in backups.
3) transfer its data back to the State or to a new vendor or new solution.
4) transfer its data to the Archives of Michigan as may be required by a retention and disposal schedule.
5) retrieve data, even data that may be stored offline or in backups.

Except as otherwise stated in the Contract, Contractor will not dispose of, delete, or destroy State Data without the prior written approval of the State.

1.10. Products and Services

Products and Services requirements will be specified in each individual Tier-Two SOW.

2. Service Requirements

2.1. Timeframes

Timeframe requirements will be specified in each individual Tier-Two SOW. The receipt of order date is pursuant to the **Notices** section of the Standard Contract Terms.

3. Acceptance

3.1. Acceptance, Inspection, and Testing

The appropriate criteria to determine acceptance will be identified in each individual Tier-Two SOW issued by the State agency or MiDEAL member if different from the Standard Contract Terms, Section 20. Acceptance.

4. Staffing

4.1. Contractor Representative

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

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

4.2. Contract Administrator

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

State:	Contractor:
Adam Ashley 320 S Walnut St, 2 N Lansing, MI 48933 ashleya2@michigan.gov 517-855-1376	Paula Patterson 35055 W. 12 Mile Rd., Suite 215 Farmington Hills, MI 48331 paula.patterson@jeffersonwells.com 248.408.3699

4.3. Program Manager

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

State:	Contractor:
Adam Helm 320 S Walnut St. Lansing, MI 48933 HelmA3@michigan.gov 517-243-3974	Laurence Talley, CPA, CIA 35055 W. 12 Mile Rd., Suite 215 Farmington Hills, MI 48331 Laurence.talley@jeffersonwells.com 216.533.2293

4.4. Customer Service Number

The Contractor must specify its number for the State or MiDEAL member to contact the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8:00 am to 5:00 pm EST (M-F, excluding State holidays).

4.5. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST and possible night and weekend hours depending on the requirements of the project. On-site or hybrid remote work may be required and is at the discretion of the State or MiDEAL member.

4.6. Key Personnel

The Contractor must appoint at least one (1) individual who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 24 hours.

Key Personnel will also be identified for each individual Tier-Two SOW. The below requirements are applicable to all SOW.

Contractor's Key Personnel may be on-site at as specified in the individual Tier-Two SOW.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

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

i. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be $15,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel's removal.

ii. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the $15,000.00 credit specified above, Contractor will credit the State $500.00 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to $15,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed $30,000.00 per individual.

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

4.7. Organizational Chart

Organization Chart must be provided for each individual Tier-Two SOW.

4.8. Disclosure of Subcontractors

Disclosure of Subcontractors must be provided for each individual Tier-Two SOW.

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 the details of that previous relationship.
- A complete description of the Contract Activities that will be performed or provided by the subcontractor
- **Geographically Disadvantaged Business Enterprise Sub-Contractors:**. If contractors plan to utilize subcontractors to perform more than 20% of the deliverables under this contract, at least 20% of that subcontracted work must be awarded to Michigan-based Geographically Disadvantaged Business Enterprises (GDBE). Contractor will submit a plan detailing all subcontractors to be used, including the percentage of the work to be done by each. Contractor must inform the State to the name and address of the GDBE, the percentage of the work they will complete, the total amount estimated to be paid to the GDBE, and provide evidence for their qualifications as a GDBE. If contractor cannot find GDBE subcontractors to meet this requirement they must provide reasoning and justification to receive an exemption from this requirement from the State. (Existing business relationships will not be an approved reason for this.)

  GDBE definition: "Geographically-Disadvantaged Business Enterprise" means a person or entity that satisfies one or more of the following: (i) Is certified as a HUBZone Small Business Concern by the United States Small Business Administration. (ii) Has a principal place of business located within a Qualified Opportunity Zone within Michigan. (iii) More than half of its employees have a principal residence located within a Qualified Opportunity Zone within Michigan, or both.

  Additional information on GDBEs can be found here:

  Michigan Qualified Opportunity Zone (QOZ) Map

  Michigan Supplier Community (MiSC) Page

4.9. Security

In addition to security procedure provided in other parts of this contract, the Contractor will be subject any security procedures identified in each individual Tier-Two SOW.

The Contractor must explain any additional security measures in place to ensure the security of State facilities. The State may require the Contractor's personnel to wear State issued identification badges.

The Contractor's staff may be required to make deliveries to or enter State facilities. The Contractor must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks.

4.10. Access to Tax Information

If needed and included with a specific Tier-Two SOW, the Contractor must comply with the requirements of IRS Publication 1075 (including Exhibit 7 Safeguarding Contract Language) and Michigan Department of Treasury Safeguard Requirements of Confidential Tax Data.

5. Project Management

5.1. Project Plan

Project Plan requirements will be specified in each individual Tier-Two SOW.

The Contractor will carry out this project under the direction and control of the Program Manager. Within the calendar days specified in each individual Tier-Two SOW., the Contractor must submit a final project plan to the Program Manager for approval. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, timeline, and resources required.

5.2. Meetings

The Contractor must attend all meetings as specified in each individual Tier-Two SOW.

The State may request other meetings, as it deems appropriate.

5.3. Reporting

The Contractor must submit to the Agency Program Manager or Designee the following written reports:

A. A report annually which identifies projects completed and any active projects with State agencies and MiDeal members to the specific Agency Program Manager or Designee by September 30 of each contract year. The report must include:

   1) Name of the project
   2) Delivery Order Number
   3) Brief description of the project
   4) State of Michigan Agency Program Manager for the project and other stakeholders involved
   5) Identify the project as complete or active

B. A final report and any interim reports that are described in each individual Tier-Two SOW to the State agency or MiDeal member Program Manager or Designee. The format and content of the reports, the deadline for submittal, and the person to whom they should be submitted will be specified in each SOW.

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

6.2. Price Changes

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

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

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

7. Ordering

7.1. Authorizing Document

The appropriate authorizing document for the Contract will be delivery order (DO).

8. Invoice and Payment

8.1. Invoice Requirements

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

Additional Invoice Requirements will be specified each individual Tier-Two SOW.

8.2. Payment Methods

The State will make payment for Contract Activities via EFT.

9. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of 5% and an additional 1% per day for each day Contractor fails to remedy the late or improper completion of the work. The State will collect liquidated damages via invoice credit for the specific Tier-Two SOW.

10. Service-Level Agreement (SLA)

A. Any additional SLA(s) will be specified each individual Tier-Two SOW.

B. The Contractor will be held accountable to meet the requirements and the service level requirements established in this Contract.

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

D. Please Note: Should bidders require clarification or have any questions with regard to the SLAs, they should submit them during the Question and Answer Period of this solicitation; please see the Proposal Instructions for the timeline.

Service Level Agreements for this Contract will be as follows:

SLA Metric 1.	Reporting
Definition and Purpose	The Contractor must provide a completed and active project report. The report must be submitted by September 30th of each year. As identified in Section 5.3 Reporting, unless prior written approval has been received from the Program Manager or designee.
Acceptable Standard	1. All reports will be received by the specified date. 2. All reports will be accurate and free of errors. Incomplete or inaccurate reports will be returned to the Contractor. The acceptable standard is 100% compliance.
Credit Due for Failing to Meet the Service Level Agreements	1. $100.00 may be assessed for each inaccurate or late report submitted according to Section 5.3 Reporting. Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed. At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State.

SCHEDULE B - PRICING

Contract No. 250000000421

Operational Consulting Prequalification Program

1. The Contractor must provide a pricing schedule for the proposed Contract Activities using this document. The pricing schedule should be submitted in a modifiable format (e.g., Microsoft Word or Excel); however, you may also submit an additional pricing schedule in a non-modifiable format (e.g., PDF). Failure to complete the pricing schedule as requested may result in disqualification of your proposal.
2. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
3. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.
4. Quick payment terms: N/A discount off invoice if paid within N/A days after receipt of invoice.
5. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

Contractor not-to-exceed hourly rates must be included in the table below. Pricing will be finalized in accordance with the Tier-Two competitive selection process as a lump sum fixed price based on the hourly rates entered below.

The State will only accept Rate Card pricing for this Tier 1 solicitation. More rows can be added as needed.

Staff/Role	**Not to Exceed Hourly Rate**
Director	$270
Senior Manager	$230
Manager	$200
Senior IT Consultant	$200
Senior Consultant	$175
IT Consultant	$175
Consultant	$145
Data Analyst	$170

Subject Matter Expert	$300

SCHEDULE C - INSURANCE REQUIREMENTS

Contract No. 250000000421

Operational Consulting Prequalification Program

1. **General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
2. **Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
3. **Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
4. **Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
   - **a.** Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
   - **b.** Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract.
5. **Proof of Insurance.**
   - **a.** Insurance certificates showing evidence of coverage as required herein must be submitted to DTMB-RiskManagement@michigan.gov within 10 days of the contract execution date.
   - **b.** Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
   - **c.** Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
   - **d.** All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
   - **e.** The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification or authorization, and audited financial statements.
   - **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, if any, carry and maintain insurance coverage as applicable to the subcontracted service(s).

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

Required Limits	Additional Requirements
Commercial General Liability Insurance	
Minimum Limits: **$1,000,000 Each Occurrence** **$1,000,000 Personal & Advertising Injury** **$2,000,000 Products/Completed Operations** **$2,000,000 General Aggregate**	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.
Automobile Liability Insurance	
If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.	
Workers' Compensation Insurance	
Minimum Limits: **Coverage according to applicable laws governing work activities.**	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimum Limits: **$500,000 Each Accident** **$500,000 Each Employee by Disease** **$500,000 Aggregate Disease**	
Privacy and Security Liability (Cyber Liability) Insurance	
Minimum Limits: **$1,000,000 Each Occurrence** **$1,000,000 Annual Aggregate**	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
Professional Liability (Errors and Omissions) Insurance	
Minimum Limits: **$2,000,000 Each Occurrence** **$2,000,000 Annual Aggregate**	

8. **Notice of Non-Compliance.** Contractor consents to receiving electronic communications from a third-party service provider, Origami Risk, for the exclusive purpose of notifying Contractor of non-compliance with the requirements set forth in this Schedule C.

9. **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 E - DATA SECURITY REQUIREMENTS FOR HYBRID PURCHASES

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

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

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

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

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

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

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

   "**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).

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

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

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

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

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

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

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

   (a) ensure the security and confidentiality of the State Data;

   (b) protect against any anticipated threats or hazards to the security or integrity of the State Data;

   (c) protect against unauthorized disclosure, access to, or use of the State Data;

   (d) ensure the proper disposal of any State Data in Contractor's or its subcontractor's possession; and

   (e) ensure that all Contractor Representatives comply with the foregoing.

   The State has established Information Technology (IT) PSPs to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable public and non-public State IT policies and standards, of which the publicly available ones are at DTMB - IT Policies, Standards & Procedures (michigan.gov).

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

4. **Acceptable Use Policy.** To the extent that Contractor has access to the State's IT environment, Contractor must comply with the State's Acceptable Use Policy, see 1340.00.130.02 Acceptable Use of Information Technology (michigan.gov). All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing State systems. The State reserves the right to terminate Contractor's and/or subcontractor(s) or any Contractor Personnel's access to State systems if the State determines a violation has occurred.

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

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

State, at its sole discretion, may either a) require the Contractor to move the Software and State Data to an alternative Hosting Provider selected and approved by the State at Contractor's sole cost and expense without any increase in Fees, or b) immediately terminate this Contract for cause pursuant to **Section 25** of the Contract;

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

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

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

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

5.6 take all reasonable measures to:

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

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

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

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

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

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

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

8. **Security Audits.**

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

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

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

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

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

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

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

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

(a) Contractor must either a) grant the State the right to dynamically scan a deployed version of the Software; or b) in lieu of the State performing the scan, Contractor must

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

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

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

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

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

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

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

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

10. Infrastructure Scanning.

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

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