



**STATE OF MICHIGAN PROCUREMENT**  
 Department Technology, Management and Budget  
 Central Procurement Services  
 320 S Walnut Street Lansing, MI 48933  
 P.O. Box 30026, Lansing, MI 48909

**NOTICE OF CONTRACT**

NOTICE OF CONTRACT NO. **260000000123**

between

THE STATE OF MICHIGAN

and

<b>CONTRACTOR</b>	ID Networks, Inc.
	7720 Jefferson Rd.
	Ashtabula Ohio 44004
	John Wheelock
	440-992-0062
	jwheelock@idnetworks.com
	CV0015594

<b>STATE</b>	Program Manager	Michael Ransom	MSP
		517-420-7156	
	RansomM@michigan.gov		
	Contract Administrator	Nichole Harrell	DTMB
517-449-9245			
harrelln@michigan.gov			

CONTRACT SUMMARY			
<b>DESCRIPTION: LiveScan Biometric Hardware and Related Software, Support &amp; Preventative Maintenance for MSP, MDOC and MGCB.</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
1/27/2026	1/26/2029	7 - 1 Year	1/26/2029
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
No Minimum Delivery Requirements.			
MISCELLANEOUS INFORMATION			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b><u>\$569,106.00</u></b>

**FOR THE CONTRACTOR:**

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Company Name

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Authorized Agent Signature

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Authorized Agent (Print or Type)

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Date

**FOR THE STATE:**

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Signature

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Name and Title

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**DTMB Central Procurement Services**

Agency

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Date

# HYBRID CONTRACT TERMS

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This HYBRID CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and ID Networks INC. (“**Contractor**”), a Ohio Corporation. This Contract is effective on January 27, 2026 (“**Effective Date**”), and unless terminated, will expire on January 26, 2029 (the “**Term**”).

This Contract may be renewed for up to seven (7) additional one-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.	John Wheelock 7720 Jefferson Road Ashtabula, OH 44004 jwheelock@idnetworks.com 440-992-0062

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:
Nichole Harrell 320 S Walnut St. Lansing, MI 48933 Harrelln@michigan.gov 517-449-9245	John Wheelock 7720 Jefferson Road Ashtabula, OH 44004 jwheelock@idnetworks.com 440-992-0062

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:
Michael Ransom 7150 Harris Drive Dimondale, MI 48821 Ransomm@michigan.gov 517-420-7156	John Wheelock 7720 Jefferson Road Ashtabula, OH 44004 jwheelock@idnetworks.com 440-992-0062

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](http://www.michigan.gov/mideal).

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

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

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

- 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. Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in a Statement of Work. All containers and packaging become the State's exclusive property upon acceptance.
- 22. Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and

the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

- 23. Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in a Statement of Work. If the Contract Activities do not function as warranted during the warranty period, the State may return such non-conforming Contract Activities to the Contractor for a full refund.
- 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 federal excise tax, state, and local sales taxes, and use taxes if the Contract Activities purchased under this Contract are for the State's exclusive use. Contractor will not include the collection of taxes for which the State is exempt in any invoices or payments related to this Contract. The State is not responsible for taxes imposed or assessed on Contractor.

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 Contractor 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 **180** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (d) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (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. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

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

of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control. Upon confirmation from the State, of receipt of all data, Contractor must permanently sanitize or destroy the State's Confidential Information, including State Data, from all media including backups using National Security Agency ("NSA") and/or National Institute of Standards and Technology ("NIST") (NIST Guide for Media Sanitization 800-88) data sanitization methods or as otherwise instructed by the State. If the State determines that the return of any Confidential

Information is not feasible or necessary, Contractor must destroy the Confidential Information as specified above. The Contractor must certify the destruction of Confidential Information (including State Data) in writing within 5 Business Days from the date of confirmation from the State. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

**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. Prevailing Wage Act Statutory Provision.** Contractor must comply with prevailing wage requirements, to the extent applicable to this Contract. As required by MCL 408.1112, if the Michigan Prevailing Wage Act, MCL 408.1101 et seq. applies to this Contract, construction mechanics (as defined in MCL 408.1101 (b)) are intended beneficiaries of the contractual prevailing wage, fringe benefit, and nondiscrimination nonretaliation requirements of the Contract. Any construction mechanic aggrieved by the failure of a Contractor or subcontractor to pay prevailing wages or benefits as specified in this Contract, or by a violation of MCL 408.1107, in addition to any other remedies provided in Public Act 10 of 2023 or by law, may bring an action in a court of competent jurisdiction against the Contractor or subcontractor for damages or injunctive relief and may be awarded reinstatement or other appropriate relief, and all damages sustained, together with actual costs and attorney fees at trial and on appeal. If the Michigan Prevailing Wage Act, MCL 408.1101 et seq. applies to this Contract, the rates of wages and fringe benefits to be paid to each class of construction mechanic (as defined in MCL 408.1101 (b)) by Contractor and subcontractors must not be less than the wage and fringe benefit rates prevailing in the locality in which the work is performed.
- 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, sexual orientation, gender identity or expression, 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 Section 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. 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 D	Service Level Agreement
Schedule E	Data Security Requirements
Schedule F	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.

# SCHEDULE A – STATEMENT OF WORK

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## Contract No. 260000000123

Livescan Hardware and Related Software, Support and Maintenance

### BACKGROUND

The Michigan State Police (MSP), Michigan Department of Corrections (MDOC) and Michigan Gaming and Control Board (MGCB) currently have Livescan Systems assigned throughout the state. These Live Scan units meet all the MSP and FBI hardware requirements and have been used extensively with a high degree of success. Due to the fact that support is expiring on these critical pieces of equipment, a new contract has been established to allow agencies to continue to receive necessary software updates, support and maintenance on their existing systems.

### SCOPE

The MSP Biometrics Division requires a turnkey ten-print/palm Live Scan electronic fingerprint system that includes all hardware and software necessary to enter arrest and applicant data, collect fingerprints, palm prints and photos, and transmit to the Michigan AFIS meeting the MSP EBTS, FBI IQS, and always conform to the most recent ANSI/NIST-ITL standard.

The contractor will provide maintenance and support for the twenty-two (22) existing systems currently implemented throughout MSP, four (4) systems implemented at the Michigan Gaming Control Board Licensing Section, and thirteen (13) systems implemented throughout the Michigan Department of Corrections.

### Flatbed Scanner

The Live Scan system uses a flatbed scanner to import fingerprints from a card instead of physically fingerprinting the individual.

The contractor will provide continued maintenance and support of any existing flatbed scanner system.

### 1. Requirements

#### 1.1. Business Requirements

The Contractor must meet all of the requirements detailed in Attachment A to support the Livescan Systems.

#### 1.2. Hardware

Contractor's Live Scan System includes fingerprint/palm print image capture technology solution presented is designed to meet MSP's long term needs and provide the best value to MSP. The live scan solution comprises the FingerRoll software in conjunction with fingerprint and palm capture capabilities of HID. The contractor has designed a solution utilizing exceptionally durable hardware materials. A workstation PC utilizing Windows 11 Professional and APC UPS will be provided. All

activity on the live scan is displayed on a 24-inch LCD monitor controlled by a standard keyboard and mouse. DL scanners will be provided that allows for the importing of data from a driver's license in two different ways. Located in a convenient location for the Agency, is a certified Lexmark duplex printer capable of printing fingerprint cards. For high resolution image capture, a camera will be affixed to a mount. This total hardware solution will provide MSP with a robust live scan platform.

A. Desktop Live Scan System with 10-Print & Palmprint Capture Includes:

1. FingerRoll Livescan Software
2. FBI NIST Approved 500 USB Palm Scanner
3. WIN11 Desktop PC with 24" LCD Monitor
4. FBI/NIST certified printer
5. Mug Shot Camera
6. Driver's License Scanner and Remote Installation / Training

B. Mobile Live Scan System with 10-Print & Palmprint Capture Includes:

1. FingerRoll Livescan Software
2. FBI NIST Approved 500 USB Palm Scanner
3. WIN11 Laptop
4. FBI/NIST certified printer
5. Mug Shot Camera
6. Driver's License Scanner and Remote Installation / Training

C. Desktop Live Scan System with 10-Print Capture Includes:

1. FingerRoll Livescan Software
2. LSCAN GUARDIAN 200 USB Scanner
3. WIN11 Desktop PC with 24" LCD Monitor
4. Driver's License Scanner and Remote Installation / Training

D. Mobile Livescan System with 10-Print Capture Includes:

1. FingerRoll Livescan Software
2. LSCAN GUARDIAN 200 USB Scanner
3. WIN11 Laptop
4. Driver's License Scanner and Remote Installation / Training

**Livescan System Options/Components**

- A. LSCAN 500P Supply Kit

- Includes (5) Silicone Membrane Pads & (5) Tape Cleaner Pads

B. GUARDIAN 200 Supply Kit

- Includes (5) Silicone Membrane Pads & (5) Tape Cleaner Pads

C. PC Workstation

- Windows 11 Professional Operating System
- Intel Core i5
- 8GB Kit (2x4GB) DDR3 1600Mhz
- 80 Plus 350 Watt Power Supply
- 1.00TB 7200RPM 64MB SATA3
- 24X SATA DVDRW
- 300 Watt 80 Plus Power Supply
- 3 Port PCI FireWire Card
- UPS- 750VA Tower Line-Interactive 120V with USB port

Note: PC Workstation specifications are subject to change, and any updates will ensure equal or improved performance and compatibility

D. Mobile Laptop Workstation

- Windows 11 Professional Operating System
- Intel Core i7
- 8GB RAM
- 256 GB Solid State Drive
- 15.6" FHD

Note: Mobile Laptop Workstation specifications are subject to change, and any updates will ensure equal or improved performance and compatibility

E. Lexmark MS810dtn Printer

The Lexmark printer comes with a duplexer and an additional universal tray. The 8x8 cardstock is printed from the Universal tray and requires no special preprinted cards.

Printer stands should be purchased separately.

Dimensions: 16.5 x 16.7 x 20.1 in.

Weight: 52.2 lb.

F. Photo Capture

This kit includes a Hi-Resolution Digital Color Camera (seen here) which has Pan-Tilt-Zoom features (usually driven by the keyboard), a PCI Frame Grabber Capture Card, a Remote Control, your choice

The power of this configuration is its ease of use which is exploited through the keyboard controls over the camera. The software provides very efficient and powerful control of the camera. This setup also ensures better picture quality given its auto-focus feature and robust zoom capabilities. of a Wall or Countertop mount, cables, and installation instructions.

#### G. IRIS Capture (add-on) to the FingerRoll Livescan Software

- IRIS Client License add-on to the FingerRoll Livescan Software
- R100 IRIS camera
- Table Mount
- Submission to MSP from livescan
- Remote installation / training

#### H. Driver's License Scanner

This feature of the Livescan software allows for the importing of data from, a driver's license in two different ways. It can import the data from a 2Dbarcode, or it can perform an OCR on the front of the driver's license to read the available text. Doing so in either way helps to eliminate double typing. By scanning the front of the license, the record can be associated with the photo from the license (which gets extracted). This device works on any state's license and often works with other forms of government issued IDs. This device works via a USB interface and requires no additional power.

#### I. Flatbed Scanner System

The Epson Perfection V550 Photo features amazing performance and versatility for any project. 6400 dpi resolution ensures images are sharp and vivid, whether you're scanning film, slides, negatives, photos or everyday documents. And it makes it easy to create enlargements up to 17" x 22". The V550 Photo will automatically upload your scans directly to Facebook, Picasa, popular cloud services and more.<sup>1</sup> Plus, at the touch of a button, you can restore old photos and negatives, thanks to Easy Photo Fix. Or, use DIGITAL ICE to remove the appearance of dust and scratches on film. The V550 Photo features energy efficient, ReadyScan LED technology for high-speed scanning with no warmup time.

#### Flatbed Scanner System

- Create sharp, vivid reproductions - 6400 dpi resolution for enlargements up to 17" x 22"
- Scan 35mm slides, negatives and film - built-in Transparency Unit
- Scan and share - automatically upload to popular cloud services and more
- Achieve robust photo restorations - DIGITAL ICE® technology removes the appearance of dust and scratches on film
- Bring faded photos back to life - Easy Photo Fix® for one-touch photo restorations

- Achieve greater productivity with ReadyScan® LED technology-fast scanning, no warmup time, no mercury
- Scan multiple photos at one time - auto edge detection crops each image and saves it as a separate file
- Convert scanned documents into editable text -ABBYY® FineReader® Sprint Plus OCR
- Brilliant, true-to-life colors -amazing, 48-bit color depth
- Do more - Hi-Speed USB 2.0

Note: All hardware must meet State and FBI Standards

### **1.3. Software**

The Contractor will provide any and all software required to run/interface/maintain functionality of the Livescan Systems. Any and all software must meet State and FBI Standards and must be integrated in the Live Scan Systems.

Contractor solution includes intuitive, field-proven live scan software that meets and exceeds all MSP required features and functionality, which enabling operators to capture fingerprints and palm prints, mug shots, scars, marks, and tattoos, without extensive training. Furthermore, our live scan solution incorporates the FBI certified Lexmark MS81 O duplex laser printer with Aware Accuprint fingerprint and palm print printing algorithm, allowing the printing of fingerprint cards on blank FBI card stock.

Extensive user defined set up options are available for agency System Administrators. These set up options determine how the live scan software (FingerRoll) is to operate and can be made to fit in with each agency specific workflow.

Contractor Livescan Software Features:

- Fully compliant and FBI Certified Products Listing (Appendix F) to meet Image Quality Specifications (IQS) requirements
- Automates sequence checking by comparing rolled and flat impression
- WSQ image compression
- Fast real-time image capture with screen preview
- Data checking and real-time operator feedback for assurance of correct data entry format
- Intuitive and easy-to-use graphical interface
- Customizable tool tips and data entry screens
- Creates a complete arrest record with demographic, fingerprint/ palm print, mug shot, and SMT information
- Permanent storage of electronic fingerprints, palm prints, arrest records, and photos for archiving purposes
- Built-in web interface allows the status and contents of live scan records to be viewed by authorized personnel from almost any computer

- Minimal training to operate, even for first time users

The Contractor will provide and support any other software required to take biometric data and transmit to the State and FBI through the Individual Live Scan Systems.

#### **1.4. Warranties**

1-year warranty on all hardware and software that will commence upon the successful completion of acceptance testing and sign off.

#### **1.5. Training**

The Contractor must provide the following training:

The Contractor will provide 2 training session at each installation location. The location times and number of trainees will be agreed upon between Contractor and the live scan site. The training will be sufficient to enable end users to perform all day-to-day operations without the Contractors intervention. In addition, System Administration and User Guides will be supplied to help assist the use and support of the Live Scan System. Special accommodation, including but not limited to videos, net meeting support and help desk when targeted training is needed, will be offered with any agency requiring additional or nonstandard training at no additional cost.

Contractor will provide up to 3 additional training sessions per year after the initial year to update for any changes/updates or as a refresher on how to use the system. The actual number of users and location will be determined by the needs of MSP.

The Contractor must provide all training plans, documentation and training materials to support all user types.

All training manuals, training plans and other documentation provided will become the property of the State.

#### **1.6. Maintenance and Support**

Maintenance and Support includes both Live Scan and Flatbed Scanner Systems (Live Scan Systems) hardware and software for existing and new purchases.

Maintenance will include all support up to and including the replacement of hardware in efforts to maintain properly functioning systems.

Maintenance support charges will not begin until one year after new systems have been installed, tested and approved by MSP.

Contractor recognizes that mission critical solutions such as the MSP live scan systems require high availability. Having reliable, timely support is essential for uninterrupted business operations. Contractor will provide complete Maintenance and Support Services to help MSP maximize its technology investment for optimal business value. The contractor fully complies with MSP's requirements and is committed to deliver on the warranty and post-warranty support requirements to ensure the ongoing success of the MSP live scan program.

Following the successful project implementation and live scan acceptance by MSP, Contractor will transition activities to the Contractor's Service and Support team to manage live scan support needs. MSP's live scan solution will be supported by a model that includes a field support engineer

and experienced secondary support group within our Biometrics Solutions Division and a management team with extensive industry experience to deliver the level and quality of support required.

The Contractor will supply MSP updates to the software deliverables, when released, to correct any problems found in the product this to include virus protection. These updates will be provided at no cost to MSP for the life of the contract. Any engineering changes released by the equipment and middleware suppliers will be passed to MSP at no additional cost. Product updates that add features and functions to the live scan system will be made available through the change order process. However, the Contractor will provide corrective maintenance in accordance with the maintenance contract at no additional cost to MSP for all hardware, software, and documentation supplied by ID Networks for the life of the contract.

All live scan problem calls can be reported to the Contractor's 24 x 7 call center through a toll free number and will be dispatched immediately to a support team at no additional cost. All calls will be tracked utilizing the call center's registration tool, and clients are provided with a ticket number for reference. Information gathering on all problems is of utmost importance. As problems are reported, a determination will be made of the most likely cause, and steps will be taken toward resolution. All resources, including support engineers, fields support technicians, developers, and management will be utilized as required to solve problems in a manner causing as little impact to MSP's operations as possible. See Procedure for Requesting Support below for more details.

#### **Service Repair and Replacements for all covered equipment**

When equipment fails, the Contractor will first diagnose the problem using the Contractor's toll-free support lines or remote dial-up facilities. Then, based on the type of repair required, the Contractor will arrange with the designated account liaison for the end-user preferred method of hardware repair/replacement. The liaison can either have the parts shipped to the end-user (within 24 hours in most cases for next day delivery) and be walked through the swap (usually the fastest method) or, if preferred, the Contractor will arrange for shipping the equipment back to the Contractors office for repair and return shipment.

When the end-user cannot afford to be without the equipment, temporary replacement equipment is shipped for use while the equipment is being fixed. If the account does not have the proper packaging, the Contractor will ship it that same day. The Contractor will then make all the arrangements with UPS to pick up the equipment.

In any case, the Contractor will pay all shipping costs to include the replacement equipment, pickup and shipment of the repaired system.

The Contractor must notify the MSP Program Manager at the time the Live Scan System has been down for 24 hours. The State will be provided with information on the down Live Scan System, including errors and defects encountered at all locations, along with the resolutions.

NOTE: Equipment coverage is limited to failures under normal operation and does not apply to power outages, acts of God, or other external influences on the system by persons, etc. The

customer is expected to maintain current and appropriate insurance coverage for Contractor provided equipment for such occurrences.

### **Procedure for Requesting Support**

Upon purchase of the ID Networks products, the end-user will be assigned credentials to access the Contractor's help desk system. Using the helpdesk ensures accurate prioritization of support request(s).

To open a new support case the end-user may use one of the following methods:

- a. Contact Contractor via Contractor provided telephone number 24x7.
- b. Send an email to [LIVESCANSupport@idnetworks.com](mailto:LIVESCANSupport@idnetworks.com)

Each of the methods creates a helpdesk ticket. Once a ticket has been created, one of the Contractor's support technicians will review and acknowledge the ticket immediately. He or she will then contact the end-user by phone to establish connectivity and discuss the resolution within 30 minutes.

All tickets are queued based on the nature and priority of the request, followed by first in first out methodology.

### **Service Level Response and Resolution**

#### **A. Severity Level One**

System inaccessible or operating in materially degraded state & data integrity at risk.

Service Level Response and Resolution: Contractor will acknowledge the Severity Level One request within 30 minutes and resolve the problem(s) in 3 hours or provide replacement within 24 hours after acknowledgement.

#### **B. Severity Level Two**

These calls are similar in nature to Severity Level 1 calls, but workaround(s) exist for the problem(s) and/or the problem(s) do not severely impact site processing as detailed below.

- Service is operating with minor issues that can be addressed with a work around.
- An error substantially degrades the performance of the software or materially restricts customer's business; e.g. moderate system impact, system hanging. Such as a primary component failure that materially impairs its performance.

Service Level Response and Resolution: Contractor will acknowledge the Severity Level Two request within 30 minutes and resolve the problem(s) in 6 hours after acknowledgement.

#### **C. Severity Level Three**

Calls associated with problems that have a minimal impact on site processing. These calls will be addressed during normal business hours

- Question; non-critical failures. Such as requests for assistance, information, or services that are routine in nature.

Service Level Response and Resolution: Contractor will acknowledge the Severity Level Three request within one business day and resolve the problem(s) in 12 hours after acknowledgement.

The end-user may, on a case-by-case basis, agree in writing to a reasonable extension of the Service Level response or Resolution times.

If the Contractor fails to respond to a Support Request within the applicable Service Level response time or to Resolve a Support Request within the applicable Service Level Resolution time, the State will be entitled to the corresponding service credits specified in the table below ("Service Credits"), provided that the relevant Error did not result from a State Cause.

Severity Level of Error	Service Credits For Response Time Service Level Failures	Service Credits For Resolution Time Service Level Failures
1	<b>Level 1 Response</b> An amount equal to 5% of the then current annual Support Fee for each hour by which the Contractor's response exceeds the required Level 1 Response time.	An amount equal to 10% of the then current annual Support Fee for each hour by which Contractor's Resolution of the Support Request exceeds the required Resolution time.
2	<b>Level 2 Response</b> An amount equal to 5% of the then current annual Support Fee for each Business Day, and a pro-rated share of such percentage for each part of a Business Day, by which Contractor's response exceeds the required Level 2 Response time.	An amount equal to 10% of the then current annual Support Fee for each Business Day, and a pro-rated share of such percentage for each part of a Business Day, by which Contractor's Resolution of the Support Request exceeds the required Resolution time.
3	<b>Level 3 Response</b> No Service Credits are Available for Severity Level 3 Response Time Service Level Failures	N/A

**Remote Support and Problem Diagnosis**

Upon installation of Contractor's products, remote connectivity to the agency will be established. Contractor network engineers will work with the agency to determine the most appropriate connection method.

A remote connection to the agency ensures Contractor's ability to service, troubleshoot and upgrade 24 hours a day seven days a week. All critical machines, such as servers and dispatch computers must have remote connectivity.

In cases where a machine is not accessible on a regular basis, Live Remote Assistance (LAR) will be employed.

If LAR is required SOM technicians will work with the agency first to determine the nature of the problem. He or she will then direct the end-user to Contractor's Remote Support Portal and provide end-user with a unique number to initiate screen sharing. With end-user's permission, Contractor technician can remotely operate the end-user's PC.

Remote diagnostic capabilities may be used but must be compliant with all CJIS security rules.

### **On-Site Support**

Onsite Support may be necessary for various issues. Should the need arise for onsite support, Contractor technicians will be onsite at the dates and times agreed upon by the end user and the Contractor. This on-site support will be provided at no cost.

### **Software Upgrade Information**

The Contractor is committed to continually enhancing their product features and introducing new functionality. Contractor team of developers, engineers and support personnel work with the agency to upgrade the software in an efficient manner at no additional cost to the State.

Contractor has architecture for automatic updates depending on the product, a predetermined update schedule is set. These are scheduled with the State in advance. No impact will be experienced by the State unless agreed upon by the MSP Program Manager.

All new releases and bug fixes for any software deliverable developed or published by Contractor and made generally available to its other customers at no additional charge will be provided to the State at no additional charge.

### **1.7. Documentation**

The Contractor will provide documentation including user manuals, system administration manuals, data dictionaries, operation manual, software licenses, maintenance agreements, error code descriptions and any other document that may be helpful to the end user or the State. This includes, but is not limited to:

- User manuals
- Technical manuals
  1. A minimum of four (4) copies of the following documentation in an electronic format and a hard copy will be provided:
    - a. User and System Administration manuals – On-line and hard copy
    - b. Basic Troubleshooting Documentation for all systems and equipment
    - c. Data element dictionary
    - d. Operations Manual

- e. All updates of documentation during the term of the contract, software license and maintenance agreement
  - f. Error codes and descriptions
2. The following documentation is provided for all modules and program development:
- a. System-wide documentation and specifications
  - b. Baseline End-User training manuals to be used as a basis for “user manuals” and online help
  - c. Installation procedure
  - d. Module configuration documents sufficient for configuration maintenance purposes
  - e. Testing scripts
  - f. Specification documentation
  - g. Production migration
3. The documentation of components, features, and use of the hardware/software should be detailed such that resolution of most problems can be determined from the documentation, and most questions can be answered.
4. All system, operational, user, change, and issue documentation should be available in electronic format, published to an Intranet website, accessible to State users, updated regularly, with unique numerical identifiers for each section and be consistent with the most current version of the application(s) and three (3) previous versions.
5. All system, operations, user, change and issue documentation is to be organized in a format, which is approved by the State and facilitates updating and allows for revisions to the documentation to be clearly identified including the three (3) previous versions.
6. The Contractor should develop and submit for State approval complete, accurate, and timely system, operations, and user documentation.
7. The Contractor should notify the State of any discrepancies or errors outlined in the system, operations, and user documentation.

System Administration and User Guides will be supplied to help assist the use and support of the live scan system.

**1.8. Other Services (Any additional product(s) or services)**

The Contractor will work with any booking /records management system vendor on a LiveScan interface for an additional cost. The interface will need to be a data push to LiveScan meeting the contractor’s standard XML interface specs.

The Contractor, at no cost to the State, will meet any and all new requirements that may result from any or all of the following examples:

- A. New State policy requirements
- B. New Federal regulations

The State may require additional products or services to support the needs of the State. There is no guarantee as to the level of funding, if any, available for other products or services.

For any future products purchased, the Contractor will provide the same service and support as identified in this contract.

Contractor shall not be obliged or authorized to commence any work to implement a new Product or service until authorized via a PO issued against this Contract. Contractor shall perform in accordance with this Contract, including the Purchase Orders executed under it.

### **1.9. 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. All services and products provided 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. Non-public PSPs are available to Contractors 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 applicable.

#### **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 \(michigan.gov\)](https://michigan.gov) under the SOM Digital Accessibility Guidelines heading.

**1.10. User Type and Capacity**

Agency	Type of User	Access Type	Number of Users	Number of Concurrent Users
MSP	SOM Employees	Read & Write	350	24
MDOC	SOM Employees	Read & Write	52	13
MDOC	SOM Employees	Admin	3	3
MGCB	SOM Employees	Read & Write	8	4

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

**1.11. 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 \(michigan.gov\)](https://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.

**1.12. 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 provides.

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

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

### **1.13. Hosting**

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

### **1.14. 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.

### **1.15. Products and Services**

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

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

While applying the SUITE framework through its methodologies is required, SUITE was not designed to add layers of complexity to project execution. There should be no additional costs from the Contractor, since it is expected that they are already following industry best practices which are at least similar to those that form SUITE's foundation.

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

## **2. Service Requirements**

### **2.1. Timeframes**

All Contract Activities shall be completed and delivered within thirty 30 - 45 calendar days from the date of receipt of the official purchase order. The contractor acknowledges that timely delivery is a material requirement under this agreement. Delays may occur due to hardware availability or other supply chain constraints beyond the contractor's reasonable control. In such cases, the contractor shall promptly notify the contracting authority in writing, providing the reasons for the delay and a revised delivery schedule.

The receipt of order date is pursuant to the **Notices** section of the Hybrid Contract Terms.

### **2.2. Delivery**

Delivery will be expected within 30 - 45 calendar days from the date of receipt of the official purchase order. The contractor acknowledges that timely delivery is a material requirement under this agreement. Delays may occur due to hardware availability or other supply chain constraints beyond the contractor's reasonable control. In such cases, the contractor shall promptly notify the contracting authority in writing, providing the reasons for the delay and a revised delivery schedule.

The receipt of order date is pursuant to the **Notices** section of the Hybrid Contract Terms.

## **3. Acceptance**

### **3.1. Acceptance, Inspection, and Testing**

The State will use the following criteria to determine acceptance of the Contract Activities: System(s) have been deployed and tested and approved operational by the State.

## **4. Staffing**

### **4.1. Contractor Program Manager**

The Contractor must appoint a Program Manager 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 Program Manager").

Additional Duties Include but are not limited to:

- Supporting the management of the Contract
- Facilitating dispute resolution, and
- Advising the State of performance under the terms and conditions of the Contract

Contractor Program Manager

John Wheelock

[jwheelock@idnetworks.com](mailto:jwheelock@idnetworks.com)

440-992-0062

The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative. The State reserves the right to require a change in the current Program Manager if the assigned Program Manager is not, in the opinion of the State, adequately serving the needs of the State.

#### **4.2. Customer Service Toll-Free Number**

The Contractor must specify its toll-free number for the State to contact the Contractor Program Manager. The Contractor Program Manager must be available for calls during the hours of 8:00 am to 5:30 pm EST.

Customer Service Toll-Free Number

800-982-0751

#### **4.3. Technical Support, Repairs and Maintenance**

The Contractor must specify its toll-free number for the State to contact the Contractor for technical support, repairs and maintenance. The Contractor must be available for calls and service during the hours of 8:00 am to 5:30 pm EST Monday through Friday, at a minimum. In the event of an emergency after State business hours, the Contractor must provide a contact and phone number for technical support, repairs, and maintenance. The Contractor must respond to the State within two (2) hours of the emergency call.

Technical Support Telephone Number:

800-982-0751

#### **4.4. Key Personnel**

The Contractor must appoint individuals 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 one (1) business day.

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, the 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.

Contractor Key Personnel:

John Wheelock, VP of Sales

Brandon Libbey, Biometrics Production Supervisor – Biometrics Support Technician

David Moore, Senior Support Technician

**4.5. Disclosure of Subcontractors**

The Contractor will not be utilizing subcontractors.

**4.6. Security**

The Contractor will be subject the following security procedures:

The validity of any previous background check or drug test will be determined solely by the Michigan State Police. Any Background or drug test not found to be current and properly conducted, in the opinion of the MSP, will be re-administered for all staff identified for assignment to this project.

In addition, proposed Contractor personnel will be required to complete and submit an RI-8 Fingerprint Card to the State and the FBI and will be subject to MSP criteria for any access to Criminal Justice Information.

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

**5. MDOC Specific Requirements**

**5.1. MDOC Specific Security**

Security at MDOC facilities is the State's first priority and the Contractor/subcontractor and its personnel must be responsive to and respectful of these needs. The State reserves the right to deny access to any correctional facility to anyone who fails to comply with any applicable State, Federal, or local law, ordinance or regulation or whose presence may compromise the security of the facility, its offenders, or staff. The Contractor, its staff, and any subcontractor staff will be subject to the following security procedures:

- A. No active warrants or pending charges on any staff assigned to this contract.
- B. May not be under Federal, State or local jurisdiction as a prisoner. Must be off of Federal, State or local jurisdiction for five years from the date of discharge. Felony ex-prisoners will not be considered as contracted staff until they have been discharged from all sentences, including parole and probation, and are approved by the Deputy Director of the Correctional Facilities Administration (CFA). MDOC reserves the right to approve or decline applicants who have been involved in the criminal justice system depending on the circumstances.

- C. Not under investigation or under disciplinary action of the Michigan Department of Licensing and Regulatory Affairs.
- D. Has not engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution as defined in 42 U.S.C. 1997;
- E. Has not been convicted of engaging in, attempting to engage in or conspiracy to engage in sexual activity facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse.
- F. Has not been civilly or administratively adjudicated to have engaged in the activity described in Letter E above.
- G. The MDOC may investigate the Contractor's and subcontractor's personnel before they may have access to MDOC facilities and systems. The scope of the background check is at the discretion of MDOC and the results will be used to determine Contractor personnel eligibility for working within MDOC facilities and systems. The investigations will include Michigan State Police Background checks (ICHAT) and the Law Enforcement Information Network (LEIN) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RL-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the MDOC and will be reasonably related to the type of work requested.
- H. All delivery drivers, Contractor's and subcontractor's staff and technicians that are entering an MDOC facility must be LEIN cleared by MDOC at least 72 hours prior to facility entry. The Contractor's personnel must be LEIN cleared and received written approval from the MDOC's Contract Manager initially and annually by MDOC prior to any work with MDOC prisoners. The Contractor should attempt to get any and all staff/inspectors that potentially could go into a secure facility during the life of the contract pre-cleared through LEIN before a need is recognized. Should an emergency arise, MDOC may be able to LEIN clear individuals less than 72 hours if approved by the Contract Manager.
- I. The Contractor and subcontractor personnel must request LEIN clearance in writing. The completed LEIN Information Form must be sent to and approved by MDOC prior to Contractor's personnel working with MDOC prisoners and annually following approval. There is no cost associated with the LEIN. The LEIN form will be provided to the Contractor as needed. LEIN forms should be submitted to MDOC for review by submission to [mdoc-pmcd-cfa-leins@michigan.gov](mailto:mdoc-pmcd-cfa-leins@michigan.gov).
- J. Offender Contact Disclosure Requirements

The Contractor must ensure that all personnel, whether employed directly or through a subcontractor, disclose any personal relationships or acquaintances with individuals incarcerated under the jurisdiction of the Michigan Department of Corrections (MDOC).

1. Initial Disclosure

If any Contractor or subcontractor personnel are related to or acquainted with a prisoner, the individual must complete the Offender Contact Disclosure for Contractors form and submit it to the MDOC Program Manager or their designee.

## 2. Exception Request Requirement

In addition to the initial disclosure, personnel with such relationships must also complete the Offender Contact Exception Request (CAJ-202) form and submit it to the MDOC Contract Manager or designee.

## 3. Ongoing Compliance

- a. The Contractor must ensure that all personnel (including subcontractors) complete the required forms and notify the MDOC Contract Manager of any changes throughout the contract term.
- b. This requirement applies to all subcontractors and their personnel.
- c. If MDOC determines that a required form was not submitted, the Contractor must immediately remove the individual from any work related to MDOC contract deliverables.
- d. The Contractor must provide a monthly roster of all personnel assigned to the contract, indicating any submitted Offender Contact Exception Requests, to the MDOC Contract Manager or designee.

## 4. Monitoring and Enforcement

All personnel must be informed that MDOC monitors all prisoner communications (e.g., emails, phone calls, mail, care packages, and in-person visits). Any contact deemed suspicious or illegal may result in the removal of the individual from MDOC-related work.

- K. The Contractor/subcontractor's personnel will be required to enter State facilities. The State may require the Contractor/subcontractor's personnel to wear State-issued identification badges.
- L. All vehicles entering a correctional facility must be inspected before entry of the secure perimeter. Vehicles will be marked appropriately to allow quick identification as the Contractor's vehicle.
- M. The Contractor and subcontractor personnel must plan for potential delays when visiting correctional facilities, due to operational or security-related issues that may arise within the facility.
- N. The MDOC reserves the right to deny access to any correctional facility to anyone who fails to comply with any applicable State, Federal or local law, ordinance or regulation or whose presence may compromise the security of the facility, its members or staff. Weapons, alcoholic beverages, poison, and prescription drugs and controlled substances without written certification of needs from a licensed physician (does not include medical supplies for the facility), cellular devices, cameras, and audio or visual recording devices are

prohibited from being brought into all MDOC correctional facilities. Tobacco products and smoking also are prohibited both inside a correctional facility and on facility grounds except as specifically authorized by MDOC policy. Wardens may prohibit other items from being brought into their respective correctional facilities. Smoking is prohibited.

- O. The Contractor, Contractor's, and subcontractor's personnel must comply with and cooperate with all correctional facility rules, procedures and processes as well as State and federal laws. Contractor personnel must ensure that they are complying with all facility rules and regulations including, but not limited to, dress code and items allowed to be possessed.
- P. The Contractor's and subcontractor's personnel must follow the facility entry, exit, manifest process, to include the following:
  - 1. The Contractor/subcontractor personnel will receive an orientation and training by the MDOC on security, procedures, etc., inside the correctional facility. The Contractor must maintain a copy of the Contractor personnel's training certificates in the appropriate file for auditing purposes.
  - 2. The Contractor/subcontractor personnel must follow all MDOC rules, procedures and security processes at all times.
  - 3. The Contractor/subcontractor must ensure that all Contractor personnel working in a correctional facility are familiar and in compliance with the necessary routines and increased awareness of working inside a facility. Working inside the facility requires that the Contractor personnel develop positive and cooperative relationships with MDOC facility staff.
  - 4. The Contractor/subcontractor personnel must report any concerns, issues, or rule violations to the MDOC facility staff immediately.
  - 5. The Contractor/subcontractor personnel must use the MDOC facility staff as a resource for questions and guidance working with prisoners and inside a correctional facility.
  - 6. The Contractor/subcontractor personnel must defer to MDOC correctional facility staff for directions. The Contractor personnel must remember they are a guest in the facility and that security is the first priority of the facility.
- Q. No MDOC banned items will be allowed to enter the facility, including guns, knives, flares, tire irons, alcohol, drugs, tobacco, medical marijuana, lighters, cell phones, etc.
- R. Drivers are to secure vehicles while on the premises.
  - 1. During unloading, the vehicle must not be left running.
  - 2. Keys are not to be left in the vehicle and must be in possession of the driver or Corrections Officer escort.
  - 3. All vehicle and trailer compartment doors must be secured with an MDOC provided lock.

4. Drivers must use a Club to lock steering wheel (or other security device approved by the MDOC Program Manager).
- S. MDOC reserves the right to approve, decline, or remove Contractor and subcontractor staff from providing services on this Contract.

## **5.2. MDOC Vendor Rules and Regulations**

The Contractor will require all contractual staff, including temporary and subcontractor staff, to review and verify acceptance of the MDOC Vendor Rules and Regulations (See Schedule A- Statement of Work - Attachment 3) upon award of Contract as directed by the MDOC. The purpose of the MDOC Vendor Rules and Regulations is to provide the Contractor with general information regarding basic requirements of providing services to the MDOC and provide notice of work rules. Any revisions to the document will be provided to the Contractor throughout the Contract period, and all contractual staff, including temporary and subcontractor staff, must comply with all documentation provided. The Contractor must maintain copies of their staff's completion certificates for auditing purposes.

## **5.3. Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. § 15601**

- A. The Contractor and the Contractor Personnel will comply with the Final Rule implementing PREA, all applicable PREA standards and the agency's policies. The Contractor and Contractor Personnel shall make itself familiar with and at all times shall observe and comply with all PREA regulations that in any manner affect the performance under this Contract. Failure to comply with the PREA standards and related polices of the MDOC will be considered a breach of contract and may result in termination of the contract.
- B. Contract Personnel who may have contact with prisoners must complete PREA training Program A - Correctional Facilities Administration (CFA) Security Regulations prior to entrance in any MDOC Facility. Upon completion, Contractor Personnel shall submit a signed memorandum to the Contract Administrator documenting completion of the training and date of completion.
- C. As is deemed necessary, the MDOC Contract Monitor or Program Manager will provide the Contractor with current copies of all PREA documents via email. Any revisions to the documents will be emailed to the Contractor throughout the Contract period, and the Contractor must comply with all documentation provided.
- D. The Contractor must report any information concerning violations of PREA as soon as made aware of the alleged occurrence to the Program Manager and Contract Monitor.

## **6. Pricing**

### **6.1. Price Term**

Pricing is firm for the initial three-year contract period ("Pricing Period"). The first pricing period begins on the Effective Date. Adjustments may be requested, in writing, by either party and will take effect no earlier than the next Pricing Period.

## **6.2. Price Changes**

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

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

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

## **7. Ordering**

### **7.1. Authorizing Document**

The appropriate authorizing document for the Contract will be a Delivery Order (DO).

## **8. Invoice and Payment**

### **8.1. Invoice Requirements**

All invoices submitted to the State must include:

- 1) Date
- 2) Delivery order (DO) number
- 3) Description of any hardware, including quantity ordered
- 4) Contractor name, address, telephone number, and Federal Tax Identification Number
- 5) Date(s) of delivery and/or date(s) of installation and set up
- 6) Vendor-generated invoice number
- 7) Price for each item
- 8) Maintenance charges
- 9) Net invoice price for each item
- 10) Shipping costs (if any)
- 11) Total invoice price.

The State may pay maintenance and support charges on an annual basis. Payment of maintenance service/support of less than one (1) month's duration shall be prorated at 1/30th of the basic monthly maintenance charges for each calendar day.

Incorrect or incomplete invoices will be returned to Contractor for correction and reissue.

Overtime, holiday pay, and travel expenses will not be paid.

**8.2. Payment Methods**

The State will make payment for Contract Activities via Electronic Funds Transfer (EFT) as described in the Contract Terms, Section 20.

**9. Service-Level Agreement (SLA)**

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

**Service Level Agreements for this Contract will be as follows:**

SLA Metric 1.	Timely Deliveries
Definition and Purpose	<p>All orders must be delivered within 30 - 45 calendar days of receipt of order.</p> <p>AND</p> <p>The Contractor must ensure that items and quantities delivered are exactly the items, brands, and quantities on the Order Confirmation. No substitutions will be allowed without prior written permission by Program Manager and a Change Notice executed by the Contract Administrator.</p> <p>The entire order will be received on the same day unless a partial delivery has been approved in advance by the Program Manager.</p>
Acceptable Standard	<p>All deliveries must occur in accordance with the approved delivery schedule for each Facility and Facility Receiving hours.</p> <p>Extenuating circumstances must be communicated by the Contractor to the Program Manager prior to the scheduled delivery date and time.</p> <p>Items, brands, and quantities delivered will match the Order Confirmation exactly.</p> <p>Signed and dated packing slips will be provided to the designated agency personnel at the time of delivery.</p> <p>The entire order must be delivered on the same day unless a partial delivery has been approved in advance by the agency Program Manager or their designee.</p> <p>Orders not received in their entirety, as determined by a review of the Data Sources, will be considered inaccurate.</p> <p>The acceptable standard is 100% compliance.</p>

<p>Credit Due for Failing to Meet the Service Level Agreements</p>	<ol style="list-style-type: none"> <li>1. 5% of the invoice total may be assessed for each of the first five occurrences of non-compliance in a given calendar year.</li> <li>2. 10% of the invoice total may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year.</li> </ol> <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the state will be completed within 10 days of notice of assessment.</p>
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**10. MDOC Procurement, Monitoring and Compliance Division**

The Procurement, Monitoring, and Compliance Division (PMCD) provides oversight of MDOC contracts and ensures contractors are delivering services according to contract requirements. They will ensure the contractual requirements are being met through monitoring activities such as: scheduling kick off meetings, developing monitoring plans, managing service level agreements and transition timelines, and partnering with the MDOC program manager to ensure deliverables are met.

Should any issue(s) arise with a contractor’s performance, PMCD is engaged to document the issue(s) and may pursue a model of progressive discipline that leverages tools such as meetings, Corrective Action Plan Requests, and Vendor Performance letters. When a Corrective Action Plan Request is issued, the State requires that the Contractor confirm receipt and submit their Plan of Action within the timeframe outlined in the request. The State also requires that the Contractor must cure, at no additional cost to the State, any deficiency identified in a Corrective Action Plan Request. The Plan of Action must include a solution that resolves the issue so that it does not reoccur.

PMCD utilizes a progressive correction process for unsatisfactory vendor performance. PMCD reserves the right to utilize any of its contract compliance tools to address contract deficiency(cies) whether progressive or not. PMCD will utilize corrective action tools according to the significance of the contract deficiency.

## SCHEDULE B - PRICING

**Contract No. 26000000123**

Livescan Hardware and Related Software, Support and Maintenance

1. Price includes 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).
2. The State reserves the right to modify Contract items to meet the State of Michigan's future needs as well as the need of MiDeal members, other states or their political subdivisions.

LIVESCAN SYSTEM CONFIGURATIONS		
DESCRIPTION	QTY	COST
<b>Desktop LiveScan System w/ 10-Print &amp; Palmprint Capture</b> - includes FingerRoll Livescan Software, LSCAN 500 USB Palm Scanner, WIN11 Desktop PC w/ 24" LCD, Mug Shot Camera, FBI Certified Printer, Driver's License Scanner and Remote Installation / Training	1	\$15,995
	2-5	\$15,995
	6-10	\$15,495
	11-20	\$14,995
	21 +	\$14,995
<b>Mobile LiveScan System w/ 10-Print &amp; Palmprint Capture</b> - includes FingerRoll Livescan Software, LSCAN 500 USB Palm Scanner, WIN11 Laptop, Mug Shot Camera, FBI Certified Printer, Driver's License Scanner and Remote Installation / Training	1	\$16,095
	2-5	\$16,095
	6-10	\$15,595
	11-20	\$15,595
	21 +	\$15,095
<b>Desktop LiveScan System w/ 10-Print Capture</b> - includes FingerRoll Livescan Software, LSCAN Guardian 200 USB Scanner, WIN11 Desktop PC w/ 24" LCD, Driver's License Scanner and Remote Installation / Training	1	\$7,585
	2-5	\$7,585
	6-10	\$6,995
	11-20	\$6,495
	21 +	\$6,495
<b>Mobile LiveScan System w/ 10-Print Capture</b> - includes FingerRoll Livescan Software, LSCAN Guardian 200 USB Scanner, WIN11 Laptop, Driver's License Scanner and Remote Installation / Training	1	\$7,685
	2-5	\$7,685
	6-10	\$7,095
	11-20	\$6,595
	21 +	\$6,595
<i>Price discounts apply when items are purchased in one order</i>		

MAINTENANCE & SUPPORT FOR LIVESCAN SYSTEM CONFIGURATIONS		
DESCRIPTION	QTY	COST
<b>Desktop LiveScan System w/ 10-Print &amp; Palmprint Capture</b> - includes FingerRoll Livescan Software, LSCAN 500 USB Palm Scanner, WIN11 Desktop PC w/ 24", Mug Shot Camera, FBI Certified Printer, Driver's License Scanner and Remote Installation / Training	1	\$3,495
	2-5	\$3,495
	6-10	\$3,295
	11-20	\$2,995
	21 +	\$1,750
<b>Mobile LiveScan System w/ 10-Print &amp; Palmprint Capture</b> - includes FingerRoll Livescan Software, LSCAN 500 USB Palm Scanner, WIN11 Laptop, Mug Shot Camera, FBI Certified Printer, Driver's License Scanner and Remote Installation / Training	1	\$3,495
	2-5	\$3,495
	6-10	\$3,295
	11-20	\$2,995
	21 +	\$1,750
<b>Desktop LiveScan System w/ 10-Print Capture</b> - includes FingerRoll Livescan Software, LSCAN Guardian 200 USB Scanner, WIN11 Desktop PC w/ 24" LCD, Driver's License Scanner and Remote Installation / Training	1	\$1,995
	2-5	\$1,995
	6-10	\$1,495
	11-20	\$1,495
	21 +	\$1,295
<b>Mobile LiveScan System w/ 10-Print Capture</b> - includes FingerRoll Livescan Software, LSCAN Guardian 200 USB Scanner, WIN11 Laptop, Driver's License Scanner and Remote Installation / Training	1	\$1,995
	2-5	\$1,995
	6-10	\$1,495
	11-20	\$1,495
	21 +	\$1,295
<i>Price discounts apply when items are purchased in one order, or cumulative systems installed at 1 agency over time</i>		

LIVESCAN UPGRADES FOR EXISTING PAYING SERVICE CUSTOMERS		
DESCRIPTION	QTY	COST
<b>Palm Scanner Upgrade</b> - includes LSCAN 500 USB Palm Scanner, WIN11 PC if needed (no charge - if current on maintenance) IDN will decide if PC is current, needs upgraded or will need to be replaced) and Remote Installation / Training	1	\$9,995
<b>10-Print Scanner Upgrade</b> - includes LSCAN GUARDIAN 200 Scanner, WIN11 PC if needed (no charge - if current on maintenance) IDN will decide if PC is current, needs upgraded or will need to be replaced) and Remote Installation / Training	1	\$4,995
<i>Price only valid for paying service customers. The fingerprint scanner comes with a 1 year warranty. Future annual maintenance costs will be adjusted accordingly to reflect the 1 year warranty period. Once the warranty period is over, maintenance will go back to previous amount</i>		

LIVESCAN SYSTEM OPTIONS/COMPONENTS THAT CAN BE PURCHASED SEPARATELY		
DESCRIPTION	QTY	COST
LSCAN 500 Palm Scanner *	1	\$9,995
LSCAN GUARDIAN 200 20-Print Scanner *	1	\$4,995
LSCAN 500 Supply Kit (5 silicone pads & 5 tape cleaner pads)	1	\$298

GUARDIAN 200 Supply Kit (5 silicone pads & 5 tape cleaner pads)	1	\$185
WIN 11 Desktop PC w/24" LCD – Intel Core i5, 16 GB RAM, 256 GB Solid State Drive, 1TB HDD, UPS Unit	1	\$1,195
Windows 11 Pro Laptop – Intel Core i7, 8 GB RAM, 256GB Solid State Drive, 15.6" FHD	1	\$1,295
Rugged Cabinet w/ mugshot Camera bracket (cabinet houses a scanner, PC, UPS, and keyboard)	1	\$3,495
FBI Certified Lexmark Printer w/ duplexer and tray *	1	\$1,495
Mugshot Camera Capture Kit – camera, mount, cables *	1	\$1,495
Driver's License Scanner	1	\$595
Flatbed Scanner (includes functional software) *	1	\$2,495
Livescan Interface – data push to livescan using our standard XML interface specs	1	\$495
Onsite installation, integration, and training – per day rate	1	\$895
<i>Maintenance &amp; Support - 10% annual maintenance, for applicable options (*)</i>		

IRIS CAPTURE (ADD-ON) TO LIVESCAN		
DESCRIPTION	QTY	COST
<b>IRIS Capture (add-on) to the FingerRoll Livescan Software</b> – includes IRIS Client License add-on to the FingerRoll Livescan Software, R100 IRIS camera, table mount, submission to MSP from livescan, and remote installation / training	1	\$5,790
<i>Maintenance &amp; Support – 12% annual maintenance: \$695</i>		

## SCHEDULE C - INSURANCE REQUIREMENTS

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**Contract No. 26000000123**

Livescan Hardware and Related Software, Support and Maintenance

- 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 business 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.**

**Insurance Requirements.**

- a. **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.
- b. **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.
- c. **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.
- d. **Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
  - (1) 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;
  - (2) 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
- e. **Proof of Insurance**
  - (1) Insurance certificates showing evidence of coverage as required herein must be submitted to the Contract Administrator within 10 days of the contract execution date.
  - (2) Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.

- (3) Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
  - (4) All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
  - (5) The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification/authorization, and balance sheets.
  - (6) In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to the Contract Administrator no later than 5 business days following such cancellation or nonrenewal.
- f. **Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.
- g. **Limits of Coverage & Specific Endorsements.** (See Table 6.1 Below)

TABLE 6.1

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

Required Limits	Additional Requirements
<b>Minimum Limits:</b> <b>\$1,000,000 Each Occurrence</b> <b>\$1,000,000 Annual Aggregate</b>	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
<b>Property Insurance</b> <b>Property Insurance covering any loss or damage to the State-owned office space used by Contractor for any reason under this Contract, and the State-owned equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The State must be endorsed on the policy as a loss payee as its interests appear.</b>	

**h. Non-Waiver.** This Section 6 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.

**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 D - SERVICE LEVEL AGREEMENT FOR HYBRID PURCHASES

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

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

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

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

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

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

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

“**Critical Service Error**” has the meaning set forth in **Section 3.5**.

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

“**High Service Error**” has the meaning set forth in **Section 3.5**.

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

“**Low Service Error**” has the meaning set forth in **Section 3.5**.

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

“**Medium Service Error**” has the meaning set forth in **Section 3.5**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Authorized Users over the Internet in material conformity with the Contract. “**Availability**” has a correlative meaning. The Hosted Services and Software are not considered Available in the event of a material performance degradation or inoperability of the Hosted Services and Software, in whole or in part. The Availability Requirement will be calculated for the Service Period as follows:  $(\text{Actual Uptime} - \text{Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception}) \div (\text{Scheduled Uptime} - \text{Total Minutes in Service Period Hosted Services or Software are not Available Due to an Exception}) \times 100 = \text{Availability}$ .

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

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

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

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

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

**2.6 Remedies for Service Availability Failures.**

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

payable for Hosted Services and Software provided during the Service Period (“**Service Availability Credits**”):

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

- (b) Any Service Availability Credits due under this **Section** will be applied in accordance with payment terms of the Contract.
- (c) If the actual Availability of the Hosted Services and Software is less than the Availability Requirement in any two (2) of four (4) consecutive Service Periods, then, in addition to all other remedies available to the State, the State may terminate the Contract on written notice to Contractor with no liability, obligation or penalty to the State by reason of such termination.

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

**3.1 Support Service Responsibilities.** Contractor will:

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

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

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

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

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

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

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

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

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

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

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

Support Request Classification	Service Level Metric (Required Response Time)	Service Level Metric (Required Resolution Time)	Service Level Credits (For Failure to Respond to any Support Request Within the Corresponding Response Time)	Service Level Credits (For Failure to Resolve any Support Request Within the Corresponding Required Resolution Time)
			within the required response time.	thereafter double for each additional one-hour increment.
Medium Service Error	Three (3) hours	Two (2) Business Days	N/A	N/A
Low Service Error	Three (3) hours	Five (5) Business Days	N/A	N/A

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

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

**3.9 Corrective Action Plan.** If two or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Contractor does or is required to perform any Hosted Services, Contractor will promptly investigate the root causes of these Service Errors and provide to the State within five (5) Business Days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for the State’s review, comment and approval, which, subject to and upon the State’s written approval, shall be a part of, and by this reference is incorporated in, the Contract as the parties’ corrective action plan (the **“Corrective Action Plan”**). The Corrective Action Plan must include, at a minimum: (a) Contractor’s commitment to the State to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to Resolve and prevent

any further occurrences of the Service Errors giving rise to such Support Requests; (b) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (c) time frames for implementing the Corrective Action Plan. There will be no additional charge for Contractor's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

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

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

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

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

**4.5 Disaster Recovery.** Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) of 24 hours, and a Recovery Time Objective (RTO) of 24 hours (the "**DR Plan**"), and implement such DR Plan in the event of any unplanned interruption of the Hosted Services. Contractor's current DR Plan, revision history, and any reports or summaries relating to past testing of or pursuant to the DR Plan are included or attached as described in **Schedule A** under **Hosting**. Contractor will actively test, review and update the DR Plan on at least an annual basis using industry best practices as guidance. Contractor will provide the State with copies of all such updates to the Plan within fifteen (15) days of its adoption by Contractor. All updates to the DR Plan are subject to the requirements of this **Section 3**; and provide the

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

## SCHEDULE E - DATA SECURITY REQUIREMENTS FOR HYBRID PURCHASES

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

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

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

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

“**Hosting Provider**” means any 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](http://www.uptimeinstitute.com)), or its equivalent;
- 5.4** maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State Data that complies with the requirements of the State's data security policies as set forth in this Contract, and must, at a minimum, remain compliant with FISMA and NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs;
- 5.5** provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, encryption, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of State Data and the nature of such State Data, consistent with best industry practice and applicable standards (including, but not limited to, compliance with FISMA, NIST, CMS, IRS, FBI, SSA, HIPAA, FERPA and PCI requirements as applicable);
- 5.6** take all reasonable measures to:
  - (a)** secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Contract Activities against "malicious actors" and others who may seek, without authorization, to destroy, disrupt, damage, encrypt, modify, copy, access or otherwise use Hosted Services or the information found therein; and
  - (b)** prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Contract Activities; (ii) State Data from being commingled with or contaminated by the data of other customers or their users of the Contract Activities; and (iii) unauthorized access to any of the State Data;
- 5.7** ensure that State Data is encrypted in transit and at rest using FIPS validated AES encryption modules and a key size of 128 bits or higher;

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

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

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

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

**8. Security Audits.**

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

**8.2** Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. The State, at its

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

- 8.3** During the Term, Contractor will, when requested by the State, provide a copy of Contractor's and Hosting Provider's FedRAMP System Security Plan(s) or SOC 2 Type 2 report(s) to the State within two weeks of the State's request. The System Security Plan and SSAE audit reports will be recognized as Contractor's Confidential Information.
- 8.4** With respect to State Data, Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- 8.5** The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this **Section 8**.

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

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

- 9.1** Dynamic Application Security Testing (DAST) – Scanning interactive application for vulnerabilities, analysis, remediation, and validation (may include Interactive Application Security Testing (IAST)).
  - (a)** Contractor must either a) grant the State the right to dynamically scan a deployed version of the Software; or b) in lieu of the State performing the scan, Contractor must dynamically scan a deployed version of the Software using a State approved application scanning tool, and provide the State with a vulnerabilities assessment after Contractor has completed such scan. These scans and assessments i) must be completed and provided to the State quarterly (dates to be provided by the State) and for each major release; and ii) scans must be completed in a non-production

environment with verifiable matching source code and supporting infrastructure configurations or the actual production environment.

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

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

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

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

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

- (a)** If provided as part of the solution, all native mobile application software must meet these scanning requirements including any interaction with an application programming interface (API).
- (b)** Penetration Testing – Simulated attack on the application and infrastructure to identify security weaknesses.

**10. Infrastructure Scanning.**

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

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

## **SCHEDULE F – FEDERAL PROVISIONS ADDENDUM**

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This addendum applies to purchases that will be paid for in whole or in part with funds obtained from the federal government. The provisions below are required, and the language is not negotiable. Contractor agrees to comply with all obligations under federal rules or regulations for such funding, including but not limited to the provisions contained in this addendum. If any provision below conflicts with the State’s terms and conditions, including any attachments, schedules, or exhibits to this Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Further, Contractor agrees to, through a Contract Change Notice, append or modify specific federal provisions 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. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

### **A. Equal Employment Opportunity**

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#).

### **B. Davis-Bacon Act (Prevailing Wage)**

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), nor is it a prime construction contract in excess of \$2,000.

### **C. Copeland “Anti-Kickback” Act**

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), nor is it a prime construction contract in excess of \$2,000 where the Davis-Bacon Act applies.

### **D. Contract Work Hours and Safety Standards Act**

The Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable, and during performance of this Contract the Contractor agrees as follows:

- (1) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor

responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (3) **Withholding for unpaid wages and liquidated damages.** The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
- (5) Further, for contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1 where an additional contract provision is required, during performance of this Contract the Contractor agrees as follows:
  - (i) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
  - (ii) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

- (6) These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

#### **E. Rights to Inventions Made Under a Contract or Agreement**

If this Contract is funded by a federal “funding agreement” as defined under [37 CFR §401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

#### **F. Clean Air Act and the Federal Water Pollution Control Act**

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act ([42 USC 7401-7671q](#)) and the Federal Water Pollution Control Act ([33 USC 1251-1387](#)), and during performance of this Contract the Contractor agrees as follows:

##### **(1) Clean Air Act**

- (i) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (ii) The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
- (iii) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

##### **(2) Federal Water Pollution Control Act**

- (i) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (ii) The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.

- (iii) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

#### **G. Debarment and Suspension**

A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement [Executive Orders 12549](#) ([51 FR 6370; February 21, 1986](#)) and [12689](#) ([54 FR 34131; August 18, 1989](#)), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

- (1) This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. Part. 180, subpart C and 2 C.F.R. Part. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **H. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

Contractor has applied or bid for an award of **more than \$100,000** and shall file the required certification in *Exhibit 1 – Byrd Anti-Lobbying Certification* attached to the end of this Addendum. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

## I. Procurement of Recovered Materials

If this Contract is a procurement to purchase products or items designated by the EPA under [40 C.F.R. part 247](#) during the course of a fiscal year, then under [2 CFR 200.323](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
  - (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
  - (ii) Meeting contract performance requirements; or
  - (iii) At a reasonable price.
- (2) Information about this requirement, along with the list of EPA- designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

## J. Prohibition on Contracting for Covered Telecommunications Equipment or Services

Contractor acknowledges and agrees that [Section 889\(b\) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 \(the “McCain Act”\)](#), and [2 C.F.R. §200.216](#), prohibit the obligation or expending of federal award funds on certain telecommunication products or with certain entities for national security reasons on or after August 13, 2020.

During performance of this Contract, the Contractor agrees as follows:

- (a) *Definitions.* As used in this Section J. Prohibition on Contracting for Covered Telecommunications Equipment or Services (“Section J”):
  - (1) the terms “backhaul,” “critical technology,” “interconnection arrangements,” “reasonable inquiry,” “roaming,” and “substantial or essential component” have the meanings defined in 48 CFR § 4.2101;
  - (2) the term “covered foreign country” has the meanings defined in § 889(f)(2) of the McCain Act; and
  - (3) the term “covered telecommunications equipment or services” has the meaning defined in § 889(f)(3) of the McCain Act.
- (b) *Prohibitions.*

- (1) Unless an exception in paragraph (c) of this Section J applies, neither the Contractor nor any of its subcontractors may use funds received under this Contract to:
  - (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - (iii) Enter into, extend, or renew a contract with an entity that uses any covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
  - (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Exceptions.*

- (1) This Section J does not prohibit Contractor from providing—
  - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) *Reporting requirement.*

- (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this Section J to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this Section J:
  - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable;

supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

- (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this Section J: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

- (e) *Subcontracts*. The Contractor shall insert the substance of this Section J, including this paragraph (e), in all subcontracts and other contractual instruments.

#### **K. Domestic Preferences for Procurements**

- (a) As appropriate, and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.
- (b) For purposes of this Section K – Domestic Preferences for Procurements:
  - (1) “*Produced in the United States*” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - (2) “*Manufactured products*” mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- (c) Build America, Buy America Act (BABAA).

This Contract does not involve purchases for an infrastructure project that is subject to the domestic preference requirement in the Build America, Buy America Act.

#### **L. Affirmative Socioeconomic Steps**

For all contracts utilizing federal funding sources subject to Title 2 of the Code of Federal Regulations (C.F.R.) Part 200 issued on or after November 12, 2020, if subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

### **M. Copyright and Data Rights**

Pursuant to 2 CFR § 200.315(b), the State may copyright any work which is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

### **N. Additional FEMA Contract Provisions**

This Contract does not involve purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA).

### **O. Other Federal Contract Provisions**

The following provisions also apply to purchases that will be paid for in whole or in part with funds obtained from the federal government:

(a) Publication Rights:

- (1) Where activities supported by this Agreement Produce books, films, or other such copyrighted materials issued by the Contractor, the Contractor may copyright such but shall acknowledge that the Department reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such materials as well as to authorize others to reproduce and use such materials. This cannot include service recipient information or personal identification data.
- (2) Any copyrighted materials or modification bearing acknowledgment of the Department's name must be reviewed by the Department prior to reproduction and use of such materials.

(b) Audits:

- (1) The State, Department of Justice (DOJ), or other federal agencies may conduct or arrange for "agreed upon procedures" or additional audits to meet their needs or requirements of federal funding received.

(c) Record Maintenance/Retention:

- (1) Contractor must maintain adequate program and fiscal records and files, including source documentation. Assure that all terms of this Contract will be appropriately adhered to and that records and detailed documentation for the project or program identified in this contract will be maintained (may be off site) for a period of not less than four years from the date of the contract closure. All retention record guidelines set by the State must be adhered to if they require additional years beyond retention guidelines stated herein.

(d) Software Compliance:

- (1) The Contractor must ensure software compliance and compatibility with the State's data systems for services provided under this Contract including, but not

limited to stored data, databases, and interfaces to produce work products, and reports. All required data under this agreement shall be provided in an accurate and timely manner without interruption, failure, or errors due to the inaccuracy of the Contractor's business operations for process date/time data.

(e) Notification of Criminal or Administrative Investigations/Charges:

- (1) If any employee of the Contractor associated with this grant funding becomes aware of a criminal or administrative investigation or charge that directly or indirectly involves the grant funds referenced in this contract, the Contractor shall immediately notify the State's Contract Manager in writing that such an investigation is ongoing or that a charge has been issued.

(f) Authorized Access:

- (1) Contractor must permit upon reasonable notification and at reasonable times, access by authorized representatives of the State, Program Evaluators (contracted by the State), Federal Grantor Agency (Michigan State Police), Comptroller General of the U.S. and State Auditor General, or any of their duly authorized representatives, to records, files and documentation related to this Contract, to the extent authorized by applicable state or federal law, rule, or regulation.