



OAKLAND COUNTY EXECUTIVE, DAVID COULTER

COMPLIANCE OFFICE

PURCHASING

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248-858-0511 | purchasing@oakgov.com

Buyer: RLB

CONTRACT NUMBER: 006125

Event # 004921

CONTRACT between the COUNTY OF OAKLAND and CONTRACTOR

Not To Exceed Amount: \$ 65,000.00		Effective Date: 8/21/2020		Expiration Date: 8/31/2023	
Contract Description:					
Contractor Information:			Contract Administrator (If Different):		
TerraNova Worldwide Corporation 102-1545 De LAvenir Blvd Laval, QC H7S 2M5 CANADA Vendor No: 26241					
Compliance Office Purchasing Information:			Contract Administrator Oakland County Using Department:		
Buyer: Richard Brower Oakland County 2100 Pontiac Lake Rd., Bldg. 41W Waterford, MI 48328-0462 248-858-0511 purchasing@oakgov.com			Michael Timm Director Information Technology 1200 N Telegraph Rd Bldg 49W Pontiac, MI 48341 248-858-0857 timmmr@oakgov.com		

The Parties agree to the attached terms and conditions:

FOR THE CONTRACTOR:

SIGN: Mathieu Ouellette
Mathieu Ouellette (Aug 21, 2020 11:49 EDT)

FOR THE COUNTY:

SIGN: Michael R Timm
Michael R Timm (Aug 21, 2020 12:49 EDT)

Contract Administrator

SIGN: Scott N. Guzy
Scott N. Guzy (Aug 21, 2020 13:09 EDT)

Scott N. Guzy, CPPO, MBA, Purchasing Administrator

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This Contract is organized and divided into the following Sections for the convenience of the Parties.

- Section 1. Contract Purpose
- Section 2. Contract Definitions
- Section 3. Contract Term and Renewal
- Section 4. Contract Administration and Amendments
- Section 5. Contract Termination
- Section 6. Scope of Deliverables and Financial/Payment Obligations
- Section 7. Contractor's Warranties and Assurances
- Section 8. Liability
- Section 9. Contractor Provided Insurance
- Section 10. Intellectual Property
- Section 11. Confidential Information
- Section 12. County Data
- Section 13. Information Technology Standards
- Section 14. General Terms and Conditions

§1. CONTRACT PURPOSE

- 1.1. After a competitive bidding and selection process by County, Contractor was chosen to provide services, described more fully in the Scope of Services Exhibits, to County. Contractor desires to extend the terms and conditions in this Contract to a PPB, to enable it to make purchases from Contractor according to the terms herein. A model Agreement to be used by PPBs is provided in Exhibit X. Contractor may negotiate customized terms with the PPB at its own discretion. Contractor is under no obligation to provide services described in this Contract to a PPB if the Parties are not able to agree on customized terms.
- 1.2. County shall not be a party to a contract between Contractor and a PPB. County shall not have any liability, of any sort, for any harm or action that may arise from purchases made by any PPB pursuant to the terms of this Contract.
- 1.3. PPBs must deal directly with Contractor for any transactions such as purchases, invoices, price questions, disputes, etc. that relate to their individual agreement with Contractor. Contractor must respond timely to PPB inquiries. Failure to do so may result in County removing the Contract and Contractor's Information from the G2G MarketPlace Website.

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- 1.4. County shall place this Contract and any amendments to it, on its G2G MarketPlace Website. County will provide the following information on its G2G MarketPlace website:
 - 1.4.1. Identify Contractor on its G2G MarketPlace Website, this Contract and amendments, if applicable, and a summary of the services.
 - 1.4.2. State that the Contract was the result of a competitive bidding process.
 - 1.4.3. Provide Contractor's phone and email address for inquiries.
 - 1.4.4. Acknowledge that County and the PPB will receive a benefit from purchases subject to this Contract.
 - 1.4.5. Provide a County contact to answer questions concerning the expiration date of the Contract, the procedure for purchasing off the Contract, and the competitive bidding process followed by County.
- 1.5. Contractor shall provide the following information to County and shall update the information timely whenever changes occur.
 - 1.5.1. Description of Contractor's services and products, contact information, and training opportunities for County to place on the G2G MarketPlace Website.
 - 1.5.2. Every four months a "Contract Usage Statement" which means the names, Scope of Services selected, quantities purchased, and dollar amount of each agreement signed by a PPB using this Contract. Contractor may provide the dollar amount of an agreement only if a PPB will not permit disclosure of the other items.
 - 1.5.3. The names of two representatives to act as a primary and secondary point of contact to provide County with the Contract Usage Statements and other information required in this Contract.
- 1.6. In recognition of the benefits to Contractor for County providing information to PPBs and potential participants, and the costs savings to Contractor for having this information available, Contractor shall provide County and PPBs the price reductions described in a later section.

§2. CONTRACT DEFINITIONS

The following words when printed with the first letter capitalized shall be defined and interpreted as follows, whether used in the singular or plural, nominative or possessive case, and with or without quotation marks:

- 2.1. "**Amendment**" means any change, clarification, or modification to this Contract.
- 2.2. "**Business Day**" means Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding County designated holidays.
- 2.3. "**Claims**" means any loss; complaint; demand for relief or damages; lawsuit; cause of action; proceeding; judgment; penalty; costs or other liability of any kind which is imposed on, incurred by, or asserted against the County or for which the County may become legally or contractually obligated to pay or defend

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against, whether commenced or threatened, including, but not limited to, reimbursement for reasonable attorney fees, mediation, facilitation, arbitration fees, witness fees, court costs, investigation expenses, litigation expenses, or amounts paid in settlement.

- 2.4. **“Confidential Information”** means all (i) information and data that the County is required or permitted by law to keep confidential, which includes computer software, cybersecurity assessments and plans and measures to protect the County’s security; and (ii) information concerning the inner workings of Contractor’s software and security methods and processes.,
- 2.5. **“Contract”** means this document and any other documents expressly incorporated herein.
- 2.6. **“Contractor”** means the entity or person listed under “Contractor” on the first page of this Contract.
- 2.7. **“Contractor Employee”** means any employee; officer; director; member; manager; trustee; volunteer; attorney; licensee; contractor; subcontractor; independent contractor; subsidiary; joint venture; partner or agent of Contractor; and any persons acting by, through, under, or in concert with any of the above, whether acting in their personal, representative, or official capacities. Contractor Employee shall also include any person who was a Contractor Employee at any time during the term of this Contract but, for any reason, is no longer employed, appointed, or elected in that capacity.
- 2.8. **“Contract Documents”** mean the following documents, which this Contract includes and incorporates:
- Exhibits (Applicable if Checked)**
- 2.8.1. ☒ Exhibit I: Insurance Requirements
- 2.8.2. ☐ Exhibit II: Business Associate Agreement (Health Insurance Portability and Accountability Act Requirements)
- 2.8.3. ☒ Exhibit III: Requirements for Contractors with Access to County PII (Personally Identifiable Information)
- 2.8.4. ☐ Exhibit IV: Requirements for Contractors with Access to Criminal Justice Information
- 2.8.5. ☐ Exhibit V: Federally Funded Contract Requirements
- 2.8.6. ☒ Exhibit VI: Terranova Master Subscription Agreement
- 2.8.7. ☒ Exhibit VII: License for Use of County Servicemark
- 2.8.8. ☐ Exhibit VIII: Acknowledgement of Independent Employment Status
- 2.8.9. ☒ Exhibit IX: Scope of Contractor Deliverables – Security Awareness Training – Statement of Work (“SOW”)
- 2.8.10. ☒ Exhibit X: PPB Model Agreement
- 2.9. **“County”** means the County of Oakland, a Municipal and Constitutional Corporation, its departments, divisions, authorities, boards, committees, and “County Agents” as defined below.

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- 2.10. **“County Agent”** means any elected and appointed officials; directors; board members; council members; commissioners; employees; and volunteers of the County; whether acting in their personal, representative, or official capacities. “County Agent” shall also include any person who was a “County Agent” anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and in that capacity.
- 2.11. **“County Data”** means information or data collected, used, processed, stored, or generated in any format, by or on behalf of the County, in connection with the Deliverables, which shall include, but not be limited to: (a) personal health information (PHI) as defined under the Health Insurance Portability Act (HIPPA) and Exhibit II, (b) personally identifiable information (PII) as defined in Exhibit III, and (c) Criminal Justice Information defined in Exhibit IV if the Exhibit(s) are incorporated into the Contract. County Data includes Confidential Information as defined in this Contract.
- 2.12. **“County Network”** means County owned, leased, or licensed equipment, hardware, and software that is interconnected via fiber optic, wireless, or other communication mediums for the purposes of County hosting, processing, using, sharing, and/or transporting data, video, voice, or any other form of information.
- 2.13. **“Day”** means any calendar day, which shall begin at 12:00:00 a.m. and end at 11:59:59 p.m.
- 2.14. **“Deliverables”** means goods and/or services provided under this Contract, whether tangible or intangible, and may be more specifically described in the Exhibits.
- 2.15. **“Effective Date”** means midnight on the date listed on the first page of this Contract.
- 2.16. **“Expiration Date”** means 11:59.59 p.m. on the date listed on the first page of this Contract.
- 2.17. **“E-Verify”** means an Internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees. Information and the registration process are found at the E-Verify website: <https://e-verify.uscis.gov/enroll>.
- 2.18. **“G2G MarketPlace Website”** means an Internet site used by County to provide information to PPBs about businesses providing services to County and agreements used by County and available to PPBs to procure services.
- 2.19. **“Iran-Linked Business”** is defined in the Michigan Compiled Laws (MCL), specifically MCL 129.312, being Section 2 of Public Act 517 of 2012.
- 2.20. **“Not to Exceed Amount”** means the dollar amount listed on the first page of this Contract, unless amended. The “Not to Exceed Amount” is not the County’s financial obligation under this Contract, but the maximum amount that can be paid to Contractor during the term of this Contract.

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- 2.21. **"PPB"** which stands for Participating Public Body, means an entity created by state or Federal law which is primarily funded by or through a governmental authority and which registers to access County's G2G MarketPlace Website.
- 2.22. **"Proposal"** means Contractor's response or bid to the County's Request for Proposal, Request for Qualifications, or Request for Quotes.
- 2.23. **"Purchase Order"** means the County's written request to Contractor for Deliverables pursuant to this Contract. The Purchase Order may include terms regarding delivery schedule, payment, and transportation.
- 2.24. **"Purchasing"** means the Purchasing Unit of the Oakland County Compliance Office.

§3. CONTRACT TERM AND RENEWAL

- 3.1. **Contract Term.** This Contract shall begin on the Effective Date and shall end on the Expiration Date.
- 3.2. **Contract Renewal.** Unless otherwise provided herein, the Parties are under no obligation to renew or extend this Contract after the Expiration Date. This Contract may only be extended by an Amendment.
- 3.3. **Legal Effect.** This Contract shall be effective and binding when all of the following occur: (a) this Contract is signed by a Contractor Employee, legally authorized to bind Contractor; (b) this Contract is signed by an authorized County Agent; (c) all Contractor certificates of insurance, required by this Contract, are submitted and accepted by Purchasing; and (d) any other conditions precedent to this Contract have been met.

§4. CONTRACT ADMINISTRATION AND AMENDMENTS

- 4.1. **Contract and Purchase Order Issuance.** Purchasing shall issue this Contract and any Purchase Orders that may be required. Purchasing is the sole point of contact in the County regarding all procurement and contractual matters relating to this Contract and any Purchase Orders. Purchasing is the only County office/department authorized to make any Amendments to this Contract or Purchase Orders.
- 4.2. **Purchase Orders.** Purchase Orders issued under this Contract are governed by the terms and conditions of this Contract and are included and incorporated herein.
- 4.3. **Project Managers.** Each Party may designate an employee or agent to act as a Project Manager. If Project Managers are selected, they shall be listed, along with their duties, in Exhibit IX. Unless otherwise stated in Exhibit IX, the County's Project Manager has no authority to amend this Contract.
- 4.4. **Contract Administrators.** The County shall designate an employee or agent to act as Contract Administrator(s). Contractor may designate its employee or agent to act as Contract Administrator(s). The Contract Administrators shall be listed on the first page of this Contract. The County's Contract Administrator(s) shall be responsible for monitoring and coordinating day-to-day activities under this

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Contract, reviewing Deliverables and invoices, and submitting requests for Amendments to Purchasing. The County's Contract Administrator(s) have no authority to amend this Contract.

- 4.5. **Contract Amendments.** All Amendments to this Contract must be in writing. This Contract shall not be amended by any packing slip, Purchase Order, invoice, click through license agreement, or Contractor policies or agreements published on Contractor's website or otherwise. Amendments to this Contract shall be issued only by Purchasing. The Amendment shall be effective when signed by an authorized Contractor Employee and an authorized County Agent.
- 4.6. **Unauthorized Changes.** Contract changes shall not be effective until an Amendment containing the change is executed according to the procedures described in this Contract. If the Contractor is directed to perform work that Contractor believes is a change in the Contract/Deliverables, then Contractor must notify Purchasing that it believes the requested work is a change to the Contract before performing the requested work. If Contractor fails to notify Purchasing before beginning the requested work, then Contractor waives any claims for additional compensation for performing the requested work. If Contractor begins work that is outside the scope of this Contract or begins work before an Amendment is executed and then stops performing that work, Contractor must, at the request of the County, undo any out-of-scope work that the County believes would adversely affect the County.
- 4.7. **Precedence of Contract Documents.** In the event of a conflict, the terms and conditions contained in Sections 1 through 14 of this Contract shall prevail and take precedence over any allegedly conflicting provisions in all Contract Documents, Exhibits, Purchase Orders, Amendments, and other documents expressly incorporated herein. Terms and conditions contained in Contractor invoices, packing slips, receipts, acknowledgments, click-through licenses, and similar documents shall not change the terms and conditions of this Contract.

§5. CONTRACT TERMINATION

- 5.1. **County Termination.** In addition to any other legal rights the County may have to terminate or cancel this Contract, the County may terminate the Contract as follows:
- 5.1.1. **Immediate Termination.** The County may terminate or cancel this Contract, in whole or in part, immediately, upon notice to Contractor, if any of the following occur: (a) Contractor, officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense; or (b) if any third-party funding for this Contract is reduced or terminated.
- 5.1.2. **Termination for Convenience.** The County may terminate or cancel this Contract, in whole or part, at any time, upon ninety (90) Days' notice to Contractor, for any reason, including convenience without incurring obligation or penalty of any kind. The effective date for termination or cancellation shall be clearly stated in the notice. Any amounts paid in advance for subscription software or services will not be reimbursable by Contractor in the event this Contract is terminated or cancelled for convenience.

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- 5.2. **Contractor Termination.** Contractor may terminate or cancel this Contract, in whole or part, upon one ninety (90) Days' notice to the County, if the County breaches any duty or obligation contained herein and within such notice period has failed or has not attempted to cure the breach. The effective date of termination or cancellation and the specific alleged default shall be clearly stated in the notice to the County.
- 5.3. **County's Obligations Upon Termination.** The County's sole obligation in the event of termination or cancellation of this Contract is for payment of the actual Deliverables provided to the County before the effective date of termination. Under no circumstances shall the County be liable for any future loss of income, profits, any consequential damages, any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination or cancellation of this Contract. The County shall not be obligated to pay Contractor any cancellation or termination fee if this Contract is cancelled or terminated as provided herein. If the County chooses to terminate the Contract in part, then the charges payable under this Contract must be equitably adjusted to reflect those Deliverables that are terminated.
- 5.4. **Contractor's Obligations Upon Termination.** If the County terminates this Contract, for any reason, then Contractor must do the following: (a) cease providing all Deliverables as specified at the time stated in the notice of termination; (b) take any action necessary, or as the County may direct, to preserve and protect Deliverables or other property derived or resulting from the Contract that is in Contractor's possession; (c) return all materials and property provided to Contractor by the County; (d) unless otherwise directed by the County, transfer title in and deliver to the County all Deliverables in the possession of Contractor or Contractor Employees (which Deliverables are transferred to the County "As-Is", except to the extent the amounts paid by the County for these Deliverables include warranties or warranty services and, in that situation, the Deliverables will be transferred with the warranty or warranty services and not "As-Is"); and (e) take any action to mitigate and limit any potential damages, including terminate or limit, as applicable, those subcontracts and outstanding orders for materials and supplies connected with or related to this Contract.
- 5.5. **Assumption of Subcontracts.** If Contractor is in breach of this Contract and the County terminates this Contract, then the County may assume, at its option, any subcontracts and agreements for Deliverables provided under the Contract and may pursue completion of the Deliverables by replacement Contract or otherwise as the County, in its sole judgment, deems expedient.

§6. SCOPE OF DELIVERABLES AND FINANCIAL/PAYMENT OBLIGATIONS

- 6.1. **Performance of Deliverables.** Contractor shall provide all Deliverables identified in and as set forth in Exhibit IX, any Purchase Orders, or any Amendments to this Contract. If less than all Scopes of Services are selected when the Contract is executed, an amendment to the Contract is required to add additional Exhibits (and their associated services).

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- 6.2. **Software License(s).** If this Contract includes a Software License(s) as described in Exhibit VI, then the Parties shall follow the terms and conditions therein. Any applicable third-party Software License(s) are also provided in Exhibit VI. Unless specifically agreed to by County, if County Agents are required to accept click through license terms to access any of the Deliverables in this Contract, the terms and conditions of those click through licenses are without force and effect.
- 6.3. **Financial Obligations.** Except as otherwise set forth in this Contract, the County's sole financial obligation under this Contract shall be set forth in the Exhibit IX. The amount and manner of payment of the financial obligation shall be set forth in Exhibit IX and may be in the Software License Exhibit VI, if applicable, or a Purchase Order.
- 6.4. **Payment Obligations.** Except as otherwise set forth in the Exhibits, Contractor shall submit an invoice to the County's Contract Administrator itemizing amounts due and owing under this Contract, as of the date of the invoice. Invoices shall contain the following information: (a) County Contract Number; (b) dates of Deliverables; (c) itemized list of Deliverables; (d) Contractor Tax ID Number (federal and State); (e) licenses; and (f) any other information requested by Purchasing. The County shall have no obligation to make a payment under this Contract until an invoice is submitted in the form set forth herein and shall have no obligation to pay for Deliverables, which have not been invoiced (as required herein) within sixty (60) Days of Contractor's performance. Unless otherwise set forth in the Exhibits, the County shall only pay Contractor for Deliverables under this Contract and not any subcontractors or assignees of Contractor.
- 6.5. **Not to Exceed Amount.** The amount due and owing to Contractor, under this Contract, shall not exceed the "Not to Exceed Amount." If Contractor can reasonably foresee that the total financial obligation for the Contract will exceed the "Not to Exceed Amount," then Contractor shall provide Purchasing with notice of this fact at least ten (10) Days before this event.
- 6.6. **No Obligation for Penalties/Costs/Fines.** The County shall not be responsible, under any circumstances, for any cost; fee; fine; penalty; or direct, indirect, special, incidental, or consequential damages incurred or suffered by Contractor in connection with or resulting from the performance of this Contract.
- 6.7. **In-Kind Services.** Unless expressly provided herein, this Contract does not authorize any in-kind services by either Party.
- 6.8. **County's G2G MarketPlace Administration.** The administrative fee, will correspond to three percent (3%) of the revenue Contractor has received from contracts it has entered into with PPBs who are receiving services from Contractor based on the G2G MarketPlace Contract. The administrative fee is solely applicable if Contractor enters into G2G MarketPlace contracts with PPBs and receives payments from the PPB for the services rendered. In no event shall the total annual administrative fee be greater than the annual total value of the services ordered by the County.

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§7. CONTRACTOR'S WARRANTIES AND ASSURANCES

- 7.1. **Full Knowledge of Contract Expectations.** Contractor warrants that before submitting its Proposal and/or entering into this Contract, it had a full opportunity to review all County requirements and/or expectations for this Contract. Contractor is responsible for being adequately and properly prepared to execute this Contract. Contractor has satisfied itself in all material respects that it will be able to perform the Contract as specified herein.
- 7.2. **Complete and Accurate Representations.** Contractor certifies that all statements, assurances, records, and materials submitted to the County in connection with seeking and obtaining this Contract have been truthful, complete, and accurate.
- 7.3. **Access to Contractor Policies.** If the Parties agree in this Contract to follow any Contractor policies, such as acceptable use or privacy policies, then Contractor shall retain each version of such policy with the effective dates and shall promptly provide such to the County, if requested.
- 7.4. **Grant Compliance.** If any part of this Contract is supported or paid for with any State, federal, or other third-party funds granted to the County, then Contractor shall comply with all applicable grant requirements. Upon request of Contractor, the County shall provide Contractor with a copy of the applicable grant requirements.
- 7.5. **Contractor Incidental Expenses.** Except as otherwise expressly provided in this Contract, Contractor shall be solely responsible and liable for all costs and expenses associated or needed to perform this Contract, including, but not limited to, any professional dues, association fees, license fees, fines, taxes, and penalties.
- 7.6. **Equipment and Supplies.** Contractor is responsible for providing all equipment and supplies to perform this Contract, which are not expressly required to be provided by the County.
- 7.7. **Contractor Employees.**
- 7.7.1. **Number and Qualifications of Contractor Employees.** Contractor shall employ and assign qualified Contractor Employees as necessary and appropriate to perform this Contract. Contractor shall ensure all Contractor Employees have the knowledge, skill, and qualifications to perform this Contract and possess any necessary licenses, permits, certificates, and governmental authorizations as may be required by law.
- 7.7.2. **Control and Supervision of Contractor Employees.** Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employees.
- 7.7.3. **Removal or Reassignment of Personnel at the County's Request.** Contractor shall remove a Contractor Employee performing work under this Contract at the County's request provided that the County's request is based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the removal of a Contractor Employee results in an unanticipated

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delay, which is attributable to the County, then this delay shall not be considered a breach of the Contract and the terms and conditions of this Contract effected by the removal will be adjusted accordingly.

- 7.7.4. **Contractor Employee Identification.** If requested by the County, Contractor Employees shall wear and display a County-provided identification badge at all times while working on County premises. In order to receive a County identification badge, a Contractor Employee shall sign the "Acknowledgement of Independent Contractor Status" form, Exhibit VIII to this Contract. Contractor shall return all County-provided identification(s) upon completion of Contractor's obligations under this Contract.
- 7.7.5. **Background Checks.** At the County's request, Contractor Employees performing work under this Contract shall be subject to a background check by the County. The scope of the background check is at the discretion of the County and the results will be used to determine Contractor Employee's eligibility to perform work under this Contract. Any request for background checks will be initiated by the County and will be reasonably related to the type of work requested. Contractor and Contractor Employees shall provide all information or documents necessary to perform the background check.
- 7.7.6. **Contractor Employee Expenses.** All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance). Contractor warrants that all Contractor Employees shall fully comply with and adhere to the terms of this Contract. Contractor shall be solely liable for all applicable Contractor Employees' federal, state, or local payment withholdings or contributions and/or all Contractor Employee related pension or welfare benefits plan contributions under federal or state law. Contractor shall indemnify and hold the County harmless for all Claims against the County by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between Contractor and any Contractor Employee including, but not limited to, Worker's Compensation, disability pay, or other insurance of any kind.
- 7.7.7. **Contractor's Compliance with the Patient Protection and Affordable Care Act.** If Contractor is subject to the Patient Protection and Affordable Care Act ("ACA"), PL 111-148, 124 Stat 119, then Contractor shall ensure that all Contractor Employees, under assignment to the County, and their dependents, as defined by the ACA, are provided with or have access to insurance as required by the ACA. If Contractor is subject to the ACA, Contractor warrants it offers group health coverage to Contractor Employees and their dependents that is affordable, that provides minimum essential coverage and value, and that each offer of coverage meets the timing requirements of the ACA. Contractor warrants, whether or not it is subject to the ACA, that it will pay all applicable fees, taxes, or fines, as set forth in the employer mandates of the ACA under Tax Code §4980H and related regulations for any Contractor Employee, whether the fee, tax, or fine is assessed against the Contractor or the County.
- 7.8. **Acknowledgment of Independent Contractor Status.**
- 7.8.1. **Independent Contractor.** Nothing in this Contract is intended to establish an employer-employee relationship between the County and Contractor or any Contractor Employee. In no event, shall Contractor Employees be deemed employees, agents, volunteers, or subcontractors of the County.

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Contractor shall ensure that Contractor Employees are apprised of their and the limitations independent contractors have of this status.

- 7.8.2. **Contractor/Contractor Employee Representations.** Contractor and/or Contractor Employees shall not represent themselves as County employees. Contractor shall ensure that Contractor Employees do not represent themselves as County employees.
- 7.8.3. **County Benefits and Plans.** Contractor and Contractor Employees shall not be entitled to participate in any County employee benefit plans and programs, including but not limited to, retirement, deferred compensation, insurance (including without limitation, health, disability, dental, and life), and vacation pay. This limitation includes access to benefit plans and programs that are not described by a written plan. However, Contractor Employees who are retired County Employees may receive vested post-employment benefits such as retiree health care and pension benefits from Oakland County.
- 7.8.4. **County Reliance.** The County entered into this Contract in reliance of the representations made by Contractor regarding its understanding of the role of independent contractors, its stated relationship to Contractor Employees, and other representations Contractor has made regarding the management and performance oversight of Contractor Employees.
- 7.8.5. **Independent Employment Status.** If Contractor provides Contractor Employees for staffing and/or leasing services to County, those Contractor Employees shall sign Exhibit VIII, Acknowledgement of Independent Employment Status, prior to performing services for the County.
- 7.9. **Permits and Licenses.** Contractor shall be responsible for obtaining and maintaining, throughout the term of this Contract, all licenses, permits, certificates, governmental authorizations, and business/professional licenses necessary to perform this Contract. Upon request by the County, Contractor shall furnish copies of any permit, license, certificate, or governmental authorization necessary to perform this Contract.
- 7.10. **E-Verify.** In accordance with Miscellaneous Resolution No.09116 (BOC Minutes, July 30, 2009, pp 37-38), unless otherwise exempted, all service contractors who wish to contract with the County to provide services must first certify they have registered with, will participate in, and continue to utilize, once registered, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor. Breach of this term or condition is considered a material breach of this Contract. Contractor's execution of this Contract constitutes a certification that they are authorized to certify on behalf of Contractor and do hereby certify on behalf of Contractor that the Contractor has registered with, has and will participate in, and does and will continue to utilize once registered and throughout the term of this Contract and any permissible extension hereof, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor.
- 7.11. **Iran-Linked Business Certification.** Contractor certifies that it is not an Iran-Linked Business. Contractor further certifies that it was not an Iran-Linked Business at the time it submitted its Proposal for this

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Contract. Contractor must promptly notify the County, if Contractor becomes an Iran-Linked Business at any time during this Contract.

- 7.12. **Foreign Adversary Certification.** If Contractor supplies technology or equipment to County, Contractor certifies that the technology and/or equipment was not produced, assembled or manufactured by a foreign adversary, as defined, and as prohibited by the federal government.
- 7.13. **Taxes.**
- 7.13.1. **Contractor Taxes.** Contractor shall collect and pay its local, state, and federal taxes, including but not limited to, all employment taxes, sales taxes, personal property taxes, and real property taxes. The County shall not be liable to or required to reimburse Contractor for any local, state, or federal tax of any kind.
- 7.13.2. **County Tax-Exempt.** The County is exempt from state and local sales tax, personal property tax, and real property tax. Prices under this Contract shall not include taxes, unless the County is not tax-exempt for a specific Deliverable. Exemption certificates for sales tax will be furnished upon request.
- 7.14. **Warranty for Services.** Contractor warrants that all Deliverables that are services shall be performed in compliance with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 7.15. **ADA and Section 508 Compliance.** If Contractor is providing a Deliverable that requires County Agents or the public to use a software application or to access a website, Contractor warrants that end users can utilize the software or access the website in accordance with the accessibility requirements of the ADA and the Rehabilitation Act of 1973. Contractor's Deliverable will conform, where relevant, to level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Contractor may provide a description of conformance with the above-mentioned specifications by means of a completed Voluntary Product Accessibility Template for WCAG 2.0 (WCAG 2.0 VPAT) or another comparable document. Any additional compliance requirements shall be specified in the Scope of Contractor's Deliverables Exhibit IX.
- §8. LIABILITY**
- 8.1. **Contractor Indemnification.** Contractor shall indemnify, defend, and hold the County harmless from all Claims, incurred by or asserted against the County by any person or entity, which are alleged to have been caused directly or indirectly from the acts or omissions of Contractor or Contractor's Employees. The County's right to indemnification is in excess and above any insurance rights/policies required by this Contract.
- 8.2. County will remain responsible for any claims arising out of its performance of this Contract as provided by this Contract or by law. This Contract is not intended to increase or decrease its liability for or immunity from tort claims.

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- 8.3. Except in connection with a party's obligations under Sections 8, 10, 11, 12, and 13, in no event will Contractor's liability arising out of or related to this Contract, whether under contract or tort or under any other theory of liability, exceed the amount paid to Contractor by the County in the twelve (12) months preceding the incident giving rise to such liability. Except in connection with a Party's obligations under Sections 8, 10, 11, 12, and 13, in no event will either party be liable to the other party for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with the products and services and/or this Contract, including but not limited to the use or inability to use the products and services, or for any content obtained from or through the products and services, any interruption, inaccuracy, error or omission, regardless of cause, even if contractor and/or its licensors or service providers have been previously advised of the possibility of such damages or could have reasonably foreseen them.
- 8.4. **No Indemnification from the County.** Contractor shall have no rights against the County for indemnification, contribution, subrogation, or any other right to be reimbursed by the County, except as expressly provided herein.

§9. CONTRACTOR PROVIDED INSURANCE

At all times during this Contract, Contractor shall obtain and maintain insurance according to the requirements listed in Exhibit I.

§10. INTELLECTUAL PROPERTY

- 10.1. **Contractor Use of County Licensed Software.** In order for Contractor to perform this Contract, the County may permit Contractor or Contractor Employees to access certain Software licensed to the County. Contractor or Contractor Employees shall not transfer, remove, use, copy, or otherwise provide or make available such Software or documentation to any other person or entity, for any purpose, without the prior written consent of the County and/or the licensor. Furthermore, neither Contractor nor Contractor Employee shall produce a source listing, decompile, disassemble, or otherwise reverse engineer any Software. Neither Contractor nor Contractor Employee shall use any Software contrary to the provisions of any applicable Software license agreement or state or federal law.
- 10.2. **Contractor License to Use County Servicemarks.** If this Contract involves the use of County servicemarks, then Contractor is granted a license to use the servicemarks subject to the terms listed in Exhibit VII. Contractor shall only use the servicemarks as directed by the County in Exhibit VII.
- 10.3. **No Assignment of Rights.** Except as expressly provided in Exhibit VI, Contractor does not grant or assign any additional express or implied rights to use the Software or Deliverables. All rights, title, and interest in the Deliverables and Software, in all languages, formats, and media throughout the world, are and will continue to be the exclusive property of Contractor and/or its licensors and nothing in this Contract shall

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be construed to confer any license or assignment of right, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to County or any third party.

- 10.4. **Infringement Remedies.** If, in either Party's opinion, any of the services or Deliverables supplied by Contractor or Contractor Employees is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor shall at its own expense: (a) procure for County the right to continue using the services or Deliverables, 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 County with appropriate credits to County and reimburse County for any losses or costs incurred as a consequence of County ceasing its use and returning it.

§11. CONFIDENTIAL INFORMATION

- 11.1. **Contractor Use of Confidential Information.** Contractor and Contractor Employees shall use appropriate safeguards to protect the confidentiality and integrity of Confidential Information. Contractor shall not reproduce, provide, disclose, or give access of Confidential Information to any Contractor Employee or third-party not having a legitimate need to know. Contractor and Contractor Employees shall only use the Confidential Information for performance of this Contract. Notwithstanding the foregoing, Contractor may disclose the Confidential Information, if required by law, statute, or other legal process; provided that Contractor: (a) gives the County prompt written notice of the impending disclosure; (b) provides reasonable assistance to the County in opposing or limiting the disclosure; and (c) makes only such disclosure as is compelled or required. This Contract imposes no obligation upon Contractor with respect to any Confidential Information which Contractor can establish by legally sufficient evidence: (a) was in possession of or was known by Contractor, prior to its receipt from the County, without any obligation to maintain its confidentiality; or (b) is obtained by Contractor from a third party having the right to disclose it, without an obligation to keep such information confidential.
- 11.2. **County Use of Confidential Information** County and County Agents shall use appropriate safeguards to protect the confidentiality and integrity of Confidential Information. County shall not reproduce, provide, disclose, or give access of Confidential Information to any County Agent or third-party not having a legitimate need to know. County and County Agents shall only use the Confidential Information for performance of this Contract. Notwithstanding the foregoing, County may disclose the Confidential Information, if required by law, statute, or other legal process; provided that County (a) uses its best efforts to give the Contractor prompt written notice of the impending disclosure; (b) makes only such disclosure as is compelled or required. This Contract imposes no obligation upon County with respect to any Confidential Information which County can establish by legally sufficient evidence: (a) was in possession of or was known by County prior to its receipt from the Contractor, without any obligation to maintain its confidentiality; or (b) is obtained by County from a third party having the right to disclose it, without an obligation to keep such information confidential.

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- §12. COUNTY DATA.** If Contractor uses or possesses County Data in the performance of this Contract, then the following provisions contained in this section apply:
- 12.1. Use of County Data.** Contractor and Contractor Employees shall have a limited license to County Data, including a license to collect, process, store, generate and display County Data but only to the extent necessary to provide services under this Contract. Contractor and Contractor Employees may not use, sell, rent, transfer, distribute, or otherwise disclose or make available County Data for Contractor's own purposes or for the benefit of anyone other than the County, without the County's prior written consent, unless otherwise provided for within an Exhibit to this Contract.
- 12.2. Unauthorized Access/Disclosure or Theft of County Data.** Contractor or Contractor Employees shall notify the County's Chief Information Office as soon as practicable but no later than forty-eight (48) hours of "Discovery" of suspected unauthorized access, acquisition, disclosure, or theft of County Data (a "Security Breach"). "Discovery" means the first day on which the Security Breach is known to Contractor or Contractor Employees or should have been known by exercising reasonable diligence. Upon Discovery of a Security Breach, Contractor shall do the following: (a) take reasonable measures to promptly cure the deficiencies relating to the Security Breach in order to secure County Data; (b) cooperate with the County in investigating the occurrence, including making available all relevant records, logs, files, and data reporting materials required upon request by the County; and (c) comply with all applicable federal or state laws and regulations pertaining to unauthorized disclosures or as otherwise directed by the County. If Contractor uses or possesses County Data described in in Exhibit II (HIPPA), Exhibit III (PII), or Exhibit IV (CJIS), Contractor shall follow the procedures in the applicable Exhibits governing the unauthorized access/disclosure or theft of County Data.
- 12.3. Storage of County Data.** Contractor shall only store and process County Data at and from data centers located within the United States. Contractor shall not permit Contractor Employees to store County Data on portable devices, including personal computers, except for portable devices that encrypt data at rest and are used and kept within the U.S. Contractor shall permit its Contractor Employees to access County Data remotely only as required to provide technical support.
- 12.4. Requirements for PCI Data.** If Contractor possesses, stores, processes, or transmits County Data that is considered Payment Card Industry (PCI) Data by the PCI Security Standards Council, Contractor shall comply with PCI Data Security Standard (DSS) and shall provide the County with a copy of its PCI DSS Attestation of Compliance and its Certificate of Compliance with PCI Data Security Standard. Contractor warrants that it will keep its Certification of Compliance with PCI Data Security Standard current.
- 12.5. Response to Legal Request for County Data.** If the County receives a Court Order, a Freedom of Information Act (FOIA) request, or other legal request to provide County Data held by Contractor, then Contractor shall provide County Data to the County, in a format directed by the County, within the time frame required by law.

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- 12.6. **Obligations upon Expiration, Termination or Cancellation of Contract.** At the County's sole discretion, upon expiration, termination, or cancellation of this Contract, Contractor shall return County Data in a mutually agreeable format in a prompt and orderly manner or provide for the secure disposal of County Data as directed by County.
- §13. INFORMATION TECHNOLOGY STANDARDS.** If Contractor provides a technology application or requires the use of the Internet to access a Deliverable, the following sections apply:
- 13.1. **County Standards.** If Contractor and Contractor Employees that will be given access to the County Network, Contractor and Contractor Employees shall comply with the County Electronic Communications and Use of Technology Policy.
- 13.2. **Implementation of Security Measures.** Contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access to the County Network and County Data. Such measures shall be in accordance with security industry best practice and not less stringent than the measures Contractor applies to protect its own data of a similar kind.
- 13.3. **Completion of County Security Questionnaire.** Contractor warrants it has completed the County's security questionnaire. Each year, prior to the anniversary date of this Contract, and upon receipt of the County's security questionnaire, Contractor shall provide the County with the answers to the County's security questionnaire.
- §14. GENERAL TERMS AND CONDITIONS**
- 14.1. **County's Right to Suspend Contract Performance.** Upon written notice, the County may require Contractor to suspend performance of this Contract if Contractor has failed to comply with federal, state, or local laws or any requirements contained in this Contract. The right to suspend performance of this Contract is in addition to the County's right to terminate and/or cancel this Contract. The County shall incur no penalty, expense, or liability to Contractor if the County suspends performance of this Contract under this Section.
- 14.2. **Discrimination.** Contractor, and its subcontractors under this Contract, shall not discriminate against an employee or an applicant for employment in hiring, any terms and conditions of employment or matters related to employment regardless of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, genetic information, height, weight, disability, veteran status, familial status, marital status or any other reason, that is unrelated to the person's ability to perform the duties of a particular job or position, in accordance with applicable federal and state laws.
- 14.3. **Conflict of Interest.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.301, *et seq.* and MCL 15.321, *et seq.*), no contracts shall be entered into between the County and any County Agent. To avoid any real or perceived conflict of interest, Contractor shall disclose to the County the identity of all Contractor Employees and all relatives of Contractor Employees who: a) are employed by the County on

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the date the Contract is executed; and b) become employed by the County during the term of the Contract. Contractor shall also disclose to the County the identity of all County Agents and all relatives of County Agents who: a) are employed by Contractor on the date the Contract is executed; and b) become employed by Contractor during the term of the Contract.

- 14.4. **Access and Records.** Contractor will maintain accurate books and records in connection with performance of this Contract for thirty-six (36) months after the end of this Contract and Contractor shall provide the County with reasonable access to such books and records, upon request.
- 14.5. **Audit.** The County or an independent auditor hired by the County may perform contract audits (in its sole discretion) and shall have the authority to access all pertinent records and data and to interview any Contractor Employee during the term of this Contract and for a period of three years after final payment. Contractor shall explain any audit findings, questioned costs, or other Contract compliance deficiencies to the County within thirty (30) Business Days of receiving the draft audit report. Contractor's written response shall include all necessary documents and information that refute the draft audit report and an action plan to resolve the audit findings. A copy of Contractor's response will be included in the final report. Failure by Contractor to respond in writing within thirty (30) Business Days shall be deemed acceptance of the draft audit report and will be noted in the final report.
- 14.6. **Assignments/Delegations/Subcontracts.**
- 14.6.1. **Prior Written Consent Required.** Except by operation of or in connection with any sale of a portion of its business or assets, including by merger, asset sale or otherwise, but only if the acquirer of such, assets or business agrees to be liable towards the other Party for all the obligations and undertakings neither Party may assign, delegate, or subcontract any of its duties, obligations, or rights under this Contract without the prior written consent of the other Party; provided, however, Contractor may assign, delegate, or subcontract this Contract to an affiliate or subsidiary as long as the affiliate or subsidiary is adequately capitalized and can provide adequate written assurances to the County that the affiliate or subsidiary can perform this Contract. The County may withhold consent, if the County determines that the assignment, delegation, or subcontract would impair performance of this Contract or the County's ability to recover damages under this Contract. Contractor shall also provide the County with adequate information to allow the County to make a determination regarding the assignment, delegation, or subcontract.
- 14.6.2. **Flow Down Clause Required.** Any assignment, delegation, or subcontract by Contractor must include a requirement that the assignee, delegee, or subcontractor will comply with the terms and conditions of this Contract. The assignment, delegation, or subcontract shall in no way diminish or impair performance of any term or condition of this Contract.
- 14.6.3. **Performance Required.** If an assignee, delegee, or subcontractor fails to perform as required under this Contract, Contractor shall contract with another entity for such performance. Any additional costs associated with securing another assignee, delegee, or subcontractor shall be the sole responsibility of Contractor.

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- 14.7. **Non-Exclusive Contract.** This Contract is a non-exclusive agreement. No provision in this Contract limits or is intended to limit, in any way, Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, the County may freely engage other persons to perform the same work that Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee Contractor or any Contractor Employee any fixed or certain number of Deliverables.
- 14.8. **No Third-Party Beneficiaries.** Except as provided for the benefit of the Parties, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' right in this Contract, or any other right in favor of any other person or entity.
- 14.8.1. **Survival of Terms and Conditions.** The following terms and conditions shall survive and continue in full force beyond the termination or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their nature: **Section 1.** Contract Purpose, **Section 2.** Contract Definitions, **Section 6.** Scope of Deliverables and Financial/Payment Obligations, **Section 7.** Contractor's Warranties and Assurances, **Section 8.** Liability, **Section 9.** Contractor Provided Insurance, **Section 10.** Intellectual Property, **Section 11.** Confidential Information, **Section 12.** Information Technology Standards, and **Section 14.** General Terms and Conditions; and if incorporated into this Contract, Exhibit II: Business Associate Agreement (Health Insurance Portability and Accountability Act Requirements), Exhibit III: Requirements for Contractors with Access to County PII (Personally Identifiable Information), and Exhibit IV: Requirements for Contractors with Access to CJIS Data (Criminal Justice Information Security).
- 14.9. **Reservation of Rights.** This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, obligation, duty, or immunity of the County.
- 14.10. **Compliance with Laws.** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract.
- 14.11. **Force Majeure.** Notwithstanding any other term or condition of this Contract, neither Party shall be liable for failure to perform contractual duties or obligations caused by events beyond their reasonable control, including but not limited to: (a) acts of public enemies; (b) natural disasters; (c) terrorism; (d) war; (e) insurrection or riot; (f) natural disasters; (g) strikes, lockouts, work stoppages, or other labor difficulties; or (h) compliance with law. Reasonable notice shall be given to the affected Party of such event. Contractor is expected, through insurance or alternative temporary or emergency service arrangements, to continue its contractual duties or obligations if a reasonably anticipated, insurable business risk, such as business interruption or any insurable casualty or loss occurs.

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14.12. Notices.

14.12.1. Written Notice. All notices required under this Contract shall be in writing. Notices shall be effective: (a) the next Business Day, if personally delivered; (b) the third Business Day, if sent by U.S. mail, postage prepaid, return receipt requested; (c) the next Business Day, if sent by a nationally recognized overnight express courier with a reliable tracking system; or (d) the next Business Day with a receipt of confirmation, if sent by e-mail or fax.

14.12.2. Notice to Contractor. Unless otherwise specified, Notice to Contractor shall be addressed to the Contract Administrator listed on the first page of this Contract.

14.12.3. Notice to County. Unless otherwise specified herein, Notice to the County shall be addressed to Purchasing, the County Project Manager (if applicable), and the County Contract Administrator(s) listed on the first page of this Contract.

14.13. Captions. Section and subsection numbers, captions, and any index to sections or subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this Contract. In this Contract, for any noun or pronoun, use of the singular or plural form, use of the nominative, possessive, or objective case, and any reference to gender (masculine, feminine, and neuter) shall mean the appropriate form, case, or gender as the context requires.

14.14. Waiver. Waiver of any term or condition under this Contract must be in writing and notice given pursuant to this Contract. No written waiver, in one or more instances, shall be deemed or construed as a continuing waiver of any term or condition of this Contract. No waiver by either Party shall subsequently affect its right to require strict performance of this Contract.

14.15. Cumulative Remedies. A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.

14.16. Severability. If a court of competent jurisdiction finds a term or condition of this Contract to be illegal or invalid, then the term or condition shall be deemed severed from this Contract. All other terms or conditions shall remain in full force and effect. Notwithstanding the above, if Contractor's promise to indemnify or hold the County harmless is found illegal or invalid, Contractor shall contribute the maximum it is permitted to pay by law toward the payment and satisfaction of any Claims against the County.

14.17. Dispute Resolution. All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Contract involving or affecting the Parties may first be submitted to the respective Project Manager (if applicable) and Contract Administrators for possible resolution.

14.18. Governing Laws/Consent to Jurisdiction and Venue. This Contract shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be



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brought in the Sixth Judicial Circuit Court of the State of Michigan, the 50th District of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Contract to enforce such judgment in any appropriate jurisdiction.

- 14.19. **Entire Contract.** This Contract represents the entire agreement and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements, or contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning and not construed strictly for or against any Party.

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EXHIBIT I

INSURANCE REQUIREMENTS

During this Contract, the Contractor shall provide and maintain, at their own expense, all insurance as set forth and marked below, protecting the County against any Claims, as defined in this Contract. The insurance shall be written for not less than any minimum coverage herein specified. Limits of insurance required in no way limit the liability of the Contractor.

Primary Coverages

Commercial General Liability Occurrence Form including: (a) Premises and Operations; (b) Products and Completed Operations (including On and Off Premises Coverage); (c) Personal and Advertising Injury; (d) Broad Form Property Damage; (e) Broad Form Contractual including coverage for obligations assumed in this Contract;

\$1,000,000 – Each Occurrence Limit

\$1,000,000 – Personal & Advertising Injury

\$2,000,000 – Products & Completed Operations Aggregate Limit

\$2,000,000 – General Aggregate Limit

\$ 100,000 – Damage to Premises Rented to You (formally known as Fire Legal Liability)

Workers' Compensation Insurance NOT REQUIRED

Commercial Automobile Liability Insurance NOT REQUIRED

Commercial Umbrella/Excess Liability Insurance with minimum limits of \$2,000,000 each occurrence. Umbrella or Excess Liability coverage shall be no less than following form of primary coverages or broader. This Umbrella/Excess requirement may be met by increasing the primary Commercial General Liability limits to meet the combined limit requirement.

Supplemental Coverages – As Needed

1. **Professional Liability/Errors & Omissions Insurance** (i.e., Consultants, Technology Vendors, Architects, Engineers, Real Estate Agents, Insurance Agents, Attorneys, etc.) with minimum limits of \$5,000,000 per claim and \$5,000,000 aggregate shall be required when the Contractor provides professional services that the County relies upon.
2. **Cyber Liability Insurance** with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate shall be required when the Contractor has access to County IT systems and/or stores County data electronically.

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The aforementioned insurance shall be endorsed, as applicable, and shall contain the following terms, conditions, and/or endorsements. All certificates of insurance shall provide evidence of compliance with all required terms, conditions and/or endorsements.

1. All policies of insurance shall be on a primary, non-contributory basis with any other insurance or self-insurance carried by the County;
2. The insurance company(s) issuing the policy(s) shall have no recourse against the County for subrogation (policy endorsed written waiver), premiums, deductibles, or assessments under any form. All policies shall be endorsed to provide a written waiver of subrogation in favor of the County;
3. Any and all deductibles or self-insured retentions shall be assumed by and be at the sole risk of the Contractor;
4. Contractors shall be responsible for their own property insurance for all equipment and personal property used and/or stored on County property;
5. The Commercial General Liability and Commercial Automobile Liability policies along with any required supplemental coverages shall be endorsed to name the County of Oakland and its officers, directors, employees, appointees and commissioners as additional insured where permitted by law and policy form;
6. If the Contractor's insurance policies have higher limits than the minimum coverage requirements stated in this document the higher limits shall apply and in no way shall limit the overall liability assumed by the Contractor under contract.
7. The Contractor shall require its contractors or sub-contractors, not protected under the Contractor's insurance policies, to procure and maintain insurance with coverages, limits, provisions, and/or clauses equal to those required in this Contract;
8. Certificates of insurance must be provided no less than ten (10) Business Days prior to the County's execution of the Contract and must bear evidence of all required terms, conditions and endorsements; and provide 30 days' notice of cancellation/material change endorsement.
9. All insurance carriers must be licensed and approved to do business in the State of Michigan along with the Contractor's state of domicile and shall have and maintain a minimum A.M. Best's rating of A- unless otherwise approved by the County Risk Management Department.

EXHIBIT III

REQUIREMENTS FOR CONTRACTORS WITH ACCESS TO COUNTY PII

(Personally Identifiable Information)

Exhibit III governs the requirements for Contractors with Access to Personally Identifiable Information (PII).

1. DEFINITIONS

- 1.1 **Security Breach** means the unauthorized access, acquisition, theft, or disclosure of PII.
- 1.2 **PII** (Personally Identifiable Information) means a name, number, or other information that is used for the purpose of identifying a specific person or providing access to a person's financial accounts, including, but not limited to, a person's name, address, telephone number, driver's license or state personal identification card number, social security number, place of employment, employee identification number, employer or taxpayer identification number, government passport number, health insurance identification number, mother's maiden name, demand deposit account number, savings account number, financial transaction device account number or the person's account password, any other account password in combination with sufficient information to identify and access the account, automated or electronic signature, biometrics, stock or other security certificate or account number, credit card number, vital record, or medical records or information as well as the first name or first initial and last name linked to a social security number, driver's license or state personal identification card or financial account number in combination with a code or password that would permit access to a person's financial account(s) and as otherwise may be defined by state or federal laws governing the unauthorized access to personal information.

2. OBLIGATIONS

- 2.1 Contractor shall not use or disclose PII other than as permitted or required by this Contract or as required by law.
- 2.2 Contractor shall implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of PII that it creates, receives, maintains or transmits on behalf of the County.
- 2.3 Contractor shall mitigate, to the extent practicable, any harmful effect known to Contractor of the use or disclosure of PII in violation of law or this Contract.
- 2.4 If Contractor or Contractor Employees discover a Security Breach, Contractor shall notify the County without unreasonable delay, but no later than within forty-eight (48) hours of discovery. For this purpose, "discovery" means the first day on which the Security Breach is known to Contractor or Contractor Employee or should have been known by exercising reasonable diligence. Contractor shall be deemed to have knowledge of a Security Breach if the Security Breach is known or should have been known by

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exercising reasonable diligence by any person, other than the person committing the Security Breach. The notification to the County shall include the following: (a) describe the Security Breach in general terms; (b) describe the type of personal information that is the subject of the Security Breach; (c) identify each individual whose PII has been breached or has reasonably believed to have been breached; (d) describe in general terms, what Contractor has done to prevent additional Security Breaches; and (e) provide any other available information in Contractor or subcontractor's possession that may be necessary to comply with Security Breach notification laws.

- 2.5 If the County determines it will provide the notice of the Security Breach to the affected individuals and/or to governmental authorities, Contractor shall reimburse the County for: (a) its costs in notifying the affected individuals; (b) the cost of third-party credit and identify monitoring services to each of the affected individuals with compromised PII for no less than twenty-four (24) months following the date of notification to each individual; and (c) costs associated with the Security Breach, including but not limited to any costs incurred by the County in investigating and resolving the Security Breach, including reasonable fees associated with such investigation and resolution. Without limiting Contractor's obligations of indemnification as described in the Contract, Contractor shall indemnify, defend, and hold harmless the County 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 County in connection with the Security Breach. Contractor shall reimburse County for the applicable costs described above within thirty (30) days of receipt of an itemization of costs incurred by the County because of the Security Breach.
- 2.6 Within ten (10) calendar days of its discovery of the Security Breach, Contractor shall provide the County with a detailed plan describing the measures Contractor will undertake to prevent a future Security Breach. The County shall have the right to audit, inspect and test Contractor's new safeguards put in place because of the Security Breach. Contractor shall be responsible for recreating lost County Data in the manner and on the schedule set by the County without charge to the County.

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EXHIBIT VI

TERRANOVA MASTER SUBSCRIPTION AGREEMENT

This Terranova Master Subscription Agreement (the "**Agreement**") is entered into effective as of 6/30/2020 by and between Terranova Worldwide Corporation ("Terranova") having a place of business at 1545, De l'Avenir Blvd., Suite 102, Laval, Quebec, Canada, H7S 2N5 and Oakland County IT having a place of business at 1200 N. Telegraph Road, Pontiac, MI 48341, US ("**Customer**").

PREAMBLE

This Agreement governs the purchase of subscriptions to access to and use the Products and Services (as defined below) by the Customer pursuant to one or more SOWs (as defined below).

INTENDING TO BE LEGALLY BOUND, THE PARTIES AGREE
AS FOLLOWS:

DEFINITIONS

The following terms have the following meanings:

1.1 "**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. For purposes of this definition, "control" means the power to direct or cause the direction of the management or policies of such entity, whether through the ownership of a majority of voting securities, by contract or otherwise.

1.2 "**Agreement**" means this Terranova Worldwide Corporation Master Subscription Agreement.

1.3 "**Authorized Users**" means Customer's or its Affiliates' employees, consultants, contractors, agents, suppliers, or other third parties who are authorized by Customer or its Affiliates to access and use the Products and Services and who have been supplied access credentials for such purpose.

1.4 "**Confidential Information**" has the meaning set out in Section 4.1.

1.5 "**Customer**" means Terranova's customer identified in the header of this document.

1.6 "**Customer Content**" has the meaning set out in Section 3.3.

1.7 "**Customer Data**" means all data submitted, stored, posted, displayed, or transmitted by Customer using the Products and Services.

1.8 "**Disclosing Party**" has the meaning set out in Section 4.1.

1.9 "**Documentation**" means any written or electronic documentation, images, video, text or sounds describing or explaining the functionalities of the Products and Services provided or made available by Terranova to Customer in the applicable Terranova help center(s); provided, however, that Documentation specifically excludes any "community moderated" forums as provided or accessible through such knowledgebase(s).

1.10 "**Downloadable Content**" has the meaning set out in Section 2.2.

1.11 "**Effective Date**" means the last (or only) date of the signatures on the Agreement.

1.12 "**Feedback**" has the meaning set out in Section 3.1.

1.13 "**Force Majeure Event**" has the meaning set out in Section 9.10.

1.14 "**Marks**" has the meaning set out in Section 3.2.

1.15 "**Phishing Simulator**" means Terranova's online phishing simulation platform.

1.16 "**Products and Services**" means Terranova's Information Security Awareness program, which is comprised of Terranova's e-learning training modules and assessment materials, online training platform and the Phishing Simulator, together with such additional content, toolboxes, and services packages that are part of Terranova's offering. The expression "Products and Services" also includes: (a) all proprietary technology (software, hardware, algorithms, code, processes, user interfaces, know-how, techniques, templates, designs and other tangible or intangible technical material or information) of Terranova, its licensors and service providers used by Terranova to provide its online platforms and applications, (b) system administration, system management, and system monitoring activities performed by Terranova in connection with the online platforms and applications made available by Terranova; and (c) associated technical support and software maintenance regarding such online platforms and applications.

1.17 "**SOW**" means Exhibit IX: Scope of Contractor Deliverables – Security Awareness Training – Statement of Work ("SOW") and any subsequent document added to the Contract through an amendment that adds additional Products and/or Services, and (ii) confirms and documents the quantity, of subscriptions to Products and Services acquired by Customer; and (iii) is subject to this Agreement.

1.18 "**Receiving Party**" has the meaning set out in Section 4.1.

1.19 "**Renewal Term**" has the meaning set out in Section 8.1.

1.20 "**Reseller**" means the Terranova authorized reseller having sold subscriptions to access and use the Products and Services to Customer

1.21 "**Subscription Term**" collectively means the Term and any Renewal Term(s).

1.22 "**Start Date**" means the date indicated on a SOW on which the delivery of Products and Services pursuant to a SOW commences.

1.23 "**Term**" has the meaning set out in Section 9.1.

1.24 "**Terranova Parties**" has the meaning set out in Section 3.1.

2 PRODUCTS AND SERVICES

2.1 **Provision of Products and Services.** Terranova will make the purchased

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Products and Services available to Customer pursuant to this Agreement and allow the Authorized Users to access and use the Products and Services during the Subscription Term. Customer Affiliates may also purchase Products and Services access and usage rights in accordance with the terms of this Agreement by executing one or more SOWs referencing this Agreement. Terranova may from time to time update the Products and Services but agrees not to make any changes to the Products and Services during the Subscription Term that would result in a material reduction of the content or functionality of the Products and Services. Customer's use of the Products and Services includes the right to access all functionality available in the purchased Products and Services as of the Start Date of the SOW. Subsequent enhancements to the Products and Services made generally available to all subscribing customers will be also made available to Customer at no additional charge. However, it is possible that new features to the Products and Services be marketed separately by Terranova and require the payment of additional fees. Terranova will determine, in its sole discretion, whether access to such new features will require an additional fee. This Agreement will apply to any updates, upgrades and new modules or offerings subsequently provided by Terranova to Customer as part of any purchased Products and Services. Customer may purchase additional Products and Services, such as to allow additional Authorized Users to use the Products and Services, by executing additional SOW. The Subscription Term of such added Products and Services will be coterminous with the then-current Subscription Term as set forth in the SOW.

22 Terms of Use for Downloadable Content. When the Products and Services purchased by Customer contain downloadable content owned by Terranova or its licensors (the "Downloadable Content"), Terranova hereby grants Customer a limited, non-exclusive and non-transferrable right and license to use and reproduce the Downloadable Content during the Subscription Term solely for Customer's training purposes and as authorized in the SOW. Notwithstanding the foregoing, Customer does not have the right to modify or create derivative works from the Downloadable Content except that Customer may modify the citizen tool kits and rebrand them after removing Terranova's logo and copyright as long as Customer hosts the tool kits itself.

23 Availability. Subject to the terms and conditions set out in Schedule A, Terranova will host and operate the infrastructure to make the Products and Services available to Customer 24 hours a day, 7 days a week within minimal downtime and deploy commercially reasonable efforts to achieve the monthly availability target set out in Schedule A.

24 Technical Support. Terranova will provide technical support services in connection with the purchased Products and Services through email, telephone, and online meetings in accordance with the target response and resolution times described in Schedule A. Support tickets can be initiated by email at the address set out in Schedule A and by such other methods implemented by Terranova from time to time.

25 Use of Customer Data. Subject to this Agreement, including Terranova's confidentiality obligations, Customer hereby grants Terranova a limited, non-exclusive, royalty-free, worldwide license to use the Customer Data and perform such acts with respect to the Customer Data as may be necessary for Terranova to provide the Products and Services to Customer. For clarity, Terranova will not use the Customer Data for any other purposes.

26 Data Security, Privacy and Personal Information Protection. Terranova agrees to maintain administrative, physical and technical safeguards for the protection of the confidentiality and integrity of Customer Data and will process personal information contained in the Customer Data in accordance with the provisions of Schedule B.

27 Customer's Responsibilities.

27.1 Permitted Use; Restrictions. Customer must not allow access to, or use of, the Products and Services by anyone other than Authorized Users. Customer is responsible for its Authorized Users' compliance with this Agreement, for its Authorized Users' use of the Products and Services, and for ensuring that Authorized Users maintain the confidentiality of their access credentials. Customer agrees that it will not: (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time-share or otherwise commercially exploit the Products and Services or make the Products and Services available to any third party, other than to Authorized Users or as otherwise contemplated by this Agreement; (b) use the Products and Services to collect, transmit or process any material that is infringing, obscene, threatening, libelous, or otherwise unlawful or tortious, including material that is harmful to children or violates third party privacy rights; (c) use the Products and Services to send, store, publish, post, upload or otherwise transmit any malware, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another; (d) interfere with or disrupt the integrity or performance of the Products and Services; (e) attempt to gain unauthorized access to the Products and Services or their related systems or networks; (f) use or knowingly permit others to use any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Products and Services; (g) access the Products and Services for the purpose of building a similar or competitive product; (h) copy, translate, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the Products and Services or any part thereof or otherwise attempt to discover any source code or modify the Products and Services except as provided for in Section 22.

27.2 Customer Data. Customer is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. Customer represents and warrants that it has obtained all rights, permissions, and consents necessary to the collection, use and transfer the Customer Data within and, when requested by Customer, outside of the country in which Customer is located (or, if the Customer is located within the European Union, outside of the territory of the European Union) in conjunction with Terranova's provision of the Products and Services.

27.3 Usage of Phishing Simulator. If the Products and Services purchased by Customer include the Phishing Simulator, the following terms apply: (a) the Phishing Simulator does not store any information directly provided by users being subjected to simulated phishing attempts. The Phishing Simulator collects such information as the IP address of the user, browser type, operating system, etc., which can then be incorporated in the reports generated by the platform; (b) Customer agrees to use the Phishing Simulator only in compliance with applicable laws, including intellectual property laws. For greater clarity, the Client agrees that, when operating the Phishing Simulator, it will only make use of third-party text, graphic or other protected content with the permission of its owner or pursuant to an exception existing under applicable law, such as fair use, fair dealing or other similar exceptions, that allows for the use of protected content for educational purposes; (c) Customer acknowledges that the Phishing Simulator can only be used for training purposes, with the objective of increasing the awareness of users to phishing attacks; (d) Customer may only use the Phishing Simulator internally, with its employees, and at all times in compliance with its internal policies; (e)

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Customer may only use the Phishing Simulator to send electronic mail messages to addresses belonging to domains owned by it or under its control.

2% over the previous year's rates.

4 PROPRIETARY RIGHTS

4.1 Products and Services. Terranova, its licensors and service providers (together the "Terranova Parties") own all right, title and interest in and to the Products and Services, including all related intellectual property rights. Terranova reserves all rights not expressly granted to Customer under this Agreement. Neither Customer nor any Authorized User will delete or in any manner alter the copyright, trademark, and other proprietary notices of Terranova appearing on the Products and Services or any portion thereof. Additionally, Terranova can freely and without compensation use suggestions, enhancement requests, recommendations or other feedback provided by Customer and its Authorized Users relating to the Products and Services ("Feedback"), and Customer hereby grants Terranova an irrevocable, worldwide, royalty-free right to use or implement all Feedback (or any portion of it), including all intellectual property rights associated with it.

4.2 Customer Data and Content. As between Terranova and Customer, Customer is the exclusively owner of all right, title and interest in and to the Customer Data and of all text, images, audio or video materials, trademarks and other materials provided or created by the Customer (the "Customer Content") including all intellectual property rights therein. Customer Data and Customer Content are deemed Confidential Information of Customer under this Agreement.

4.3 Statistical Information. Terranova may monitor Customer's use of the Products and Services and use data related to Customer's use in an aggregate and anonymous manner, including to compile statistical and performance information related to the provision and operation of the Products and Services or to support benchmarking or other similar current or future features of the Products and Services. Customer agrees that Terranova may make such aggregated and anonymous information publicly available, provided that such information does not incorporate any Customer Data and/or identify Customer or its Confidential Information. Terranova is the owner and retains all intellectual property rights in such statistical and performance information.

5 CONFIDENTIALITY. The requirements for Confidential Information are covered in Section 11 of the Contract.

6 WARRANTIES; DISCLAIMERS

6.1 Warranties Each party warrants that it has the legal authority to enter into this Agreement. Terranova warrants to Customer that the Products and Services will (i) materially conform with the relevant Documentation, (ii) not infringe the copyrights or patents of third parties and (iii) shall be performed in compliance with all applicable laws, statutes, regulations, ordinances, and professional standards.

6.2 Disclaimers The warranties for the products and services are set out in section 6.1. Thus, except when otherwise stipulated in paragraph 6.1, the Terranova Parties do not formulate any other guarantees in. Without limiting the foregoing, except as expressly set out in section 6.1, and to the maximum extent permitted by applicable law, the Terranova parties

2.8 Service Providers' Certifications. The information technology infrastructure used by Terranova to deliver the Products and Services to its clientele is hosted in facilities owned and operated by third-party service providers. While Terranova does not itself conduct the following audits on its own facilities, the providers used by Terranova conduct Service Organization Control SOC 1 and SOC 2 compliance audits with regard to their facilities and operations. While the SOC1/SOC2 reports are usually confidential and have very limited distribution, Terranova normally receives summary versions of such reports for confidential communication to its customers and Terranova agrees to provide such reports in its possession upon demand from Customer.

3 FEES AND PAYMENT TERMS

3.1 Fees. Customer agrees to pay the fees specified in all SOWs using one of the payment methods supported by Terranova. Customer agrees to pay Terranova in the currency specified on the SOW. Except as otherwise specified in this Agreement or in a SOW, (i) fees are based on the Products and Services purchased, regardless of actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, regardless of any early termination of this Agreement, (iii) the quantities of Products and Services purchased by Customer cannot be decreased during the relevant Subscription Term on the SOW. All amounts payable under this Agreement will be paid without setoff or counterclaim, and without any deduction or withholding.

3.2 Invoices and Payment. All Products and Services fees will be invoiced in advance and in accordance with the applicable SOW. Except as otherwise set forth in the applicable SOW, Customer agrees to pay all invoiced amounts within 30 days of receipt of invoice.

3.3 Suspension of Service. If any amounts owed by Customer for the Products and Services are forty-five (45) or more days overdue, Terranova may, without limiting Terranova's other rights and remedies, suspend Customer's and its Authorized Users' access to the Products and Services until such amounts are paid in full.

3.4 Payment Disputes. Terranova agrees that it will not exercise its rights under Section 3.4 if the applicable charges are under reasonable and good-faith dispute and Customer is cooperating diligently to resolve the dispute.

3.5 Taxes. The amount of all fees specified in a SOW are exclusive of all taxes, assessments, tariffs, duties or other fees imposed, assessed or collected by or under the authority of any governmental body (collectively, "Taxes") and Customer is solely responsible for the payment of all such Taxes, arising from Terranova's provision of the Products and Services hereunder, except any taxes assessed on Terranova's income or if Customer provides evidence of its status as a tax exempt entity. If Terranova is legally required to collect from Customer and remit Taxes related to Customer's use of the Products and Services hereunder, Customer agrees to promptly reimburse Terranova for any amounts paid by Terranova.

3.6 Fees Increase. Unless otherwise set out in a SOW (for example, in the case of a multi-year subscription), Terranova may increase the fees it charges Customer annually. Such increase, if any, will not be for more than

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expressly disclaim all implied warranties. The Terranova parties do not represent or warrant that: (a) the use of the products and services will be timely, uninterrupted or operate in combination with any other hardware, software, system or data; (b) the products and services will meet customer's requirements or expectations; (c) the products and services will be error-free or that all errors or defects in the products and services will be corrected; or (d) the products and services or the server(s) that make the products and services available are free of malware or other harmful components. The products and services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. The Terranova parties are not responsible for any delays, delivery failures, or other damages resulting from such problems.

7 INDEMNIFICATION

7.1 Indemnification by Terranova. Terranova, at its expense, will defend and pay any settlement amounts and damages, costs and expenses (including reasonable attorneys' fees) awarded by a court of final jurisdiction arising out of any third-party claim, suit or proceeding alleging that Customer's use of the Products and Services in accordance with this Agreement infringes a third party's copyright or patent issued as of the Effective Date. The foregoing obligations do not apply with respect to a claim of infringement if such claim arises out of (i) Customer's use of infringing Customer Data (ii) use of the Products and Services in combination with any software, hardware, network or system not supplied by Terranova where the alleged infringement relates to such combination, (iii) any modification or alteration of the Products and Services other than by Terranova, or (iv) Customer's continued use of the Products and Services after Terranova notifies Customer to discontinue use because of an infringement claim. If any claim which Terranova is obligated to defend has occurred, or in Terranova's determination is likely to occur, Terranova may, in its sole discretion and at its option and expense (a) obtain for Customer the right to use the allegedly infringing item, (b) substitute a functionally equivalent, non-infringing replacement for such item, (c) modify such item to make it non-infringing and functionally equivalent, or (d) terminate this Agreement and refund to Customer any prepaid amounts attributable to the period of time between the date Customer was unable to use the Products and Services due to such claim and the remaining days in the then-current Subscription Term.

7.2 Conditions. Terranova's obligations under this Section 7 are contingent upon the Customer y (i) giving prompt written notice of any claim under this Section, (ii) giving Terranova sole control of the defense or settlement of the claim, and (iii) cooperating in the investigation and defense of such claim(s). Terranova must not settle or consent to judgment in any such claim that adversely affects the rights or interests of the Customer or imposes additional obligations on the Customer, without the prior express written consent of the Customer. The rights and remedies set forth in this Section 7 are the sole obligations of the Terranova and exclusive remedies available to the Customer in the event of an applicable third-party claim.

8 LIMITATION OF LIABILITY

8.1 Limitation of Liability. Except as set out in section 8.3 below, in no event will either party's liability arising out of or related to this agreement, whether pursuant to contractual or extracontractual liability, tort or under any other theory of liability, exceed the amount paid to Terranova by customer in the twelve (12) months preceding the incident giving rise to such liability. The foregoing does not limit customer's payment obligations under section 3.

8.2 Exclusion of Consequential and Related Damages Except as set out in section 8.3 below, in no event will either party be liable to the other party for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with the Products and Services and/or this Agreement, including but not limited to the use or inability to use the Products and Services, or for any content obtained from or through the Products and Services, any interruption, inaccuracy, error or omission, regardless of cause, even if Terranova and/or its licensors have been previously advised of the possibility of such damages or could have reasonably foreseen them.

8.3 Exceptions. The limitations and exclusions of sections 8.1 and 8.2 above do not apply to any liability resulting from Terranova's indemnification obligations or breach of confidentiality.

9 TERM AND TERMINATION

9.1 Term of Subscriptions to Products and Services. This Agreement commences as of the Effective Date and remains in force until the expiration or termination of the Contract. Customer's right to access and use the Products and Services pursuant to a SOW begins on the Start Date and continues for the duration specified in such SOW, which cannot be less than 1 year (the "Term"). At the expiration of the Term, each SOW will automatically renew for successive additional periods of one (1) year each (each, a "Renewal Term") unless either party notifies the other of its intention not to renew such SOW at least 60 days before the expiration of the Term or Renewal Term, as the case may be but in no event may the term continue beyond the Expiration Date listed on the first page of the Contract unless the Parties amend the Contract or enter into a new Contract to extend the expiration date.

9.2 Termination for Cause. This Agreement may be terminated by either party for cause as follows:

(i) upon thirty (30) days written notice if the other party breaches or defaults under any material provision of this Agreement and does not cure such breach prior to the end of such thirty (30) day period, (ii) effective immediately and without notice if the other party ceases to do business, or otherwise terminates its business operations, except as a result of an assignment permitted hereunder. Terranova may temporarily cease performance of its obligations during any Customer cure period.

9.3 Effect of Termination. Upon termination of this Agreement: (i) Customer's and the Authorized Users' right to access and use the Products and Services, including all Downloadable Content, will terminate immediately, and (ii) Customer must permanently destroy all copies of Downloadable Content and upon request certify in writing that no copies have been retained by it.

9.4 Retrieval of Customer Data. In the event of termination or expiration of the Subscription Term under a Purchase Agreement and provided no amount is then owed to Terranova by Customer, upon Customer's request made within 30 days after the applicable date of termination or expiration, Terranova will make Customer Data available for download by Customer in the applicable format. After such 30-day period, Terranova will have no obligation to maintain or provide any Customer Data and will thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

9.5 Survival. Except to the extent expressly provided to the contrary herein, Sections 4 through 10 will survive the termination of this Agreement.

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10 GENERAL

101 **Audit.** Audit Regarding Use of Downloadable Content. If requested by Terranova not more than once a year, Customer agrees to allow Terranova to perform an audit ("Audit") at the Customer's headquarters or where the Downloadable Content is used, during normal business hours to ensure compliance with the terms of this Agreement. Terranova must provide a written thirty (30) day notice prior to the onsite Audit. Customer agrees to reasonably cooperate during any such Audit and provide reasonable access to its information and systems. Customer agrees to pay any underpaid fees exposed by an Audit and if an Audit reveals that Customer has materially failed to comply with its obligations pursuant to this Agreement (including an underpayment of 5% or more), then Customer agrees to also pay Terranova's reasonable costs of conducting the Audit. Additionally, if requested by Customer not more than once a year and upon 30 days' written notice (except following a Terranova security incident or breach), Terranova agrees to allow Customer to perform an Audit to ensure compliance with the terms of this Agreement. Terranova agrees to cooperate during any such Audit and provide reasonable access to its information and systems.

102 **Relationship.** Terranova and Customer are independent contractors, and this Agreement does not create a partnership, joint venture, employment or agency relationship between the parties. This is a non-exclusive arrangement.

103 **Entire Understanding; Modifications** This Agreement constitutes the entire agreement between the parties concerning the Products and

Services provided under this Agreement and supersede all prior and contemporaneous agreements, proposals or representations, oral or written, regarding the subject matter covered by this Agreement. To the extent of any conflict or inconsistency between the provisions of this Agreement and those of Exhibit XI, the terms of this Agreement will prevail unless the parties clearly indicate their intent to supersede the terms of this Agreement. Notwithstanding any language to the contrary therein, no terms or conditions stated in Customer's purchase order or in any other ordering documentation will be incorporated into or form any part of this Agreement, and all such terms or conditions will be null and void.

104 **Waiver.** No waiver of any breach of this Agreement, and no course of dealing between the parties, will be construed as a waiver of any subsequent breach of this Agreement.

105 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the provision will be modified and interpreted by the court so as best to accomplish the intent of the original provision. The invalidity or unenforceability of any provision will not affect any of the other provisions of this Agreement.

106 **Publicity.** After obtaining Customer's written consent, Terranova may reference and use Customer's name and may disclose the nature of the Products and Services provided hereunder in Terranova business development and marketing efforts, including without limitation its web site.

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248-858-0511 | purchasing@oakgov.com**SCHEDULE A**Service Levels**1 SERVICE LEVELS****1.1 Response and Resolution Times**

Help desk response time and resolution of problems will be measured for issues placed by Customer to Terranova's help desk by telephone call (1-866-889-5806 ext. 500) or email (support@terrnovasecurity.com) each calendar quarter.

Terranova's target response time to issues will be measured as the time between the reception of a live call or email and the moment Terranova starts effectively working on its resolution during regular business hours (Monday to Friday, 8:30am to 5pm Eastern Time – GMT-5).

Terranova's target resolution time of problems reported will be measured as the time between the moment Terranova starts effectively working on its resolution by Terranova and the implementation by Terranova of a fix or workaround for the problem reported.

The Service Level for response and resolution times are:

Severity	Target Response Time	Target Resolution Time*
1 – High	2 hours	2 Business Days
2 – Medium	3 hours	3 Business Days
3 – Low	4 hours	5 Business Days

Elapsed time does not include the time Terranova is waiting for customer input for resolution.

For the purposes of this Section, the severity level and corresponding description referred to in the table above have the following meanings:

Severity 1 - High - A Severity 1 Problem arises when the online training platform or Phishing Simulator cannot be accessed or are unable to function properly and no workaround is immediately available.

Severity 2 - Medium - A Severity 2 Problem arises when a major feature or functionality of the online training platform or Phishing Simulator is not available or not functioning properly and their use is severely reduced or impacted.

Severity 3 - Low - A Severity 3 Problem arises when a minor problem exists with the online training platform or Phishing Simulator and a workaround is available.

Issue Escalation. In the event Terranova fails to meet a response or resolution time set forth above or fails to meet the Availability Target for 2 consecutive quarters, Customer may escalate the issue to the relationship managers identified below and thereafter to the senior management identified below:

- 1st escalation step: Stéphanie Ouellette
Chief Customer Officer (CCO)
Stephanie.ouellette@terrnovasecurity.com
- 2nd escalation step: Lise Lapointe
Chief Executive Officer (CEO)
Lise.lapointe@terrnovasecurity.com

Terranova will promptly respond to any Issue Escalation raised by Customer and use good faith efforts to promptly resolve any issues raised by Customer.

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1.2 **Availability.** Terranova will make the Products and Services available at least 99.9% of the time ("**Availability Target**"), except as provided below. Availability will be calculated per calendar quarter, as

$$\frac{\text{(Total-Downtime)}}{\text{Total}} * 100 \geq \text{Availability Target}$$

Where:

- "**Total**": means the total number of minutes in the calendar quarter minus the number of minutes of Excluded downtime during such quarter;
- "**Excluded**" means:
 - Any planned downtime; Terranova will use commercially reasonable efforts to schedule all planned downtime during 5PM to 8 AM on Saturdays (in the relevant datacenter's time zone); and
 - Any unavailability caused by a problem by a Force Majeure Event.
- "**Downtime**": means downtime that is not Excluded.

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SCHEDULE B

Privacy and Personal Information Protection

Under this Schedule B and applicable laws regulating the Processing of Personal Information (“**Applicable Privacy Laws**”), Customer is the data controller and Terranova is the data processor.

Customer and Terranova warrant that they will comply with all obligations under Applicable Privacy Laws in connection with the Processing of Personal Information that is collected by or disclosed to it under the Agreement.

1. DEFINITIONS.

The terms “**Personal Information**”, “**Process**” and “**Processing**” have the meaning under Applicable Privacy Laws, and “**Customer Personal Information**” means Personal Information disclosed to Terranova by Customer, including all Personal Information about or concerning Authorized Users.

Unless otherwise specifically provided, all terms with a capital letter have the same meaning than under the Agreement. If a term is not defined, it will have the meaning given under Applicable Privacy Laws.

- Subject matter and Purpose of the processing:
 - Where the Customer has purchased the Training Platform, Terranova will process the data provided by the Customer for the purpose of providing Customer and Customer’s employees access to a web-based training platform. The Training Platform enables Customer to send security awareness training to employees, track attendance and quiz results, and reporting.
 - Where the Customer has purchased the Phishing Platform, Terranova will process the data provided by the Customer for the purpose of providing Customer and Customer’s employees access to a Phishing Platform. The Phishing Platform enables Customer to send simulated phishing messages and just-in-time training to employees, track simulation results and reporting.
 - Where the Customer has purchased Professional and/or Managed Services, Terranova will process the data provided by the Customer for the purpose of providing all or some of the activities in any of the two products described above on behalf of the Customer, as set forth in this agreement.
- Duration of the processing: During the Subscription Term.
- Type of Personal Information processed: Professional coordinates (name, physical and email addresses, phone number, etc.) of Authorized Users.
- Categories of data subject: Employees and contractors of Customer and third-party business and personal contacts.

2. DATA PROCESSING OBLIGATIONS

Terranova agrees that, in relation to Customer Personal Information, it must (a) only Process it for the purposes of providing the functionality of the Products and Services to Customer; (b) not disclose Customer Personal Information to any other person without Customer’s prior written consent, unless the disclosure is required by applicable law (and Terranova immediately notifies Customer, unless such notification is prohibited by that law); (c) take appropriate action to ensure any Terranova personnel who Process Customer Personal Information understand and comply with the Terranova’s privacy and confidentiality obligations under the Agreement and this Schedule; (d) upon request, provide all reasonable assistance to Customer to facilitate the exercise of rights of Data Subjects; (e) provide information reasonably required by Customer to meet its obligations under Applicable Privacy Laws and to demonstrate compliance with this Schedule; and (f) promptly notify Customer as soon as it has received a complaint from any individual regarding the way his or her Personal Information has been processed and cooperate when Customer is investigating any claim related to individual complaints.

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3. PERSONAL INFORMATION TRANSFERS

Terranova must not transfer the Customer Personal Information outside of the country where it is hosted as of the Start Date, unless approved in writing by Customer. If the Customer Personal Information is hosted in the territory within the European Union on the Start Date, Terranova will not transfer the Customer Personal Information outside the territory of the European Union, unless authorized in writing by the Customer.

4. INFORMATION SECURITY AND BREACH NOTIFICATION.

4.1. Terranova has put into place and agrees to maintain during the Subscription Term appropriate, technical and organizational measures to secure Customer Personal Information, having regard to the risk of accidental or unauthorized access, loss, destruction, misuse, modification, disclosure or damage to Personal Information

(C) If Terranova has knowledge of any (i) accidental loss or destruction of, or unauthorized disclosure of or access to Customer Personal Information; or (ii) data security breach on any of the systems used in the provision of the Products and Services, Terranova must (A) expeditiously report such incident to Customer; (B) mitigate, to the extent practicable, any harmful effect of such disclosure or access that is known to Terranova or its subcontractors; cooperate with Customer in providing any notices to affected individuals regarding the incident, as directed by Customer; and (D) cooperate with any investigation into the incident that is subsequently undertaken by any data privacy authority, in consultation with Customer.

- Terranova's contact: Jamal Elachgar
Chief Technology Officer
jamal@terrnovasecurity.com

- Customer's contact:

5. COMPLIANCE

Terranova will provide Customer (and its auditors and other advisers) with all reasonable co-operation and assistance in relation to any compliance request pursuant to this Schedule B, including as a result of a request by any regulatory body.

6. SUB-CONTRACTORS

In the event Terranova wishes to delegate the Processing of Customer Data to a sub-contractor or change a previously appointed sub-contractor, Terranova will provide a notice of such appointment or change in appointment to Customer. All sub-contractors retained by Terranova and having access to unencrypted Customer Personal Information will be retained pursuant to written agreements providing terms and obligations equivalent to that of this Schedule B and the relevant portions of the Agreement.



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EXHIBIT VII

LICENSE FOR USE OF COUNTY SERVICEMARK

County grants to Contractor the non-exclusive right to use its Servicemark (hereinafter "Mark"), described and listed in the Servicemark Guidelines (below), for programs and activities that are related to the governmental services provided by Oakland County, specifically: Contractor shall place the County servicemark on training videos for County to host.____.

The Mark may be used on: (Applicable if Checked):

☐ Printed materials

☒ Electronic materials

☐ Contractor's website: _____ [insert website address]

Contractor shall not use the Mark for any other purpose.

The Mark must be used by Contractor as shown in the Servicemark Guidelines, with no variations of color, font or proportion. Contractor acknowledges that the County has intellectual property rights in the Mark. Nothing in this Contract gives Contractor any right, title, or interest in the Mark. Contractor may not take any action that will interfere with County's rights in the Mark.

The County may terminate Contractor's rights under this Exhibit if County notifies Contractor it has breached the terms of this Exhibit and Contractor fails to cure the breach within ten (10) business days of notice of breach. Following termination of this Exhibit, Contractor shall have ten (10) business days to remove the Mark from the materials and/or website authorized for use above. Contractor shall provide County with written confirmation that such actions have been taken. Upon termination of the Contract, Contractor shall cease all use of the Mark.

OAKLAND COUNTY SERVICEMARK GUIDELINES

The Guidelines for proper use of the Mark provided to the Contractor are as follows:

OAKLAND COUNTY, MICHIGAN

LOGO BRAND STANDARDS

PRIMARY LOGO

Oakland County has two logos that can be used interchangeably. Use the Horizontal Two Trees logo as your default choice. This is our primary logo. The Stacked Logo can be used whenever space or size is a consideration in your publication. Either logo is acceptable for all Oakland County publications.

However, **only one style of logo may be used per publication**. For instance, if you have the horizontal logo on the front of a publication, you can't use the stacked logo elsewhere in the document.

Pick one logo style for each publication and use it throughout, do not mixed styles.

HORIZONTAL "TWO TREES" LOGO



STACKED LOGO



LOGO VARIATIONS

Logos should appear in full color when used in a full color design, whenever possible. However, if the publication requires a single color version of the logo, choose either all-black or all-white. No other color is acceptable.



BRAND COLORS

The primary Oakland County logos use the following brand colors.

PMS 347
CMYK 84.15, 78.2
RGB 0.154, 102
HEX #009A66

PMS Black C
CMYK 0.0, 0.100
RGB 0.0, 0.0
HEX #000000

Accent colors for the brand are pulled from two other major servicemarks for Oakland County. These colors may be used as secondary colors in publications.

Destination Oakland Blue
PMS 2825 | CMYK 85.21, 0.0 | RGB 0.156, 222

OAKLAND
COUNTY PARKS

Prosper Orange
PMS 715 | CMYK 0.54, 87.0 | RGB 245, 141, 48

PROSPER
Oakland County, Michigan

WHITE SPACE

A prescribed amount of space around the logo must be maintained at all times.



QUESTIONS

For questions or clarification on these brand standards, please contact:

Pam Tremble
Graphic Designer
County Executive Administration
(248) 858-8964 | tremblep@oakgov.com



Adobe Swatch Exchange
The official .ase file is available upon request

Do not provide copies to a third party of any artwork provided to you by County and referenced in this Exhibit without the express consent of County.

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G2G MARKET PLACE SERVICEMARK GUIDELINES

The Guidelines for proper use of the Mark provided to the Contractor are as follows:

G2G MARKET PLACE
Standard Logo

The G2G Market Place logo appears to the right. It is the primary element of the G2G Market Place visual identity and must appear on all official documentation or sign involving G2G Market Place.



LOGO USAGE

A prescribed amount of space around the logo should be maintained at all times. The space should be equal to or greater than the width of 1/4".



MINIMUM LOGO SIZE



Minimum logo width 3 inches and height is 1 inch.

COLORS

CMYK 82.5.97.0

RGB 0.169.80

HEX #00a950

CMYK 0.0.0.100

RGB 0.0.0

HEX #000000

COLOR VARIATIONS

For 1-color print jobs, or when design dictates the logo may be used in all black or all white.



LOGO VARIATIONS

Below are alternate "stacked" logo options. They are shown in full color, all black, and all white versions.



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EXHIBIT IX

SCOPE OF CONTRACTOR DELIVERABLES – SECURITY AWARENESS TRAINING

STATEMENT OF WORK (“SOW”)

1. Background.

1.1. Contractor shall provide County with a Security Awareness Program that will include:

1.1.1. Free Online Security Awareness Kit for County citizens.

1.1.2. Security Awareness training modules for County staff.

1.2. These two components shall be referred to as the “Security Awareness Program”.

2. License for Use.

2.1. Contractor shall grant County the right to use and access the following:

2.1.1. Right to use and distribution of 5 cybersecurity awareness kits for Oakland County Citizens

2.1.2. Information security awareness ultimate bundle for County Staff (4500 Licenses)

2.1.3. Unlimited Phishing Simulations for County Staff (4500)

3. Project Managers and Key Personnel.

Oakland County:

Relationship Manager

T.J. Fields
CISCO, Oakland County
(T) 248-858-5255
(E) fieldstj@oakgov.com

Brower, Richard
Buyer II
(T) 248-858-5483
(E) browerr@oakgov.com>

Terranova Security:

Relationship Manager

Annie Lavergne
Customer Success Director
(T) 514 489-5806 x 219
(E) annie.lavergne@terranovasecurity.com

Mathieu Ouellette
Sales VP
(T) (438) 806-5157
(E) mathieu.ouellette@terranovasecurity.com

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4. Scope of Contractor Services.

4.1. Contractor shall provide to County:

4.1.1. For County employees:

4.1.1.1. Security awareness training modules for the County staff on the following topics:

- 4.1.1.1.1. Introduction to Information Security
- 4.1.1.1.2. Passwords
- 4.1.1.1.3. Email
- 4.1.1.1.4. Malware
- 4.1.1.1.5. Phishing
- 4.1.1.1.6. Identity Theft
- 4.1.1.1.7. Social Engineering
- 4.1.1.1.8. Social Networks
- 4.1.1.1.9. Confidentiality on the Web
- 4.1.1.1.10. Protecting Your Home Computer
- 4.1.1.1.11. Smartphones
- 4.1.1.1.12. Working Remotely
- 4.1.1.1.13. Mobile Devices
- 4.1.1.1.14. Traveling Securely
- 4.1.1.1.15. Cloud Computing
- 4.1.1.1.16. The Clean Desk Principle
- 4.1.1.1.17. Physical Security
- 4.1.1.1.17. Access Control
- 4.1.1.1.18. Responsible Use of the Internet
- 4.1.1.1.19. Bring Your Own Device (BYOD)
- 4.1.1.1.20. Privacy
- 4.1.1.1.21. Information Classification
- 4.1.1.1.22. Information Lifecycle
- 4.1.1.1.23. Intellectual Property

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- 4.1.1.1.24. Protecting Payment Card Data
 - 4.1.1.1.25. Ransomware
 - 4.1.1.1.26. Data Leakage
 - 4.1.1.1.27. Incident Reporting
 - 4.1.1.1.28. Business Email Compromise (BEC)
 - 4.1.1.1.29. Unintentional Insider Threat
- 4.1.2. Phishing Simulator
- 4.1.3. Training modules to educate County employees on the compliance standards for PCI and HIPAA). Contractor agrees to make modifications to the modules as requested by County and County hosts the modules; such modifications to the modules at County's request are not within the scope of this Statement of Work and will be done at additional cost, at the rate set out in Section 8.1. Contractor will place County's servicemark on the modules.
- 4.1.4. Role-based training modules, including:
 - 4.1.4.1. Security awareness training modules for IT Managers, IT Developers, and IT Administrators
 - 4.1.4.2. Additionally, security seminars will be provided for Senior Management
- 4.1.5. Content Library – updates and access to updated content during the Contract term
- 4.1.6. License information explaining how to access Contractor's platform
- 4.1.7. For use by County citizens:
 - 4.1.7.1. 5 security awareness kits (Kits contains, videos, posters, and relevant security awareness content) that County may place on its website and social media channels (for Citizen Awareness) 3 kits will be delivered at Contract execution and 2 more within (15) days of request from County. County is authorized to modify, rebrand and host the security awareness kits.
- 4.2. Optional Services: If requested by County, Contractor shall provide the following services at the rates below:
 - 4.2.1. Content customization services (\$135/H)
 - 4.2.2. Professional Services 10-day Bundle (CISO Coaching) (\$200/H)

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4.2.3. Managed services (\$135/H)

5. Implementation Plan and Deliverables.

5.1. The relevant milestones, completion dates, and terms associated with this SOW are as follows:

Activites and deliverable	TERRANOVA Client	Month 1				Month 2				Month 3				Month 4				Month 5				Month 6			
		Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4
CONSULTATION MEETINGS with client senior IS manager and director																									
Scope of work review	x	x																							
Determine launch and communication plan	x	x																							
PHISHING SIMULATIONS PREPARATION																									
Template choices	x	x																							
Template customization, spoofing website preparation	x																								
Template and Website translation	x																								
E-LEARNING COURSES AND MICROLEARNING PREPARATION																									
Courses and microlearning choices	x	x																							
Optional (if customization needed)																									
Customize content		x																							
Integration of modifications	x																								
Approval of modification		x																							
Audio recording	x																								
Final version	x																								
Final approval	x																								
PREPARATION OF HOSTED LMS with Single Sign-On																									
Installation and configuration	x																								
SSO configuration	x	x																							
Customization of "front-end" and client branding	x																								
Preparation of automatic email notifications	x																								
User extract - initial list of users (HR or IT)		x																							
Testing of platform	x																								
PREPARATION DIGITAL COMMUNICATION MATERIALS (if needed)																									
Reviewing all communication materials (newsletters, wallpapers, screen savers...)	x																								
Modifications and branding	x																								
Final approval		x																							
Delivery of all communication materials in digital format	x																								

Activites and deliverable	TERRANOVA Client	Month 1				Month 2				Month 3				Month 4				Month 5				Month 6			
		Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4	Week 1	Week 2	Week 3	Week 4
INITIAL PHISHING SIMULATION TESTS																									
Initial test : Launch of a Phishing Simulation to few employees	x																								
Initial test : Results and reports analysis	x	x																							
Launch of a Phishing Simulation to a larger part of employees (few entities and languages)	x																								
Overview of results and report analysis	x	x																							
LAUNCH OF PERIODIC PHISHING SIMULATIONS																									
Launch of a Continious and Ramdomized Phishing Simulation to all employees (4 per year)	x																								
E-LEARNING COURSES ACCESS TO PHISHED EMPLOYEES																									
Access to microlearnings courses	x																								
ADDITIONAL PHISHING SIMULATIONS FOR PHISHED EMPLOYEES																									
Using the continious feature : automatic simulation send to phished employees	x																								
Communication to repeat offenders and their manager (employees secondly phished)	x	x																							
OPTIONAL : AWARENESS CAMPAIGN COMMUNICATION REENFORCEMENT																									
Email / Intranet reminders based on Terranova's Enewsletters	x	x																							
Campaign screen savers	x	x																							
Monthly poster	x	x																							
TBC - Final Communication Plan																									

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5.3. Roles and Responsibilities

5.3.1. Contractor shall be responsible for providing County with:

5.3.1.1. The configuration and installation of the Security Awareness Program by Contractor's dedicated customer success manager. This includes:

- 5.3.1.1.1. Planning an introductory meeting in order to understand needs and customization of content (1 day / customer success manager)**
- 5.3.1.1.2. Configuration of County platform (1 day / customer success manager)**
- 5.3.1.1.3. Download training content for launch or customization needs (1 day / customer success manager)**
- 5.3.1.1.4. Training for County's program managers and administrators (2 hrs / Contractor's Security Support and Client Manager / Administrator for the platform)**
- 5.3.1.1.5. Assistance and validation by the support team before of County's Security Awareness Program launch (at all times by Vendor customer success manager and support manager)**
- 5.3.1.1.6. Contractor's Security administrators available by phone to answer County's questions. (from 8 A.M. to 5 P.M. E.T)**
- 5.3.1.1.7. Following the project kick-off meeting, the Contractor customer success manager will carry out a project plan to follow the personalization of the content**
- 5.3.1.1.8. The Contractor's customer success manager will be able to coordinate personalization activities with all stakeholders**

5.3.2. County Responsibilities:

- 5.3.2.1. County shall provide County Project Manager to oversee the implementation as well as a subject matter expert who will be the Technical Lead for the Security Awareness Program.**

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6. The relevant deliverables associated with this SOW are as follows:

Line Item	Quantity	Product or other Deliverable	Delivery Date	Delivery Location
1	1	Delivery of the Security awareness Platform	Contract Execution Date	Online
2	1	Delivery of the Security awareness content	TBD Contract Execution Date	Online
3	1	Delivery of the security awareness kits for Citizens	TBD Contract Execution Date	Online

7. On-Going Support

7.1. Contractor shall provide County with Ongoing technical support for functional system administrators and County information technology staff for the duration of the agreement.

7.2. The Technical Support will include supporting County's staff

7.2.1. During the launch of Security Awareness Program as detailed in Section 5 above.

7.2.1. Resolve any technical and operational issues.

7.2.3. Any new enhancements related to the Security Awareness Program will be provided by Contractor to County.

7.3. SLA System Availability

7.3.1. Contractor guarantees the availability of the Security Awareness Platform 24/7 (99.9%). Contractor shall provide support for the County's administrators, within the business hours of 8 a.m. to 5 p.m. ET, via telephone or e-mail. County may also create a support request via e-mail or phone.

7.3.2. Contractor's target response time to issues will be measured as the time between the reception of a live call or email and the moment contractor begins effectively working on its resolution during regular business hours (Monday to Friday, 8 a.m. to 5 p.m.ET).

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7.3.3. The Service Level for response and resolution times are:

Severity	Target Response Time	Target Resolution Time
1 – High	2 hours	2 Business Days
2 – Medium	3 hours	3 Business Days
3 – Low	4 hours	5 Business Days

Elapsed time does not include the time Contractor is waiting for County input for resolution.

For the purposes of this Section, the severity level and corresponding description referred to in the table above have the following meanings:

Severity 1 - High - A Severity 1 Problem arises when the online training platform cannot be accessed or are unable to function properly and no workaround is immediately available.

Severity 2 - Medium - A Severity 2 Problem arises when a major feature or functionality of the online training platform or Phishing Simulator is not available or not functioning properly and their use is severely reduced or impacted.

Severity 3 - Low - A Severity 3 Problem arises when a minor problem exists with the online training platform or Phishing Simulator and a workaround is available.

7.3. Escalation Process

7.3.1. In the event Contractor fails to meet a response or resolution time set forth above or fails to meet the Availability Target for 2 consecutive quarters, customer may escalate the issue to the managers and subsequently to senior management identified in the MSA.

1st escalation step: Stéphanie Ouellette
Chief Customer Officer (CCO)
Stephanie.ouellette@terranovasecurity.com

2nd escalation step: Lise Lapointe
Chief Executive Officer (CEO)
Lise.lapointe@terranovasecurity.com

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8. Pricing.

- 8.1. The following is a description of fees payable under this sow based on the scope and assumptions included in the Sow, the manner in which such fees shall be calculated, the due dates for payment thereof and milestones that are a condition of such payment.

Cost Description	Quantity	Price	Total Implementation Cost
Implementation/Professional Services (include all costs to ensure the solution is fully installed and functional for Oakland County) (Optional) This is currently not requested by the County.	10 days	\$15,000 (optional)	\$15,000 (optional) Payable only if requested by County in an amendment to the Contract.
Software (list manufacturer, part number, model and description for each item(s) individually)	4500	\$4.88/user	\$22,000
Customization of Content (Optional)	20	135\$/hour	\$2,700
Training County's Admin team	Unlimited	Included	Included
Training documentation and User Guides	Unlimited	Included	Included
Other (list as individual line items and include description)			
Managed Services (Optional, if requested by County)	TBD	\$135/h	TBD
Professional Services 10-day Bundle (CISO Coaching) (optional) This will apply only if the service is requested by County.		\$200/h	
Detail all discounts and savings programs			
3-year contract 15% discount on Software License	15%	-\$3,300	\$18,700
Grand Total	Year 1		\$36,400



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8.2. County Project Manager, Technical Lead

9. Changes.

10.1. All changes to this SOW shall be mutually agreed through the execution of an amendment to the County before becoming effective.



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EXHIBIT X

PPB MODEL AGREEMENT

CONTRACT NUMBER: XXXXXX

Contract Expiration Date: XX/XX/XXXX

Contract - NOT TO EXCEED AMOUNT \$ XX,XXX.XX

This "Contract" is made between the PARTICIPATING PUBLIC BODY, hereinafter called "PPB" and the "Contractor" as further described in the following Table. This Contract is modeled after Professional Services Contract Number _____, dated _____, between PPB and Contractor, as more fully described herein. In this Contract, either Contractor or the PPB may also be referred to individually as a "Party" or jointly as the "Parties".

PARTICIPATING PUBLIC BODY	CONTRACTOR NAME
Contact Person	Contact Person
Address	Address
(herein, the "PPB")	Vendor I.D. No. (herein the "Contractor")

This Contract is organized and divided into the following Sections for the convenience of the Parties.

- Section 1. Contract Purpose
- Section 2. Contract Definitions
- Section 3. Contract Term and Renewal

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- Section 4. [Contract Administration and Amendments](#)
- Section 5. [Contract Termination](#)
- Section 6. [Scope of Deliverables and Financial/Payment Obligations](#)
- Section 7. [Contractor's Warranties and Assurances](#)
- Section 8. [Liability](#)
- Section 9. [Contractor Provided Insurance](#)
- Section 10. [Intellectual Property](#)
- Section 11. [Confidential Information](#)
- Section 12. [PPB Data](#)
- Section 13. [Information Technology Standards](#)
- Section 14. [General Terms and Conditions](#)

In consideration of the mutual promises, obligations, representations, and assurances in this Contract, the Parties agree to the following:

§1. CONTRACT PURPOSE

- 1.1. After a competitive bidding and selection process by Oakland County, Contractor was chosen to provide services, described more fully in the Scope of Services Exhibits, to Oakland County. Contractor desires to extend the terms and conditions in this Contract to PPB, to enable it to make purchases from Contractor according to the terms herein.
- 1.2. Oakland County shall not be a party to a contract between Contractor and a PPB. Oakland County shall not have any liability, of any sort, for any harm or action that may arise from purchases made by any PPB pursuant to the terms of this Contract.
- 1.3. PPB must deal directly with Contractor for any transactions such as purchases, invoices, price questions, disputes, etc. that relate to their individual agreement with Contractor. Contractor must respond timely to PPB inquiries.

§2. CONTRACT DEFINITIONS

The following words when printed with the first letter capitalized shall be defined and interpreted as follows, whether used in the singular or plural, nominative or possessive case, and with or without quotation marks:

- 2.1. **"Amendment"** means any change, clarification, or modification to this Contract.

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- 2.2. **“Business Day”** means Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding PPB designated holidays.
- 2.3. **“Claims”** means any loss; complaint; demand for relief or damages; lawsuit; cause of action; proceeding; judgment; penalty; costs or other liability of any kind which is imposed on, incurred by, or asserted against the PPB or for which the PPB may become legally or contractually obligated to pay or defend against, whether commenced or threatened, including, but not limited to, reimbursement for reasonable attorney fees, mediation, facilitation, arbitration fees, witness fees, court costs, investigation expenses, litigation expenses, or amounts paid in settlement.
- 2.4. **“Confidential Information”** means (i) all information and data that the PPB is required or permitted by law to keep confidential, which includes computer software, cybersecurity assessments and plans and measures to protect the County’s security; and (ii) information concerning the inner workings of Contractor’s software and security methods and processes.
- 2.5. **“Contract”** means this document and any other documents expressly incorporated herein.
- 2.6. **“Contractor”** means the entity or person listed under “Contractor” on the first page of this Contract.
- 2.7. **“Contractor Employee”** means any employee; officer; director; member; manager; trustee; volunteer; attorney; licensee; contractor; subcontractor; independent contractor; subsidiary; joint venture; partner or agent of Contractor; and any persons acting by, through, under, or in concert with any of the above, whether acting in their personal, representative, or official capacities. Contractor Employee shall also include any person who was a Contractor Employee at any time during the term of this Contract but, for any reason, is no longer employed, appointed, or elected in that capacity.
- 2.8. **“Contract Documents”** mean the following documents, which this Contract includes and incorporates:
- Exhibits (Applicable if Checked)**
- 2.8.1. ☒ Exhibit I: Insurance Requirements
- 2.8.2. ☐ Exhibit II: Business Associate Agreement (Health Insurance Portability and Accountability Act Requirements)
- 2.8.3. ☒ Exhibit III: Requirements for Contractors with Access to PPB PII (Personally Identifiable Information)
- 2.8.4. ☐ Exhibit IV: Requirements for Contractors with Access to Criminal Justice Information
- 2.8.5. ☐ Exhibit V: Federally Funded Contract Requirements
- 2.8.6. ☒ Exhibit VI: Terranova Master Subscription Agreement
- 2.8.7. ☐ Exhibit VII: Scope of Contractor’s Deliverables/Financial Obligations to be negotiated by the Parties

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- 2.9. **“Oakland County”** means the County of Oakland, a Municipal and Constitutional Corporation, its departments, divisions, authorities, boards, committees.
- 2.10. **“PPB Agent”** means any elected and appointed officials; directors; board members; council members; commissioners; employees; and volunteers of the PPB; whether acting in their personal, representative, or official capacities. “PPB Agent” shall also include any person who was a “PPB Agent” anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and in that capacity.
- 2.11. **“PPB Data”** means information or data collected, used, processed, stored, or generated in any format, by or on behalf of the PPB, in connection with the Deliverables, which shall include, but not be limited to: (a) personal health information (PHI) as defined under the Health Insurance Portability Act (HIPPA) and Exhibit II, (b) personally identifiable information (PII) as defined in Exhibit III, and (c) Criminal Justice Information defined in Exhibit IV if the Exhibit(s) are incorporated into the Contract. PPB Data includes Confidential Information as defined in this Contract.
- 2.12. **“PPB Network”** means PPB owned, leased, or licensed equipment, hardware, and software that is interconnected via fiber optic, wireless, or other communication mediums for the purposes of PPB hosting, processing, using, sharing, and/or transporting data, video, voice, or any other form of information.
- 2.13. **“Day”** means any calendar day, which shall begin at 12:00:00 a.m. and end at 11:59:59 p.m.
- 2.14. **“Deliverables”** means goods and/or services provided under this Contract, whether tangible or intangible, and may be more specifically described in the Exhibits.
- 2.15. **“Effective Date”** means midnight on the date listed on the first page of this Contract.
- 2.16. **“Expiration Date”** means 11:59.59 p.m. on the date listed on the first page of this Contract.
- 2.17. **“E-Verify”** means an Internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees. Information and the registration process are found at the E-Verify website: <https://e-verify.uscis.gov/enroll>.
- 2.18. **“G2G MarketPlace Website”** means an Internet site used by Oakland County to provide information to PPBs about businesses providing services to Oakland County and agreements used by PPB and available to PPBs to procure services.
- 2.19. **“Intellectual Property”** means any developments, improvements, designs, innovation, and materials that may be the subject of a trademark/servicemark, copyright, patent, trade secret, which includes ideas, concepts, inventions, and processes related to the development and operation of computer software and systems.

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- 2.20. **"Iran-Linked Business"** is defined in the Michigan Compiled Laws (MCL), specifically MCL 129.312, being Section 2 of Public Act 517 of 2012. This applies only to Michigan PPBs.
- 2.21. **"Not to Exceed Amount"** means the dollar amount listed on the first page of this Contract, unless amended. The "Not to Exceed Amount" is not the PPB's financial obligation under this Contract, but the maximum amount that can be paid to Contractor during the term of this Contract.
- 2.22. **"PPB"** which stands for Participating Public Body, means an entity created by state or Federal law which is primarily funded by or through a governmental authority and which registers to access Oakland County's G2G MarketPlace Website.
- 2.23. **"Proposal"** means Contractor's response or bid to the PPB's Request for Proposal, Request for Qualifications, or Request for Quotes.
- 2.24. **"Purchase Order"** means the PPB's written request to Contractor for Deliverables pursuant to this Contract. The Purchase Order may include terms regarding delivery schedule, payment, and transportation.

§3. CONTRACT TERM AND RENEWAL

- 3.1. **Contract Term.** This Contract shall begin on the Effective Date and shall end on the Expiration Date.
- 3.2. **Contract Renewal.** Unless otherwise provided herein, the Parties are under no obligation to renew or extend this Contract after the Expiration Date. This Contract may only be extended by an Amendment.
- 3.3. **Legal Effect.** This Contract shall be effective and binding when all of the following occur: (a) this Contract is signed by a Contractor Employee, legally authorized to bind Contractor; (b) this Contract is signed by an authorized PPB Agent; (c) all Contractor certificates of insurance, required by this Contract, are submitted and accepted by Purchasing; and (d) any other conditions precedent to this Contract have been met.

§4. CONTRACT ADMINISTRATION AND AMENDMENTS

- 4.1. **Contract and Purchase Order Issuance.** PPB shall issue this Contract and any Purchase Orders that may be required.
- 4.2. **Purchase Orders.** Purchase Orders issued under this Contract are governed by the terms and conditions of this Contract and are included and incorporated herein.
- 4.3. **Project Managers.** Each Party may designate an employee or agent to act as a Project Manager. If Project Managers are selected, they shall be listed, along with their duties, in Exhibit VII. Unless otherwise stated in Exhibit VII, the PPB's Project Manager has no authority to amend this Contract.
- 4.4. **Contract Administrators.** The PPB may designate an employee or agent to act as Contract Administrator(s). Contractor may designate its employee or agent to act as Contract Administrator(s).

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The Contract Administrators shall be listed on the signature page of this Contract. The PPB's Contract Administrator(s) shall be responsible for monitoring and coordinating day-to-day activities under this Contract, reviewing Deliverables and invoices, and submitting requests for Amendments to Purchasing. The PPB's Contract Administrator(s) have no authority to amend this Contract.

- 4.5. **Contract Amendments.** All Amendments to this Contract must be in writing. This Contract shall not be amended by any packing slip, Purchase Order, invoice, click through license agreement, or Contractor policies or agreements published on Contractor's website or otherwise. Amendments to this Contract shall be issued only by Purchasing. The Amendment shall be effective when signed by an authorized Contractor Employee and an authorized PPB Agent.
- 4.6. **Unauthorized Changes.** Contract changes shall not be effective until an Amendment containing the change is executed according to the procedures described in this Contract. If the Contractor is directed to perform work that Contractor believes is a change in the Contract/Deliverables, then Contractor must notify Purchasing that it believes the requested work is a change to the Contract before performing the requested work. If Contractor fails to notify Purchasing before beginning the requested work, then Contractor waives any claims for additional compensation for performing the requested work. If Contractor begins work that is outside the scope of this Contract or begins work before an Amendment is executed and then stops performing that work, Contractor must, at the request of the PPB, undo any out-of-scope work that the PPB believes would adversely affect the PPB.
- 4.7. **Precedence of Contract Documents.** In the event of a conflict, the terms and conditions contained in Sections 1 through 14 of this Contract shall prevail and take precedence over any allegedly conflicting provisions in all Contract Documents, Exhibits, Purchase Orders, Amendments, and other documents expressly incorporated herein. Terms and conditions contained in Contractor invoices, packing slips, receipts, acknowledgments, click-through licenses, and similar documents shall not change the terms and conditions of this Contract.

§5. CONTRACT TERMINATION

- 5.1. **PPB Termination.** In addition to any other legal rights the PPB may have to terminate or cancel this Contract, the PPB may terminate the Contract as follows:
- 5.1.1. **Immediate Termination.** The PPB may terminate or cancel this Contract, in whole or in part, immediately, upon notice to Contractor, if any of the following occur: (a) Contractor, officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense; or (b) if any third-party funding for this Contract is reduced or terminated.
- 5.1.2. **Termination for Convenience.** The PPB may terminate or cancel this Contract, in whole or part, at any time, upon ninety (90) Days' notice to Contractor, for any reason, including convenience without incurring obligation or penalty of any kind. The effective date for termination or cancellation shall be clearly stated in the notice. . Any amounts paid in advance for subscription software or services will

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not be reimbursable by Contractor in the event this Contract is terminated or cancelled for convenience.

- 5.2. **Contractor Termination.** Contractor may terminate or cancel this Contract, in whole or part, upon sixty (60) Days' notice to the PPB, if the PPB breaches any duty or obligation contained herein and within such notice period has failed or has not attempted to cure the breach. The effective date of termination or cancellation and the specific alleged default shall be clearly stated in the notice to the PPB.
- 5.3. **PPB's Obligations Upon Termination.** The PPB's sole obligation in the event of termination or cancellation of this Contract is for payment of the actual Deliverables provided to the PPB before the effective date of termination. Under no circumstances shall the PPB be liable for any future loss of income, profits, any consequential damages, any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination or cancellation of this Contract. The PPB shall not be obligated to pay Contractor any cancellation or termination fee if this Contract is cancelled or terminated as provided herein. If the PPB chooses to terminate the Contract in part, then the charges payable under this Contract must be equitably adjusted to reflect those Deliverables that are terminated.
- 5.4. **Contractor's Obligations Upon Termination.** If the PPB terminates this Contract, for any reason, then Contractor must do the following: (a) cease providing all Deliverables as specified at the time stated in the notice of termination; (b) take any action necessary, or as the PPB may direct, to preserve and protect Deliverables or other property derived or resulting from the Contract that is in Contractor's possession; (c) return all materials, and property provided to Contractor by the PPB; (d) unless otherwise directed by the PPB, transfer title in and deliver to the PPB all Deliverables in the possession of Contractor or Contractor Employees (which Deliverables are transferred to the PPB "As-Is", except to the extent the amounts paid by the PPB for these Deliverables include warranties or warranty services and, in that situation, the Deliverables will be transferred with the warranty or warranty services and not "As-Is"); and (e) take any action to mitigate and limit any potential damages, including terminate or limit, as applicable, those subcontracts and outstanding orders for materials and supplies connected with or related to this Contract.
- 5.5. **Assumption of Subcontracts.** If Contractor is in breach of this Contract and the PPB terminates this Contract, then the PPB may assume, at its option, any subcontracts and agreements for Deliverables provided under the Contract and may pursue completion of the Deliverables by replacement Contract or otherwise as the PPB, in its sole judgment, deems expedient.

§6. SCOPE OF DELIVERABLES AND FINANCIAL/PAYMENT OBLIGATIONS

- 6.1. **Performance of Deliverables.** Contractor shall provide all Deliverables identified in and as set forth in Exhibit VII, any Purchase Orders, or any Amendments to this Contract. If less than all Scopes of

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Services are selected when the Contract is executed, an amendment to the Contract is required to add additional Exhibits (and their associated services).

- 6.2. **Software License(s).** If this Contract includes a Software License(s) as described in Exhibit VI, then the Parties shall follow the terms and conditions therein. Any applicable third-party Software License(s) are also provided in Exhibit VI. Unless specifically agreed to by PPB, if PPB Agents are required to accept click through license terms to access any of the Deliverables in this Contract, the terms and conditions of those click through licenses are without force and effect.
- 6.3. **Financial Obligations.** Except as otherwise set forth in this Contract, the PPB's sole financial obligation under this Contract shall be set forth in Exhibit VII. The amount and manner of payment of the financial obligation shall be set forth in Exhibit VII and may be in the Software License Exhibit VI, if applicable, or a Purchase Order.
- 6.4. **Payment Obligations.** Except as otherwise set forth in the Exhibits, Contractor shall submit an invoice to the PPB's Contract Administrator itemizing amounts due and owing under this Contract, as of the date of the invoice. Invoices shall contain the following information: (a) PPB Contract Number; (b) dates of Deliverables; (c) itemized list of Deliverables; (d) Contractor Tax ID Number (federal and State); (e) licenses; and (f) any other information requested by Purchasing. The PPB shall have no obligation to make a payment under this Contract until an invoice is submitted in the form set forth herein and shall have no obligation to pay for Deliverables, which have not been invoiced (as required herein) within sixty (60) Days of Contractor's performance. Unless otherwise set forth in the Exhibits, the PPB shall only pay Contractor for Deliverables under this Contract and not any subcontractors or assignees of Contractor.
- 6.5. **Not to Exceed Amount.** The amount due and owing to Contractor, under this Contract, shall not exceed the "Not to Exceed Amount." If Contractor can reasonably foresee that the total financial obligation for the Contract will exceed the "Not to Exceed Amount," then Contractor shall provide Purchasing with notice of this fact at least ten (10) Days before this event.
- 6.6. **No Obligation for Penalties/Costs/Fines.** The PPB shall not be responsible for any cost; fee; fine; penalty; or direct, indirect, special, incidental, or consequential damages incurred or suffered by Contractor in connection with or resulting from the performance of this Contract.
- 6.7. **In-Kind Services.** Unless expressly provided herein, this Contract does not authorize any in-kind services by either Party.

§7. CONTRACTOR'S WARRANTIES AND ASSURANCES

- 7.1. **Full Knowledge of Contract Expectations.** Contractor warrants that before submitting its Proposal and/or entering into this Contract, it had a full opportunity to review all PPB requirements and/or expectations for this Contract. Contractor is responsible for being adequately and properly prepared

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to execute this Contract. Contractor has satisfied itself in all material respects that it will be able to perform the Contract as specified herein.

- 7.2. **Complete and Accurate Representations.** Contractor certifies that all statements, assurances, records, and materials submitted to the PPB in connection with seeking and obtaining this Contract have been truthful, complete, and accurate.
- 7.3. **Access to Contractor Policies.** If the Parties agree in this Contract to follow any Contractor policies, such as acceptable use or privacy policies, then Contractor shall retain each version of such policy with the effective dates and shall promptly provide such to the PPB, if requested.
- 7.4. **Grant Compliance.** If any part of this Contract is supported or paid for with any State, federal, or other third-party funds granted to the PPB, then Contractor shall comply with all applicable grant requirements. Upon request of Contractor, the PPB shall provide Contractor with a copy of the applicable grant requirements.
- 7.5. **Contractor Incidental Expenses.** Except as otherwise expressly provided in this Contract, Contractor shall be solely responsible and liable for all costs and expenses associated or needed to perform this Contract, including, but not limited to, any professional dues, association fees, license fees, fines, taxes, and penalties.
- 7.6. **Equipment and Supplies.** Contractor is responsible for providing all equipment and supplies to perform this Contract, which are not expressly required to be provided by the PPB.
- 7.7. **Contractor Employees.**
- 7.7.1. **Number and Qualifications of Contractor Employees.** Contractor shall employ and assign qualified Contractor Employees as necessary and appropriate to perform this Contract. Contractor shall ensure all Contractor Employees have the knowledge, skill, and qualifications to perform this Contract and possess any necessary licenses, permits, certificates, and governmental authorizations as may be required by law.
- 7.7.2. **Control and Supervision of Contractor Employees.** Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employees.
- 7.7.3. **Removal or Reassignment of Personnel at the PPB's Request.** Contractor shall remove a Contractor Employee performing work under this Contract at the PPB's request provided that the PPB's request is based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the removal of a Contractor Employee results in an unanticipated delay, which is attributable to the PPB, then this delay shall not be considered a breach of the Contract and the terms and conditions of this Contract effected by the removal will be adjusted accordingly.

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- 7.7.4. **Contractor Employee Identification.** If requested by the PPB, Contractor Employees shall wear and display a PPB-provided identification badge at all times while working on PPB premises. Contractor shall return all PPB-provided identification(s) upon completion of Contractor's obligations under this Contract.
- 7.7.5. **Background Checks.** At the PPB's request, Contractor Employees performing work under this Contract shall be subject to a background check by the PPB. The scope of the background check is at the discretion of the PPB and the results will be used to determine Contractor Employee's eligibility to perform work under this Contract. Any request for background checks will be initiated by the PPB and will be reasonably related to the type of work requested. Contractor and Contractor Employees shall provide all information or documents necessary to perform the background check.
- 7.7.6. **Compliance with PPB Security Policies and Use Policies.** Contractor shall require all Contractor Employees to comply with the PPB's security and acceptable use policies for PPB property (tangible and intangible), equipment, resources, facilities, and systems. Upon request, the PPB shall provide such policies to Contractor.
- 7.7.7. **Contractor Employee Expenses.** All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance). Contractor warrants that all Contractor Employees shall fully comply with and adhere to the terms of this Contract. Contractor shall be solely liable for all applicable Contractor Employees' federal, state, or local payment withholdings or contributions and/or all Contractor Employee related pension or welfare benefits plan contributions under federal or state law. Contractor shall indemnify and hold the PPB harmless for all Claims against the PPB by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between Contractor and any Contractor Employee including, but not limited to, Worker's Compensation, disability pay, or other insurance of any kind.
- 7.7.8. **Contractor's Compliance with the Patient Protection and Affordable Care Act.** If Contractor is subject to the Patient Protection and Affordable Care Act ("ACA"), PL 111-148, 124 Stat 119, then Contractor shall ensure that all Contractor Employees, under assignment to the PPB, and their dependents, as defined by the ACA, are provided with or have access to insurance as required by the ACA. If Contractor is subject to the ACA, Contractor warrants it offers group health coverage to Contractor Employees and their dependents that is affordable, that provides minimum essential coverage and value, and that each offer of coverage meets the timing requirements of the ACA. Contractor warrants, whether or not it is subject to the ACA, that it will pay all applicable fees, taxes, or fines, as set forth in the employer mandates of the ACA under Tax Code §4980H and related regulations for any Contractor Employee, whether the fee, tax, or fine is assessed against the Contractor or the PPB.
- 7.8. **Acknowledgment of Independent Contractor Status.**
- 7.8.1. **Independent Contractor.** Nothing in this Contract is intended to establish an employer-employee relationship between the PPB and Contractor or any Contractor Employee. In no event, shall

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Contractor Employees be deemed employees, agents, volunteers, or subcontractors of the PPB. Contractor shall ensure that Contractor Employees are apprised of their status and the limitations independent contractors have of this status.

- 7.8.2. **Contractor/Contractor Employee Representations.** Contractor and/or Contractor Employees shall not represent themselves as PPB employees. Contractor shall ensure that Contractor Employees do not represent themselves as PPB employees.
- 7.8.3. **PPB Benefits and Plans.** Contractor and Contractor Employees shall not be entitled to participate in any PPB employee benefit plans and programs, including but not limited to, retirement, deferred compensation, insurance (including without limitation, health, disability, dental, and life), and vacation pay. This limitation includes access to benefit plans and programs that are not described by a written plan.
- 7.8.4. **PPB Reliance.** The PPB entered into this Contract in reliance of the representations made by Contractor regarding its understanding of the role of independent contractors, its stated relationship to Contractor Employees, and other representations Contractor has made regarding the management and performance oversights of Contractor Employees.
- 7.9. **Permits and Licenses.** Contractor shall be responsible for obtaining and maintaining, throughout the term of this Contract, all licenses, permits, certificates, governmental authorizations, and business/professional licenses necessary to perform this Contract. Upon request by the PPB, Contractor shall furnish copies of any permit, license, certificate, or governmental authorization necessary to perform this Contract.
- 7.10. **E-Verify.** Contractors who wish to contract with the PPB to provide services must first certify they have registered with, will participate in, and continue to utilize, once registered, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor. Breach of this term or condition is considered a material breach of this Contract. Contractor's execution of this Contract constitutes a certification that they are authorized to certify on behalf of Contractor and do hereby certify on behalf of Contractor that the Contractor has registered with, has and will participate in, and does and will continue to utilize once registered and throughout the term of this Contract and any permissible extension hereof, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor.
- 7.11. **Iran-Linked Business Certification.** For Michigan PPB's only: Contractor certifies that it is not an Iran-Linked Business. Contractor further certifies that it was not an Iran-Linked Business at the time it submitted its Proposal for this Contract. Contractor must promptly notify the PPB, if Contractor becomes an Iran-Linked Business at any time during this Contract.

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- 7.12. **Foreign Adversary Certification.** If Contractor supplies technology or equipment to County, Contractor certifies that the technology and/or equipment was not produced, assembled or manufactured by a foreign adversary, as defined, and as prohibited by the federal government.
- 7.13. **Taxes.**
- 7.13.1. **Contractor Taxes.** Contractor shall collect and pay its local, state, and federal taxes, including but not limited to, all employment taxes, sales taxes, personal property taxes, and real property taxes. The PPB shall not be liable to or required to reimburse Contractor for any local, state, or federal tax of any kind.
- 7.13.2. **PPB Tax-Exempt.** The PPB is exempt from state and local sales tax, personal property tax, and real property tax. Prices under this Contract shall not include taxes, unless the PPB is not tax-exempt for a specific Deliverable. Exemption certificates for sales tax will be furnished upon request.
- 7.14. **Warranty for Services.** Contractor warrants that all Deliverables that are services shall be performed in compliance with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 7.15. **ADA and Section 508 Compliance.** If Contractor is providing a Deliverable that requires PPB Agents or the public to use a software application or to access a website, Contractor warrants that end users can utilize the software or access the website in accordance with the accessibility requirements of the ADA and the Rehabilitation Act of 1973. Contractor's Deliverable will conform, where relevant, to level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Contractor may provide a description of conformance with the above-mentioned specifications by means of a completed Voluntary Product Accessibility Template for WCAG 2.0 (WCAG 2.0 VPAT) or another comparable document. Any additional compliance requirements shall be specified in the Scope of Contractor's Deliverables Exhibit VII.

§8. LIABILITY

- 8.1. **Contractor Indemnification.** Contractor shall indemnify, defend, and hold the PPB harmless from all Claims, incurred by or asserted against the PPB by any person or entity, which are alleged to have been caused directly or indirectly from the acts or omissions of Contractor or Contractor's Employees. The PPB's right to indemnification is in excess and above any insurance rights/policies required by this Contract.
- 8.2. PPB will remain responsible for any claims arising out of its performance of this Contract as provided by this Contract or by law. This Contract is not intended to increase or decrease its liability for or immunity from tort claims.
- 8.3. Except in connection with a party's obligations under Sections 8, 10, 11, 12, and 13, in no event will Contractor's liability arising out of or related to this Contract, whether under contract or tort or under any other theory of liability, exceed the amount paid to Contractor by the PPB in the twelve (12)

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months preceding the incident giving rise to such liability. Except in connection with a Party's obligations under Sections 8, 10, 11, 12, and 13, in no event will either party be liable to the other party for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with the products and services and/or this Contract, including but not limited to the use or inability to use the products and services, or for any content obtained from or through the products and services, any interruption, inaccuracy, error or omission, regardless of cause, even if contractor and/or its licensors or service providers have been previously advised of the possibility of such damages or could have reasonably foreseen them.

- 8.4. **No Indemnification from the PPB.** Contractor shall have no rights against the PPB for indemnification, contribution, subrogation, or any other right to be reimbursed by the PPB, except as expressly provided herein.

§9. CONTRACTOR PROVIDED INSURANCE

At all times during this Contract, Contractor shall obtain and maintain insurance according to the requirements listed in Exhibit I.

§10. INTELLECTUAL PROPERTY

- 10.1. **Contractor Use of PPB Licensed Software.** In order for Contractor to perform this Contract, the PPB may permit Contractor or Contractor Employees to access certain Software licensed to the PPB. Contractor or Contractor Employees shall not transfer, remove, use, copy, or otherwise provide or make available such Software or documentation to any other person or entity, for any purpose, without the prior written consent of the PPB and/or the licensor. Furthermore, neither Contractor nor Contractor Employee shall produce a source listing, decompile, disassemble, or otherwise reverse engineer any Software. Neither Contractor nor Contractor Employee shall use any Software contrary to the provisions of any applicable Software license agreement or state or federal law.
- 10.2. **Assignment of Rights. No Assignment of Rights.** Except as expressly provided in Exhibit VI, Contractor does not grant or assign any additional express or implied rights to use the Software or Deliverables. All rights, title, and interest in the Deliverables and Software, in all languages, formats, and media throughout the world, are and will continue to be the exclusive property of Contractor and/or its licensors and nothing in this Contract shall be construed to confer any license or assignment of right, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to PPB or any third party.
- 10.3. **Infringement Remedies.** If, in either Party's opinion, any of the services or Deliverables supplied by Contractor or Contractor Employees is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor shall at its own expense: (a) procure for PPB the right to

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continue using the services or Deliverables, 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 PPB with appropriate credits to PPB and reimburse PPB for any losses or costs incurred as a consequence of PPB ceasing its use and returning it.

§11. CONFIDENTIAL INFORMATION

- 11.1. **Contractor Use of Confidential Information.** Contractor and Contractor Employees shall use appropriate safeguards to protect the confidentiality and integrity of Confidential Information. Contractor shall not reproduce, provide, disclose, or give access of Confidential Information to any Contractor Employee or third-party not having a legitimate need to know. Contractor and Contractor Employees shall only use the Confidential Information for performance of this Contract. Notwithstanding the foregoing, Contractor may disclose the Confidential Information, if required by law, statute, or other legal process; provided that Contractor: (a) gives the PPB prompt written notice of the impending disclosure; (b) provides reasonable assistance to the PPB in opposing or limiting the disclosure; and (c) makes only such disclosure as is compelled or required. This Contract imposes no obligation upon Contractor with respect to any Confidential Information which Contractor can establish by legally sufficient evidence: (a) was in possession of or was known by Contractor, prior to its receipt from the PPB, without any obligation to maintain its confidentiality; or (b) is obtained by Contractor from a third party having the right to disclose it, without an obligation to keep such information confidential.
- 11.2. **PPBs Use of Confidential Information** PPB and PPB Agents shall use appropriate safeguards to protect the confidentiality and integrity of Confidential Information. PPB shall not reproduce, provide, disclose, or give access of Confidential Information to any PPB Agent or third-party not having a legitimate need to know. PPB and PPB Agents shall only use the Confidential Information for performance of this Contract. Notwithstanding the foregoing, PPB may disclose the Confidential Information, if required by law, statute, or other legal process; provided that PPB (a) uses its best efforts to give the Contractor prompt written notice of the impending disclosure; (b) makes only such disclosure as is compelled or required. This Contract imposes no obligation upon PPB with respect to any Confidential Information which PPB legally sufficient evidence: (a) was in possession of or was known by PPB prior to its receipt from the Contractor, without any obligation to maintain its confidentiality; or (b) is obtained by PPB from a third party having the right to disclose it, without an obligation to keep such information confidential.
- §12. PPB DATA.** If Contractor uses or possesses PPB Data in the performance of this Contract, then the following provisions contained in this section apply:
- 12.1. **Use of PPB Data.** Contractor and Contractor Employees shall have a limited license to PPB Data, including a license to collect, process, store, generate and display PPB Data but only to the extent necessary to provide services under this Contract. Contractor and Contractor Employees may not use,

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sell, rent, transfer, distribute, or otherwise disclose or make available PPB Data for Contractor's own purposes or for the benefit of anyone other than the PPB, without the PPB's prior written consent, unless otherwise provided for within an Exhibit to this Contract.

- 12.2. **Unauthorized Access/Disclosure or Theft of PPB Data.** Contractor or Contractor Employees shall notify the PPB's Chief Information Officer as soon as practicable but no later than forty-eight (48) hours of "Discovery" of suspected unauthorized access, acquisition, disclosure, or theft of PPB Data (a "Security Breach"). "Discovery" means the first day on which the Security Breach is known to Contractor or Contractor Employees or should have been known by exercising reasonable diligence. Upon Discovery of a Security Breach, Contractor shall do the following: (a) take reasonable measures to promptly cure the deficiencies relating to the Security Breach in order to secure PPB Data; (b) cooperate with the PPB in investigating the occurrence, including making available all relevant records, logs, files, and data reporting materials required upon request by the PPB; and (c) comply with any applicable federal or state laws and regulations pertaining to unauthorized disclosures or as otherwise directed by the PPB. If Contractor uses or possesses PPB Data described in Exhibit II (HIPPA), Exhibit III (PII), or Exhibit IV (CJIS), Contractor shall follow the procedures in the applicable Exhibits governing the unauthorized access/disclosure or theft of PPB Data.
- 12.3. **Storage of PPB Data.** Contractor shall only store and process PPB Data at and from data centers located within the United States. Contractor shall not permit Contractor Employees to store PPB Data on portable devices, including personal computers, except for portable devices that encrypt data at rest and are used and kept within the U.S. Contractor shall permit its Contractor Employees to access PPB Data remotely only as required to provide technical support.
- 12.4. **Requirements for PCI Data.** If Contractor possesses, stores, processes, or transmits PPB Data that is considered Payment Card Industry (PCI) Data by the PCI Security Standards Council, Contractor shall comply with PCI Data Security Standard (DSS) and shall provide the PPB with a copy of its PCI DSS Attestation of Compliance and its Certificate of Compliance with PCI Data Security Standard. Contractor warrants that it will keep its Certification of Compliance with PCI Data Security Standard current.
- 12.5. **Response to Legal Request for PPB Data.** If the PPB receives a Court Order, a Freedom of Information Act (FOIA) request, or other legal request to provide PPB Data held by Contractor, then Contractor shall provide PPB Data to the PPB, in a format directed by the PPB, within the time frame required by law.
- 12.6. **Obligations upon Expiration, Termination or Cancellation of Contract.** At the PPB's sole discretion, upon expiration, termination, or cancellation of this Contract, Contractor shall return PPB Data in a mutually agreeable format in a prompt and orderly manner or provide for the secure disposal of PPB Data as directed by PPB.

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- §13. INFORMATION TECHNOLOGY STANDARDS** If Contractor provides a technology application or requires the use of the Internet to access a Deliverable, the following sections apply:
- 13.1. **PPB Standards.** If Contractor and Contractor Employees that will be given access to the PPB Network, Contractor and Contractor Employees shall comply with the PPB's technology use policies.
- 13.2. **Implementation of Security Measures.** Contractor shall implement and maintain appropriate administrative, technical, and organizational security measures to safeguard against unauthorized access to the PPB Network and PPB Data. Such measures shall be in accordance with security industry best practice and not less stringent than the measures Contractor applies to protect its own data of a similar kind.
- §14. GENERAL TERMS AND CONDITIONS**
- 14.1. **PPB's Right to Suspend Contract Performance.** Upon written notice, the PPB may require Contractor to suspend performance of this Contract if Contractor has failed to comply with federal, state, or local laws or any requirements contained in this Contract. The right to suspend performance of this Contract is in addition to the PPB's right to terminate and/or cancel this Contract. The PPB shall incur no penalty, expense, or liability to Contractor if the PPB suspends performance of this Contract under this Section.
- 14.2. **Discrimination.** Contractor shall not discriminate against any employee or applicant for employment in violation of state or federal law. Contractor shall promptly notify the PPB of any complaint or charge filed and/or of any determination by any court or administrative agency of illegal discrimination by Contractor.
- 14.3. **Conflict of Interest.** No contracts shall be entered into between the PPB and any PPB Agent. To avoid any real or perceived conflict of interest, Contractor shall identify any Contractor Employee or relative of Contractor's Employees who are presently employed by the PPB. Contractor shall give the PPB notice if there are any PPB Agents or relatives of PPB Agents who are presently employed by Contractor.
- 14.4. **Access and Records.** Contractor will maintain accurate books and records in connection with performance of this Contract for thirty-six (36) months after the end of this Contract and Contractor shall provide the PPB with reasonable access to such books and records, upon request.
- 14.5. **Audit.** The PPB or an independent auditor hired by the PPB may perform contract audits (in its sole discretion) and shall have the authority to access all pertinent records and data and to interview any Contractor Employee during the term of this Contract and for a period of three years after final payment. Contractor shall explain any audit findings, questioned costs, or other Contract compliance deficiencies to the PPB within thirty (30) Business Days of receiving the draft audit report. Contractor's written response shall include all necessary documents and information that refute the draft audit

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report and an action plan to resolve the audit findings. A copy of Contractor's response will be included in the final report. Failure by Contractor to respond in writing within thirty (30) Business Days shall be deemed acceptance of the draft audit report and will be noted in the final report.

14.6. Assignments/Delegations/Subcontracts.

- 14.6.1. Prior Written Consent Required.** Except by operation of law, neither Party may assign, delegate, or subcontract any of its duties, obligations, or rights under this Contract without the prior written consent of the other Party; provided, however, Contractor may assign, delegate, or subcontract this Contract to an affiliate or subsidiary as long as the affiliate or subsidiary is adequately capitalized and can provide adequate written assurances to the PPB that the affiliate or subsidiary can perform this Contract. The PPB may withhold consent, if the PPB determines that the assignment, delegation, or subcontract would impair performance of this Contract or the PPB's ability to recover damages under this Contract. Contractor shall also provide the PPB with adequate information to allow the PPB to make a determination regarding the assignment, delegation, or subcontract.
- 14.6.2. Flow Down Clause Required.** Any assignment, delegation, or subcontract by Contractor must include a requirement that the assignee, delegee, or subcontractor will comply with the terms and conditions of this Contract. The assignment, delegation, or subcontract shall in no way diminish or impair performance of any term or condition of this Contract.
- 14.6.3. Performance Required.** If an assignee, delegee, or subcontractor fails to perform as required under this Contract, Contractor shall contract with another entity for such performance. Any additional costs associated with securing another assignee, delegee, or subcontractor shall be the sole responsibility of Contractor.
- 14.7. Non-Exclusive Contract.** This Contract is a non-exclusive agreement. No provision in this Contract limits or is intended to limit, in any way, Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, the PPB may freely engage other persons to perform the same work that Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee Contractor or any Contractor Employee any fixed or certain number of Deliverables.
- 14.8. No Third-Party Beneficiaries.** Except as provided for the benefit of the Parties, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' right in this Contract, or any other right in favor of any other person or entity.
- 14.8.1. Survival of Terms and Conditions.** The following terms and conditions shall survive and continue in full force beyond the termination or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their nature: **Section 1.** Contract Purpose, **Section 2.** Contract Definitions, **Section 6.** Scope of Deliverables and Financial/Payment Obligations, **Section 7.** Contractor's Warranties and Assurances, **Section 8.** Liability, **Section 9.** Contractor Provided Insurance,

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Section 10. Intellectual Property, **Section 11.** Confidential Information, **Section 12.** PPB Data, **Section 14.** General Terms and Conditions; and if incorporated into this Contract, Exhibit II: Business Associate Agreement (Health Insurance Portability and Accountability Act Requirements), Exhibit III: Requirements for Contractors with Access to PPB PII (Personally Identifiable Information) and Exhibit IV: Requirements for Contractors with Access to CJIS Data (Criminal Justice Information Security).

- 14.9. **Reservation of Rights.** This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, obligation, duty, or immunity of the PPB.
- 14.10. **Compliance with Laws.** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract.
- 14.11. **Force Majeure.** Notwithstanding any other term or condition of this Contract, neither Party shall be liable for failure to perform contractual duties or obligations caused by events beyond their reasonable control, including but not limited to: (a) acts of public enemies; (b) natural disasters; (c) terrorism; (d) war; (e) insurrection or riot; (f) natural disasters; (g) strikes, lockouts, work stoppages, or other labor difficulties; or (h) compliance with law. Reasonable notice shall be given to the affected Party of such event. Contractor is expected, through insurance or alternative temporary or emergency service arrangements, to continue its contractual duties or obligations if a reasonably anticipated, insurable business risk, such as business interruption or any insurable casualty or loss occurs.
- 14.12. **Notices.**
- 14.12.1. **Written Notice.** All notices required under this Contract shall be in writing. Notices shall be effective: (a) the next Business Day, if personally delivered; (b) the third Business Day, if sent by U.S. mail, postage prepaid, return receipt requested; (c) the next Business Day, if sent by a nationally recognized overnight express courier with a reliable tracking system; or (d) the next Business Day with a receipt of confirmation, if sent by e-mail or fax.
- 14.12.2. **Notice to Contractor.** Unless otherwise specified, Notice to Contractor shall be addressed to the Contract Administrator listed on the signature page of this Contract.
- 14.12.3. **Notice to PPB.** Unless otherwise specified herein, Notice to the PPB shall be addressed to Purchasing, the PPB Project Manager (if applicable), and the PPB Contract Administrator(s) listed on the signature page of this Contract.
- 14.13. **Captions.** Section and subsection numbers, captions, and any index to sections or subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this Contract. In this Contract, for any noun or pronoun, use of the singular or plural

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form, use of the nominative, possessive, or objective case, and any reference to gender (masculine, feminine, and neuter) shall mean the appropriate form, case, or gender as the context requires.

- 14.14. **Waiver.** Waiver of any term or condition under this Contract must be in writing and notice given pursuant to this Contract. No written waiver, in one or more instances, shall be deemed or construed as a continuing waiver of any term or condition of this Contract. No waiver by either Party shall subsequently affect its right to require strict performance of this Contract.
- 14.15. **Cumulative Remedies.** A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.
- 14.16. **Severability.** If a court of competent jurisdiction finds a term or condition of this Contract to be illegal or invalid, then the term or condition shall be deemed severed from this Contract. All other terms or conditions shall remain in full force and effect. Notwithstanding the above, if Contractor's promise to indemnify or hold the PPB harmless is found illegal or invalid, Contractor shall contribute the maximum it is permitted to pay by law toward the payment and satisfaction of any Claims against the PPB.
- 14.17. **Dispute Resolution.** All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Contract involving or affecting the Parties may first be submitted to the respective Project Manager (if applicable) and Contract Administrators for possible resolution.
- 14.18. **Governing Laws/Consent to Jurisdiction and Venue.** This Contract shall be governed, interpreted, and enforced by the laws of the state of the PPB. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the state Court or the United States District Court located in the state of the PPB, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the court set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Contract to enforce such judgment in any appropriate jurisdiction.
- 14.19. **Entire Contract.** This Contract represents the entire agreement and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements, or contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning and not construed strictly for or against any Party.

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EXHIBIT I

INSURANCE REQUIREMENTS

During this Contract, the Contractor shall provide and maintain, at their own expense, all insurance as set forth and marked below, protecting the PPB against any Claims, as defined in this Contract. The insurance shall be written for not less than any minimum coverage herein specified.

Primary Coverages

Commercial General Liability Occurrence Form including: (a) Premises and Operations; (b) Products and Completed Operations (including On and Off Premises Coverage); (c) Personal and Advertising Injury; (d) Broad Form Property Damage; (e) independent Contractors; (f) Broad Form Contractual including coverage for obligations assumed in this Contract;

\$1,000,000 – Each Occurrence Limit

\$1,000,000 – Personal & Advertising Injury

\$2,000,000 – Products & Completed Operations Aggregate Limit

\$2,000,000 – General Aggregate Limit

\$ 100,000 – Damage to Premises Rented to You (formally known as Fire Legal Liability)

Workers' Compensation Insurance with limits statutorily required by any applicable Federal or State Law and Employers Liability insurance with limits of no less than \$500,000 each accident, \$500,000 disease each employee, and \$500,000 disease policy limit.

1. ☐ Fully Insured or State approved self-insurer.
2. ☐ Sole Proprietors must submit a signed Sole Proprietor form.
3. ☐ Exempt entities, Partnerships, LLC, etc., must submit a Certificate of Exemption.

Commercial Automobile Liability Insurance covering bodily injury or property damage arising out of the use of any owned, hired, or non-owned automobile with a combined single limit of \$1,000,000 each accident. This requirement is waived if there are no company owned, hired or non-owned automobiles utilized in the performance of this Contract.

Commercial Umbrella/Excess Liability Insurance with minimum limits of \$2,000,000 each occurrence. Umbrella or Excess Liability coverage shall be no less than following form of primary coverages or broader. This Umbrella/Excess requirement may be met by increasing the primary Commercial General Liability limits to meet the combined limit requirement.

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Supplemental Coverages – (Required as Checked)

- ☐ **Professional Liability/Errors & Omissions Insurance** (i.e., Consultants, Technology Vendors, Architects, Engineers, Real Estate Agents, Insurance Agents, Attorneys, etc.) with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
- ☐ **Commercial Property Insurance.** The Contractor shall be responsible for obtaining and maintaining insurance covering their equipment and personal property against all physical damage.
- ☐ **Cyber Liability Insurance** with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
- ☐ **Other Insurance Coverages** as may be dictated by the provided product/service and deemed appropriate by the PPB.

General Insurance Conditions

The aforementioned insurance shall be endorsed, as applicable, and shall contain the following terms, conditions, and/or endorsements. All certificates of insurance shall provide evidence of compliance with all required terms, conditions and/or endorsements.

1. All policies of insurance shall be on a primary, non-contributory basis with any other insurance or self-insurance carried by the PPB;
2. The insurance company(s) issuing the policy(s) shall have no recourse against the PPB for subrogation (policy endorsed written waiver), premiums, deductibles, or assessments under any form. All policies shall be endorsed to provide a written waiver of subrogation in favor of the PPB;
3. Any and all deductibles or self-insured retentions shall be assumed by and be at the sole risk of the Contractor;
4. Contractors shall be responsible for their own property insurance for all equipment and personal property used and/or stored on PPB property;
5. The Commercial General Liability and Commercial Automobile Liability policies along with any required supplemental coverages shall be endorsed to name the PPB and its officers, directors, employees, appointees and commissioners as additional insured where permitted by law and policy form;
6. The Contractor shall require its contractors or sub-contractors, not protected under the Contractor's

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insurance policies, to procure and maintain insurance with coverages, limits, provisions, and/or clauses equal to those required in this Contract;

7. Certificates of insurance must be provided no less than ten (10) Business Days prior to the PPB's execution of the Contract and must bear evidence of all required terms, conditions and endorsements; and provide 30 days' notice of cancellation/material change endorsement.
8. All insurance carriers must be licensed and approved to do business in the State of the PPB along with the Contractor's state of domicile and shall have and maintain a minimum A.M. Best's rating of A- unless otherwise approved by the PPB.

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EXHIBIT III

REQUIREMENTS FOR CONTRACTORS WITH ACCESS TO PPB PII

(Personally Identifiable Information)

Exhibit III governs the requirements for Contractors with Access to Personally Identifiable Information (PII).

1. DEFINITIONS

- 1.1 **Security Breach** means the unauthorized access, acquisition, theft, or disclosure of PII.
- 1.2 **PII** (Personally Identifiable Information) means a name, number, or other information that is used for the purpose of identifying a specific person or providing access to a person's financial accounts, including, but not limited to, a person's name, address, telephone number, driver's license or state personal identification card number, social security number, place of employment, employee identification number, employer or taxpayer identification number, government passport number, health insurance identification number, mother's maiden name, demand deposit account number, savings account number, financial transaction device account number or the person's account password, any other account password in combination with sufficient information to identify and access the account, automated or electronic signature, biometrics, stock or other security certificate or account number, credit card number, vital record, or medical records or information as well as the first name or first initial and last name linked to a social security number, driver's license or state personal identification card or financial account number in combination with a code or password that would permit access to a person's financial account(s) and as otherwise may be defined by state or federal laws governing the unauthorized access to personal information.

2. OBLIGATIONS

- 2.1 Contractor shall not use or disclose PII other than as permitted or required by this Contract or as required by law.
- 2.2 Contractor shall implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of PII that it creates, receives, maintains or transmits on behalf of the PPB.
- 2.3 Contractor shall mitigate, to the extent practicable, any harmful effect known to Contractor of the use or disclosure of PII in violation of law or this Contract.
- 2.4 If Contractor or Contractor Employees discover a Security Breach, Contractor shall notify the PPB without unreasonable delay, but no later than within forty-eight (48) hours of discovery. For this purpose, "discovery" means the first day on which the Security Breach is known to Contractor or Contractor Employee or should have been known by exercising reasonable diligence. Contractor shall

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be deemed to have knowledge of a Security Breach if the Security Breach is known or should have been known by exercising reasonable diligence by any person, other than the person committing the Security Breach. The notification to the PPB shall include the following: (a) describe the Security Breach in general terms; (b) describe the type of personal information that is the subject of the Security Breach; (c) identify each individual whose PII has been breached or has reasonably believed to have been breached; (d) describe in general terms, what Contractor has done to prevent additional Security Breaches; and (e) provide any other available information in Contractor or subcontractor's possession that may be necessary to comply with Security Breach notification laws.

- 2.5 If the PPB determines it will provide the notice of the Security Breach to the affected individuals and/or to governmental authorities, Contractor shall reimburse the PPB for: (a) its costs in notifying the affected individuals; (b) the cost of third-party credit and identify monitoring services to each of the affected individuals with compromised PII for no less than twenty-four (24) months following the date of notification to each individual; and (c) costs associated with the Security Breach, including but not limited to any costs incurred by the PPB in investigating and resolving the Security Breach, including reasonable fees associated with such investigation and resolution. Without limiting Contractor's obligations of indemnification as described in the Contract, Contractor shall indemnify, defend, and hold harmless the PPB 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 PPB in connection with the Security Breach. Contractor shall reimburse PPB for the applicable costs described above within thirty (30) days of receipt of an itemization of costs incurred by the PPB because of the Security Breach.
- 2.6 Within ten (10) calendar days of its discovery of the Security Breach, Contractor shall provide the PPB with a detailed plan describing the measures Contractor will undertake to prevent a future Security Breach. The PPB shall have the right to audit, inspect and test Contractor's new safeguards put in place because of the Security Breach. Contractor shall be responsible for recreating lost PPB Data in the manner and on the schedule set by the PPB without charge to the PPB.

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EXHIBIT VI

**TERRANOVA MASTER SUBSCRIPTION
AGREEMENT**

This Terranova Master Subscription Agreement (the "**Agreement**") is entered into effective as of 6/30/2020 by and between Terranova Worldwide Corporation ("Terranova") having a place of business at 1545, De l'Avenir Blvd., Suite 102, Laval, Quebec, Canada, H7S 2N5 and Oakland County IT having a place of business at 1200 N. Telegraph Road, Pontiac, MI 48341, US ("**Customer**").

PREAMBLE

This Agreement governs the purchase of subscriptions to access to and use the Products and Services (as defined below) by the Customer pursuant to one or more SOWs (as defined below).

INTENDING TO BE LEGALLY BOUND, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

The following terms have the following meanings:

1.1 "**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. For purposes of this definition, "control" means the power to direct or cause the direction of the management or policies of such entity, whether through the ownership of a majority of voting securities, by contract or otherwise.

1.2 "**Agreement**" means this Terranova Worldwide Corporation Master Subscription Agreement.

1.3 "**Authorized Users**" means Customer's or its Affiliates' employees, consultants, contractors, agents, suppliers, or other third parties who are authorized by Customer or its Affiliates to access and use the Products and Services and who have been supplied access credentials for such purpose.

1.4 "**Confidential Information**" has the meaning set out in Section 4.1.

1.5 "**Customer**" means Terranova's customer identified in the header of this document.

1.6 "**Customer Content**" has the meaning set out in Section 3.3.

1.7 "**Customer Data**" means all data submitted, stored, posted, displayed, or transmitted by Customer using the Products and Services.

1.8 "**Disclosing Party**" has the meaning set out in Section 4.1.

1.9 "**Documentation**" means any written or electronic documentation, images, video, text or sounds describing or explaining the functionalities of the Products and Services provided or made available by Terranova to Customer in the applicable Terranova help center(s); provided, however, that Documentation specifically excludes any "community moderated" forums as provided or accessible through such knowledge base(s).

1.10 "**Downloadable Content**" has the meaning set out in Section 2.2.

1.11 "**Effective Date**" means the last (or only) date of the signatures on the Agreement.

1.12 "**Feedback**" has the meaning set out in Section 3.1.

1.13 "**Force Majeure Event**" has the meaning set out in Section 9.10.

1.14 "**Marks**" has the meaning set out in Section 3.2.

1.15 "**Phishing Simulator**" means Terranova's online phishing simulation platform.

1.16 "**Products and Services**" means Terranova's Information Security Awareness program, which is comprised of Terranova's e-learning training modules and assessment materials, online training platform

and the Phishing Simulator, together with such additional content, toolboxes, and services packages that are part of Terranova's offering. The expression "Products and Services" also includes: (a) all proprietary technology (software, hardware, algorithms, code, processes, user interfaces, know-how, techniques, templates, designs and other tangible or intangible technical material or information) of Terranova, its licensors and service providers used by Terranova to provide its online platforms and applications, (b) system administration, system management, and system monitoring activities performed by Terranova in connection with the online platforms and applications made available by Terranova; and

(c) associated technical support and software maintenance regarding such online platforms and applications.

1.17 "**SOW**" means Exhibit IX: Scope of Contractor Deliverables – Security Awareness Training – Statement of Work ("SOW") and any subsequent document added to the Contract through an amendment that adds additional Products and/or Services, and (ii) confirms and documents the quantity, of subscriptions to Products and Services acquired by Customer; and (iii) is subject to this Agreement.

1.18 "**Receiving Party**" has the meaning set out in Section 4.1.

1.19 "**Renewal Term**" has the meaning set out in Section 8.1.

1.20 "**Reseller**" means the Terranova authorized reseller having sold subscriptions to access and use the Products and Services to Customer

1.21 "**Subscription Term**" collectively means the Term and any Renewal Term(s).

1.22 "**Start Date**" means the date indicated on a SOW on which the delivery of Products and Services pursuant to a SOW commences.

1.23 "**Term**" has the meaning set out in Section 9.1.

1.24 "**Terranova Parties**" has the meaning set out in Section 3.1.

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2 PRODUCTS AND SERVICES

21 Provision of Products and Services. Terranova will make the purchased Products and Services available to Customer pursuant to this Agreement and allow the Authorized Users to access and use the Products and Services during the Subscription Term. Customer Affiliates may also purchase Products and Services access and usage rights in accordance with the terms of this Agreement by executing one or more SOWs referencing this Agreement. Terranova may from time to time update the Products and Services but agrees not to make any changes to the Products and Services during the Subscription Term that would result in a material reduction of the content or functionality of the Products and Services. Customer's use of the Products and Services includes the right to access all functionality available in the purchased Products and Services as of the Start Date of the SOW. Subsequent enhancements to the Products and Services made generally available to all subscribing customers will be also made available to Customer at no additional charge. However, it is possible that new features to the Products and Services be marketed separately by Terranova and require the payment of additional fees. Terranova will determine, in its sole discretion, whether access to such new features will require an additional fee. This Agreement will apply to any updates, upgrades and new modules or offerings subsequently provided by Terranova to Customer as part of any purchased Products and Services. Customer may purchase additional Products and Services, such as to allow additional Authorized Users to use the Products and Services, by executing additional SOW. The Subscription Term of such added Products and Services will be coterminous with the then-current Subscription Term as set forth in the SOW.

22 Terms of Use for Downloadable Content. When the Products and Services purchased by Customer contain downloadable content owned by Terranova or its licensors (the "Downloadable Content"), Terranova hereby grants Customer a limited, non-exclusive and non-transferrable right and license to use and reproduce the Downloadable Content during the Subscription Term solely for Customer's internal training purposes and as authorized in the SOW. Notwithstanding the foregoing, Customer does not have the right to modify or create derivative works from the Downloadable Content.

23 Availability. Subject to the terms and conditions set out in Schedule A, Terranova will host and operate the infrastructure to make the Products and Services available to Customer 24 hours a day, 7 days a week within minimal downtime and deploy commercially reasonable efforts to achieve the monthly availability target set out in Schedule A.

24 Technical Support. Terranova will provide technical support services in connection with the purchased Products and Services through email, telephone, and online meetings in accordance with the target response and resolution times described in Schedule A. Support tickets can be initiated by email at the address set out in Schedule A and by such other methods implemented by Terranova from time to time.

25 Use of Customer Data. Subject to this Agreement, including Terranova's confidentiality obligations, Customer hereby grants Terranova a limited, non-exclusive, royalty-free, worldwide license to use the Customer Data and perform such acts with respect to the Customer Data as may be necessary for Terranova to provide the Products and Services to Customer. For clarity, Terranova will not use the Customer Data for any other purposes.

26 Data Security, Privacy and Personal Information Protection. Terranova agrees to maintain administrative, physical and technical safeguards for the protection of the confidentiality and integrity of Customer Data and will process personal information contained in the Customer Data in accordance with the provisions of Schedule B.

27 Customer's Responsibilities.

27.1 Permitted Use; Restrictions. Customer must not allow access to, or use of, the Products and Services by anyone other than Authorized Users. Customer is responsible for its Authorized Users' compliance with this Agreement, for its Authorized Users' use of the Products and Services, and for ensuring that Authorized Users maintain the confidentiality of their access credentials. Customer agrees that it will not: (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time-share or otherwise commercially exploit the Products and Services or make the Products and Services available to any third party, other than to Authorized Users or as otherwise contemplated by this Agreement; (b) use the Products and Services to collect, transmit or process any material that is infringing, obscene, threatening, libelous, or otherwise unlawful or tortious, including material that is harmful to children or violates third party privacy rights; (c) use the Products and Services to send, store, publish, post, upload or otherwise transmit any malware, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another; (d) interfere with or disrupt the integrity or performance of the Products and Services; (e) attempt to gain unauthorized access to the Products and Services or their related systems or networks; (f) use or knowingly permit others to use any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Products and Services; (g) access the Products and Services for the purpose of building a similar or competitive product; (h) copy, translate, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the Products and Services or any part thereof or otherwise attempt to discover any source code or modify the Products and Services.

27.2 Customer Data. Customer is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. Customer represents and warrants that it has obtained all rights, permissions, and consents necessary to the collection, use and transfer the Customer Data within and, when requested by Customer, outside of the country in which Customer is located (or, if the Customer is located within the European Union, outside of the territory of the European Union) in conjunction with Terranova's provision of the Products and Services.

27.3 Usage of Phishing Simulator. If the Products and Services purchased by Customer include the Phishing Simulator, the following terms apply: (a) the Phishing Simulator does not store any information directly provided by users being subjected to simulated phishing attempts. The Phishing Simulator collects such information as the IP address of the user, browser type, operating system, etc., which can then be incorporated in the reports generated by the platform; (b) Customer agrees to use the Phishing Simulator only in compliance with applicable laws, including intellectual property laws. For greater clarity, the Client agrees that, when operating the Phishing Simulator, it will only make use of third-party text, graphic or other protected content with the permission of its owner or pursuant to an exception existing under applicable law, such as fair use, fair dealing or other similar exceptions, that allows for the use of protected content for educational purposes; (c) Customer acknowledges that the Phishing Simulator can only be used for training purposes, with the objective of increasing the awareness of users to phishing attacks; (d) Customer may only use the Phishing Simulator internally, with its employees, and at all times in compliance with its internal policies; (e) Customer may only use the Phishing Simulator to send electronic mail messages to addresses belonging to domains owned by it or under its control.

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28 **Service Providers' Certifications.** The information technology infrastructure used by Terranova to deliver the Products and Services to its clientele is hosted in facilities owned and operated by third-party service providers. While Terranova does not itself conduct the following audits on its own facilities, the providers used by Terranova conduct Service Organization Control SOC 1 and SOC 2 compliance audits with regard to their facilities and operations. While the SOC1/SOC2 reports are usually confidential and have very limited distribution, Terranova normally receives summary versions of such reports for confidential communication to its customers and Terranova agrees to provide such reports in its possession upon demand from Customer.

3 FEES AND PAYMENT TERMS

3.1 **Fees.** Customer agrees to pay the fees specified in all SOWs using one of the payment methods supported by Terranova. Customer agrees to pay Terranova in the currency specified on the SOW. Except as otherwise specified in this Agreement or in a SOW, (i) fees are based on the Products and Services purchased, regardless of actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, regardless of any early termination of this Agreement, (iii) the quantities of Products and Services purchased by Customer cannot be decreased during the relevant Subscription Term on the SOW. All amounts payable under this Agreement will be paid without setoff or counterclaim, and without any deduction or withholding.

32 **Invoices and Payment.** All Products and Services fees will be invoiced in advance and in accordance with the applicable SOW. Except as otherwise set forth in the applicable SOW, Customer agrees to pay all invoiced amounts within 30 days of receipt of invoice.

33 **Suspension of Service.** If any amounts owed by Customer for the Products and Services are forty-five (45) or more days overdue, Terranova may, without limiting Terranova's other rights and remedies, suspend Customer's and its Authorized Users' access to the Products and Services until such amounts are paid in full.

34 **Payment Disputes.** Terranova agrees that it will not exercise its rights under Section 3.4 if the applicable charges are under reasonable and good-faith dispute and Customer is cooperating diligently to resolve the dispute.

35 **Taxes.** The amount of all fees specified in a SOW are exclusive of all taxes, assessments, tariffs, duties or other fees imposed, assessed or collected by or under the authority of any governmental body (collectively, "Taxes") and Customer is solely responsible for the payment of all such Taxes, arising from Terranova's provision of the Products and Services hereunder, except any taxes assessed on Terranova's income or if Customer provides evidence of its status as a tax exempt entity. If Terranova is legally required to collect from Customer and remit Taxes related to Customer's use of the Products and Services hereunder, Customer agrees to promptly reimburse Terranova for any amounts paid by Terranova.

36 **Fees Increase.** " Unless otherwise set out in a SOW (for example, in the case of a multi-year subscription), Terranova may increase the fees it charges Customer annually. Such increase, if any, will not be for more than 2% over the previous year's rates.

4 PROPRIETARY RIGHTS

4.1 **Products and Services.** Terranova, its licensors and service providers (together the "Terranova Parties") own all right, title and interest in and to the Products and Services, including all related intellectual property rights. Terranova reserves all rights not expressly granted to Customer under this Agreement. Neither Customer nor any Authorized User will delete or in any manner alter the copyright, trademark, and other proprietary notices of Terranova appearing on the Products and Services or any portion thereof. Additionally, Terranova can freely and without compensation use suggestions, enhancement requests, recommendations or other feedback provided by Customer and its Authorized Users relating to the Products and Services ("Feedback"), and Customer hereby grants Terranova an irrevocable, worldwide, royalty-free right to use or implement all Feedback (or any portion of it), including all intellectual property rights associated with it.

42 **Customer Data and Content.** As between Terranova and Customer, Customer is the exclusively owner of all right, title and interest in and to the Customer Data and of all text, images, audio or video materials, trademarks and other materials provided or created by the Customer (the "Customer Content") including all intellectual property rights therein. Customer Data and Customer Content are deemed Confidential Information of Customer under this Agreement.

43 **Statistical Information.** Terranova may monitor Customer's use of the Products and Services and use data related to Customer's use in an aggregate and anonymous manner, including to compile statistical and performance information related to the provision and operation of the Products and Services or to support benchmarking or other similar current or future features of the Products and Services. Customer agrees that Terranova may make such aggregated and anonymous information publicly available, provided that such information does not incorporate any Customer Data and/or identify Customer or its Confidential Information. Terranova is the owner and retains all intellectual property rights in such statistical and performance information.

5 **CONFIDENTIALITY** The requirements for Confidential Information are covered in Section 11 of the Contract.

6 WARRANTIES; DISCLAIMERS

6.1 **Warranties** Each party warrants that it has the legal authority to enter into this Agreement. Terranova warrants to Customer that the Products and Services will (i) materially conform with the relevant Documentation, (ii) not infringe the copyrights or patents of third parties and (iii) shall be performed in compliance with all applicable laws, statutes, regulations, ordinances, and professional standards.

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62 **Disclaimers** The warranties for the products and services are set out in section 6.1. Thus, except when otherwise stipulated in paragraph 6.1, the Terranova Parties do not formulate any other guarantees in. Without limiting the foregoing, except as expressly set out in section 6.1, and to the maximum extent permitted by applicable law, the Terranova parties expressly disclaim all implied warranties. The Terranova parties do not represent or warrant that: (a) the use of the products and services will be timely, uninterrupted or operate in combination with any other hardware, software, system or data; (b) the products and services will meet customer's requirements or expectations; (c) the products and services will be error-free or that all errors or defects in the products and services will be corrected; or (d) the products and services or the server(s) that make the products and services available are free of malware or other harmful components. The products and services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. The Terranova parties are not responsible for any delays, delivery failures, or other damages resulting from such problems.

7 INDEMNIFICATION

7.1 **Indemnification by Terranova.** Terranova, at its expense, will defend and pay any settlement amounts and damages, costs and expenses (including reasonable attorneys' fees) awarded by a court of final jurisdiction arising out of any third-party claim, suit or proceeding alleging that Customer's use of the Products and Services in accordance with this Agreement infringes a third party's copyright or patent issued as of the Effective Date. The foregoing obligations do not apply with respect to a claim of infringement if such claim arises out of (i) Customer's use of infringing Customer Data (ii) use of the Products and Services in combination with any software, hardware, network or system not supplied by Terranova where the alleged infringement relates to such combination, (iii) any modification or alteration of the Products and Services other than by Terranova, or (iv) Customer's continued use of the Products and Services after Terranova notifies Customer to discontinue use because of an infringement claim. If any claim which Terranova is obligated to defend has occurred, or in Terranova's determination is likely to occur, Terranova may, in its sole discretion and at its option and expense (a) obtain for Customer the right to use the allegedly infringing item, (b) substitute a functionally equivalent, non-infringing replacement for such item, (c) modify such item to make it non-infringing and functionally equivalent, or (d) terminate this Agreement and refund to Customer any prepaid amounts attributable to the period of time between the date Customer was unable to use the Products and Services due to such claim and the remaining days in the then-current Subscription Term.

7.2 **Conditions.** Terranova's obligations under this Section 7 are contingent upon the Customer y (i) giving prompt written notice of any claim under this Section, (ii) giving Terranova sole control of the defense or settlement of the claim, and (iii) cooperating in the investigation and defense of such claim(s). Terranova must not settle or consent to judgment in any such claim that adversely affects the rights or interests of the Customer or imposes additional obligations on the Customer, without the prior express written consent of the Customer. The rights and remedies set forth in this Section 7 are the sole obligations of the Terranova and exclusive remedies available to the Customer in the event of an applicable

9.4 **Retrieval of Customer Data.** In the event of termination or expiration of the Subscription Term under a Purchase Agreement and provided no amount is then

third-party claim.

8 LIMITATION OF LIABILITY

8.1 **Limitation of Liability.** Except as set out in section 8.3 below, in no event will either party's liability arising out of or related to this agreement, whether pursuant to contractual or extracontractual liability, tort or under any other theory of liability, exceed the amount paid to Terranova by customer in the twelve (12) months preceding the incident giving rise to such liability. The foregoing does not limit customer's payment obligations under section 3.

8.2 **Exclusion of Consequential and Related Damages** Except as set out in section 8.3 below, in no event will either party be liable to the other party for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with the Products and Services and/or this Agreement, including but not limited to the use or inability to use the Products and Services, or for any content obtained from or through the Products and Services, any interruption, inaccuracy, error or omission, regardless of cause, even if Terranova and/or its licensors have been previously advised of the possibility of such damages or could have reasonably foreseen them.

8.3 **Exceptions.** The limitations and exclusions of sections 8.1 and 8.2 above do not apply to any liability resulting from Terranova's indemnification obligations or breach of confidentiality.

9 TERM AND TERMINATION

9.1 **Term of Subscriptions to Products and Services.** This Agreement commences as of the Effective Date and remains in force until the expiration or termination of the Contract. Customer's right to access and use the Products and Services pursuant to a SOW begins on the Start Date and continues for the duration specified in such SOW, which cannot be less than 1 year (the "Term"). At the expiration of the Term, each SOW will automatically renew for successive additional periods of one (1) year each (each, a "Renewal Term") unless either party notifies the other of its intention not to renew such SOW at least 60 days before the expiration of the Term or Renewal Term, as the case may be but in no event may the term continue beyond the Expiration Date listed on the first page of the Contract unless the Parties amend the Contract or enter into a new Contract to extend the expiration date.

9.2 **Termination for Cause.** This Agreement may be terminated by either party for cause as follows:

(i) upon thirty (30) days written notice if the other party breaches or defaults under any material provision of this Agreement and does not cure such breach prior to the end of such thirty (30) day period, (ii) effective immediately and without notice if the other party ceases to do business, or otherwise terminates its business operations, except as a result of an assignment permitted hereunder. Terranova may temporarily cease performance of its obligations during any Customer cure period.

9.3 **Effect of Termination.** Upon termination of this Agreement: (i) Customer's and the Authorized Users' right to access and use the Products and Services, including all Downloadable Content, will terminate immediately, and (ii) Customer must permanently destroy all copies of Downloadable Content and upon request certify in writing that no copies have been retained by it.

owed to Terranova by Customer, upon Customer's request made within 30 days after the applicable date of termination or expiration, Terranova will make

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Customer Data available for download by Customer in the applicable format. After such 30-day period, Terranova will have no obligation to maintain or provide any Customer Data and will thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

95 **Survival.** Except to the extent expressly provided to the contrary herein, Sections 4 through 10 will survive the termination of this Agreement.

10 GENERAL

101 **Audit.** Audit Regarding Use of Downloadable Content. If requested by Terranova not more than once a year, Customer agrees to allow Terranova to perform an audit ("Audit") at the Customer's headquarters or where the Downloadable Content is used, during normal business hours to ensure compliance with the terms of this Agreement. Terranova must provide a written thirty (30) day notice prior to the onsite Audit. Customer agrees to reasonably cooperate during any such Audit and provide reasonable access to its information and systems. Customer agrees to pay any underpaid fees exposed by an Audit and if an Audit reveals that Customer has materially failed to comply with its obligations pursuant to this Agreement (including an underpayment of 5% or more), then Customer agrees to also pay Terranova's reasonable costs of conducting the Audit. Additionally, if requested by Customer not more than once a year and upon 30 days' written notice (except following a Terranova security incident or breach), Terranova agrees to allow Customer to perform an Audit to ensure compliance with the terms of this Agreement. Terranova agrees to cooperate during any such Audit and provide reasonable access to its information and systems.

102 **Relationship.** Terranova and Customer are independent contractors, and this Agreement does not create a partnership, joint venture, employment or agency relationship between the parties. This is a non-exclusive arrangement.

103 **Entire Understanding; Modifications** This Agreement constitutes the entire agreement between the parties concerning the Products and Services provided under this Agreement and supersedes all prior and contemporaneous agreements, proposals or representations, oral or written, regarding the subject matter covered by this Agreement. To the extent of any conflict or inconsistency between the provisions of this Agreement and those of Exhibit XI, the terms of this Agreement will prevail unless the parties clearly indicate their intent to supersede the terms of this Agreement. Notwithstanding any language to the contrary therein, no terms or conditions stated in Customer's purchase order or in any other ordering documentation will be incorporated into or form any part of this Agreement, and all such terms or conditions will be null and void.

104 **Waiver.** No waiver of any breach of this Agreement, and no course of dealing between the parties, will be construed as a waiver of any subsequent breach of this Agreement.

10.5 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the provision will be modified and interpreted by the court so as best to accomplish the intent of the original provision. The invalidity or unenforceability of any provision will not affect any of the other provisions of this Agreement.

10.6 Publicity. After obtaining Customer's written consent, Terranova may reference and use Customer's name and may disclose the nature of the Products and Services provided hereunder in Terranova business development and marketing efforts, including without limitation its web site.

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SCHEDULE A

Service Levels

1 SERVICE LEVELS

1.1 Response and Resolution Times

Help desk response time and resolution of problems will be measured for issues placed by Customer to Terranova's help desk by telephone call (1-866-889-5806 ext. 500) or email (support@terrnovasecurity.com) each calendar quarter.

Terranova's target response time to issues will be measured as the time between the reception of a live call or email and the moment Terranova starts effectively working on its resolution during regular business hours (Monday to Friday, 8:30am to 5pm Eastern Time – GMT-5).

Terranova's target resolution time of problems reported will be measured as the time between the moment Terranova starts effectively working on its resolution by Terranova and the implementation by Terranova of a fix or workaround for the problem reported.

The Service Level for response and resolution times are:

Severity	Target Response Time	Target Resolution Time*
1 – High	2 hours	2 Business Days
2 – Medium	3 hours	3 Business Days
3 - Low	4 hours	5 Business Days

Elapsed time does not include the time Terranova is waiting for customer input for resolution.

For the purposes of this Section, the severity level and corresponding description referred to in the table above have the following meanings:

Severity 1 - High - A Severity 1 Problem arises when the online training platform or Phishing Simulator cannot be accessed or are unable to function properly and no workaround is immediately available.

Severity 2 - Medium - A Severity 2 Problem arises when a major feature or functionality of the online training platform or Phishing Simulator is not available or not functioning properly and their use is severely reduced or impacted.

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Severity 3 - Low - A Severity 3 Problem arises when a minor problem exists with the online training platform or Phishing Simulator and a workaround is available.

1.2 Issue Escalation. In the event Terranova fails to meet a response or resolution time set forth above or fails to meet the Availability Target for 2 consecutive quarters, Customer may escalate the issue to the relationship managers identified below and thereafter to the senior management identified below:

- 1st escalation step: Stéphanie Ouellette
Chief Customer Officer (CCO)
Stephanie.ouellette@terrانovasecurity.com
- 2nd escalation step: Lise Lapointe
Chief Executive Officer (CEO)
Lise.lapointe@terrانovasecurity.com

Terranova will promptly respond to any Issue Escalation raised by Customer and use good faith efforts to promptly resolve any issues raised by Customer.

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1.2 **Availability.** Terranova will make the Products and Services available at least 99.9% of the time ("**Availability Target**"), except as provided below. Availability will be calculated per calendar quarter, as

$$\frac{\text{(Total-Downtime)}}{\text{Total}} * 100 \geq \text{Availability Target}$$

Where:

- "**Total**": means the total number of minutes in the calendar quarter minus the number of minutes of Excluded downtime during such quarter;
- "**Excluded**" means:
 - Any planned downtime; Terranova will use commercially reasonable efforts to schedule all planned downtime during 5PM to 8 AM on Saturdays (in the relevant datacenter's time zone); and
 - Any unavailability caused by a problem by a Force Majeure Event.
- "**Downtime**": means downtime that is not Excluded.

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SCHEDULE B

Privacy and Personal Information Protection

Under this Schedule B and applicable laws regulating the Processing of Personal Information ("**Applicable Privacy Laws**"), Customer is the data controller and Terranova is the data processor.

Customer and Terranova warrant that they will comply with all obligations under Applicable Privacy Laws in connection with the Processing of Personal Information that is collected by or disclosed to it under the Agreement.

7. DEFINITIONS.

The terms "**Personal Information**", "**Process**" and "**Processing**" have the meaning under Applicable Privacy Laws, and "**Customer Personal Information**" means Personal Information disclosed to Terranova by Customer, including all Personal Information about or concerning Authorized Users.

Unless otherwise specifically provided, all terms with a capital letter have the same meaning than under the Agreement. If a term is not defined, it will have the meaning given under Applicable Privacy Laws.

- Subject matter and Purpose of the processing:
 - Where the Customer has purchased the Training Platform, Terranova will process the data provided by the Customer for the purpose of providing Customer and Customer's employees access to a web-based training platform. The Training Platform enables Customer to send security awareness training to employees, track attendance and quiz results, and reporting.
 - Where the Customer has purchased the Phishing Platform, Terranova will process the data provided by the Customer for the purpose of providing Customer and Customer's employees access to a Phishing Platform. The Phishing Platform enables Customer to send simulated phishing messages and just-in-time training to employees, track simulation results and reporting.
 - Where the Customer has purchased Professional and/or Managed Services, Terranova will process the data provided by the Customer for the purpose of providing all or some of the activities in any of the two products described above on behalf of the Customer, as set forth in this agreement.
- Duration of the processing: During the Subscription Term.
- Type of Personal Information processed: Professional coordinates (name, physical and email addresses, phone number, etc.) of Authorized Users.
- Categories of data subject: Employees and contractors of Customer and third-party business and personal contacts.

8. DATA PROCESSING OBLIGATIONS

Terranova agrees that, in relation to Customer Personal Information, it must (a) only Process it for the purposes of providing the functionality of the Products and Services to Customer; (b) not disclose Customer Personal Information to any other person without Customer's prior written consent, unless the disclosure is required by applicable law (and Terranova immediately notifies Customer, unless such notification is prohibited by that law); (c) take appropriate action to ensure any Terranova personnel who Process Customer Personal Information understand and comply with the Terranova's privacy and confidentiality obligations under the Agreement and this Schedule; (d) upon request, provide all reasonable assistance to Customer to facilitate the exercise of rights of Data Subjects; (e) provide information reasonably required by Customer to meet its obligations under Applicable Privacy Laws and to demonstrate compliance with this Schedule; and (f) promptly notify Customer as soon as it has received a complaint from any individual regarding the way his or her Personal Information has been processed and cooperate when Customer is investigating any claim related to individual complaints.



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9. PERSONAL INFORMATION TRANSFERS

Terranova must not transfer the Customer Personal Information outside of the country where it is hosted as of the Start Date, unless approved in writing by Customer. If the Customer Personal Information is hosted in the territory within the European Union on the Start Date, Terranova will not transfer the Customer Personal Information outside the territory of the European Union, unless authorized in writing by the Customer.

10. INFORMATION SECURITY AND BREACH NOTIFICATION.

4.2. Terranova has put into place and agrees to maintain during the Subscription Term appropriate, technical and organizational measures to secure Customer Personal Information, having regard to the risk of accidental or unauthorized access, loss, destruction, misuse, modification, disclosure or damage to Personal Information

(D) If Terranova has knowledge of any (i) accidental loss or destruction of, or unauthorized disclosure of or access to Customer Personal Information; or (ii) data security breach on any of the systems used in the provision of the Products and Services, Terranova must (A) expeditiously report such incident to Customer; (B) mitigate, to the extent practicable, any harmful effect of such disclosure or access that is known to Terranova or its subcontractors; cooperate with Customer in providing any notices to affected individuals regarding the incident, as directed by Customer; and (D) cooperate with any investigation into the incident that is subsequently undertaken by any data privacy authority, in consultation with Customer.

- Terranova's contact: Jamal Elachqar
Chief Technology Officer
jamal@terrnovasecurity.com

- Customer's contact:

11. COMPLIANCE

Terranova will provide Customer (and its auditors and other advisers) with all reasonable co-operation and assistance in relation to any compliance request pursuant to this Schedule B, including as a result of a request by any regulatory body.

12. SUB-CONTRACTORS

In the event Terranova wishes to delegate the Processing of Customer Data to a sub-contractor or change a previously appointed sub-contractor, Terranova will provide a notice of such appointment or change in appointment to Customer. All sub-contractors retained by Terranova and having access to unencrypted Customer Personal Information will be retained pursuant to written agreements providing terms and obligations equivalent to that of this Schedule B and the relevant portions of the Agreement.