REQUEST FOR PROPOSAL

DPS 19-101

DATE Issued: 08/17/18

The State of Ohio, through the Ohio Department of Public Safety (ODPS), is requesting a proposal for:

ODPS ePayment Gateway

Signed proposals must arrive by 3:00 p.m. September 14, 2018

Send to:
Jeffrey S. Shadburn
Chief, Procurement Services / BID 19-101
Ohio Department of Public Safety
1970 W. Broad St., 5th Floor
Columbus, Ohio 43223
614-752-7876 (phone)

Bids will be accepted by mail or dropped off to the ODPS facility Mail Room on the South end of the Building.

Faxed and e-mail quotations will not be accepted.

Estimated Schedule:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP Release</td>
<td>August 17, 2018</td>
</tr>
<tr>
<td>Inquiry Period Begins</td>
<td>August 17, 2018</td>
</tr>
<tr>
<td>Inquiry Period Ends</td>
<td>September 10, 2018 at 8:00 a.m. EST</td>
</tr>
<tr>
<td>RFP opening</td>
<td>September 17, 2018 at 3:00 p.m. EST</td>
</tr>
<tr>
<td>Evaluations / Interviews Conducted</td>
<td>September 17 thru October 26, 2018</td>
</tr>
<tr>
<td>Anticipated Award Date</td>
<td>December 20, 2018</td>
</tr>
<tr>
<td>Pre-Proposal Bid Conference</td>
<td>August 28, 2018</td>
</tr>
</tbody>
</table>

Pre-Proposal Bid Conference  August 28, 2018 1:30 PM

- The Pre-Proposal Bid Conference is scheduled for Tuesday August 28, 2018 1:30PM EST. All attendees will be required to sign in upon arrival at the ODPS security desk. The conference will begin at 1:30 PM. It is scheduled from 1:30 PM until 3:00 PM. Vendors would park in the main (south) parking lot and would enter at the main ODPS entrance to sign in.

- Ohio Department of Public Safety (ODPS), 1970 West Broad Street, Columbus, Ohio 43223. Conference room: Shipley Conference Center.

- Registration for the Pre-Proposal Bid Conference: Send email to vltran@dps.ohio.gov. Please include the name of agency and contact information (Name, phone numbers, and email addresses) for all attendees. Registration for the Pre-Proposal Bid Conference will end on Friday August 24, 2018 at 3:00 p.m.
INQUIRIES

Offerors may make inquiries regarding this RFQ any time during the inquiry period listed in Estimated Schedule.

To make an inquiry, offerors must use the following process:


2. From the Quick Links menu on the right, select “Bid Opportunities Search”

3. In the “Document/Bid Number” field, enter the RFP number found on the first page of this RFP

4. Offerors may make inquiries regarding this RFP anytime during the inquiry period listed in the Calendar of Events.

5. To make an inquiry, offerors must use the following process:

6. Select “Request for Proposals” from the Opportunity Type dropdown;

7. Click the “Search” button;

8. On the Opportunity Search Results page, click on the hyperlinked Bid Number;

9. On the Opportunity Details page, click the “Submit Inquiry” button;

10. On the document inquiry page, complete the required “Personal Information” section by providing:

11. First and last name of the prospective offeror’s representative who is responsible for the inquiry,

12. Name of the prospective offeror,

13. Representative’s business phone number, and Representative’s email address;

14. Type the inquiry in the space provided including: A reference to the relevant part of this RFP,

15. The heading for the provision under question, and the page number of the RFP where the provision can be found; and Enter the Confirmation Number at the bottom of the page.

16. Click the “Submit” button.

17. Offerors may view inquiries and responses on the State’s Procurement Website by using the “Bid Opportunities.”

18. Search” feature described above and by clicking the “View Q & A” button on the document information page.

19. The State usually responds to all inquiries within three business days of receipt, excluding weekends and State holidays. But the State will not respond to any inquiries received after 8:00 a.m. on the inquiry end date.
20. Offerors submitting inquiries will receive an immediate acknowledgement that their inquiry has been received as well as an e-mail acknowledging receipt. Offerors will not receive a personalized e-mail response to their question, nor will they receive notification when the question has been answered.

21. Offerors may view inquiries and responses at:
All inquiries should be submitted a minimum of five (5) working days prior to the bid opening date through the Procurement website, http://procure.ohio.gov/.

Locate the “Quick Links” menu on the right, select “Bid Opportunities Search”
- Step 1, enter the “Bid Number”
- Step 2, click “Search”;
- Step 3, click the “Document/Bid Number.” The “Submit Inquiry” button is at the bottom right of the Opportunity Detail page.

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General Instructions for Proposal Submittal

Proposal Submittal. Each offeror must submit a technical section and a cost section as part of its total Proposal before the opening time on the Proposal due date. The Offeror must submit the technical section as a separate package from the cost section of its Proposal, and each section must be submitted in its own separate, opaque package. The package with the technical section of the Proposal must be sealed and contain one originally signed technical section and five (5) copies of the technical section, and the package with the cost section also must be sealed and contain two (2) complete copies of the cost section of the Proposal. Further, the offeror must mark the outside of each package with either “ODPS EPayment Gateway #RFP 19-101 Technical Proposal” or “IT EPayment Gateway #RFP 19-101 – Cost Summary,” as appropriate.

Included in each sealed package, the offeror also must provide an electronic copy of everything contained within the package on CD-ROM in Microsoft Office, Microsoft Project, and Adobe Acrobat format, as appropriate. If there is a discrepancy between the hard copy and the electronic copy of the Proposal, the hard copy will control, and the State will base its evaluation of the offeror’s Proposal on the hard copy.

1. Proposal:
   - Offeror will complete the Proposal in the order and layout of the following scoring matrix.
   - The Offeror will tab each section of the requirements to make the flow of scoring the proposals uniform.
   - If the Offeror chooses to include their technical/reference materials in their responding proposal, the Offeror may reference/note to the section and page numbers in the “Offeror Narrative and Response” of the scoring matrix table.

2. Proposed Cost Summary:
   - The Offeror will complete the Cost proposal in the format provided of the table provided in the Cost Proposal section.
   - Additional lines may be addition to accommodate other line items not listed.
   - ODPS will not be liable for any costs that the Offeror does not identify in its response to this RFP.
   - The Offeror must identify all costs associated with performing the work.
   - Discounts to the state maybe included in additional line items or in a separate attached form.

Proposals are due no later than 3:00 p.m. (Columbus, Ohio local time) on the Proposal due date. Proposals submitted by email, fax or other electronic means are not acceptable, and the State may reject them. Offerors must submit their Proposals to:

Jeffrey S. Shadburn
Chief, Procurement Services / BID 19-101
Ohio Department of Public Safety
1970 W. Broad St., 5th Floor
Columbus, Ohio 43223
<table>
<thead>
<tr>
<th></th>
<th>ACRONYM</th>
<th>EXPLANATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>AAMVA</td>
<td>American Association of Motor Vehicle Administrators</td>
</tr>
<tr>
<td>2</td>
<td>ACH</td>
<td>Automated Clearing House</td>
</tr>
<tr>
<td>3</td>
<td>API</td>
<td>Application Programming Interface</td>
</tr>
<tr>
<td>4</td>
<td>BASS</td>
<td>Business Application Services System</td>
</tr>
<tr>
<td>5</td>
<td>BMV</td>
<td>Bureau of Motor Vehicles</td>
</tr>
<tr>
<td>6</td>
<td>CID</td>
<td>Card Identification Number</td>
</tr>
<tr>
<td>7</td>
<td>CNP</td>
<td>Card not Present</td>
</tr>
<tr>
<td>8</td>
<td>CSC</td>
<td>Card Security Code</td>
</tr>
<tr>
<td>9</td>
<td>CTL</td>
<td>Contactless</td>
</tr>
<tr>
<td>10</td>
<td>CVC</td>
<td>Card Verification Code</td>
</tr>
<tr>
<td>11</td>
<td>CVD</td>
<td>Card Verification Data</td>
</tr>
<tr>
<td>12</td>
<td>CVV2</td>
<td>Card Verification Value 2</td>
</tr>
<tr>
<td>13</td>
<td>DDA</td>
<td>Demand Deposit Account</td>
</tr>
<tr>
<td>14</td>
<td>DL</td>
<td>Driver's License</td>
</tr>
<tr>
<td>15</td>
<td>DR</td>
<td>Deputy Registrar (BMV Office)</td>
</tr>
<tr>
<td>16</td>
<td>EMV</td>
<td>Europay, MasterCard and Visa</td>
</tr>
<tr>
<td>17</td>
<td>ID</td>
<td>Identification</td>
</tr>
<tr>
<td>18</td>
<td>IRP</td>
<td>International Registration Plan</td>
</tr>
<tr>
<td>19</td>
<td>IVR</td>
<td>Interactive Voice Response</td>
</tr>
<tr>
<td>20</td>
<td>NACHA</td>
<td>National Automated Clearing House Association</td>
</tr>
<tr>
<td>21</td>
<td>NFC</td>
<td>Near-Field Communication</td>
</tr>
<tr>
<td>22</td>
<td>ODPS</td>
<td>Ohio Department of Public Safety</td>
</tr>
<tr>
<td>23</td>
<td>OPLATES</td>
<td>Ohio Public Licensing Access Through Electronic Services</td>
</tr>
<tr>
<td>24</td>
<td>OSHP</td>
<td>Ohio State Highway Patrol</td>
</tr>
<tr>
<td>25</td>
<td>OTC</td>
<td>Over the Counter</td>
</tr>
<tr>
<td>26</td>
<td>PA DSS</td>
<td>Payment Application Data Security Standard</td>
</tr>
<tr>
<td>27</td>
<td>PCI DSS</td>
<td>Payment Card Industry Data Security Standards</td>
</tr>
<tr>
<td>28</td>
<td>PIN</td>
<td>Personal Identification Number</td>
</tr>
<tr>
<td>29</td>
<td>PISG</td>
<td>Private Investigator/Security Guard Services</td>
</tr>
<tr>
<td>30</td>
<td>POS</td>
<td>Point of Sale</td>
</tr>
<tr>
<td>31</td>
<td>QIR</td>
<td>Qualified Integrator and Reseller</td>
</tr>
<tr>
<td>32</td>
<td>RFID</td>
<td>Radio-Frequency Identification</td>
</tr>
<tr>
<td>33</td>
<td>RFP</td>
<td>Request for Proposal</td>
</tr>
<tr>
<td>34</td>
<td>SSN</td>
<td>Social Security Number</td>
</tr>
<tr>
<td>35</td>
<td>SST</td>
<td>Self-service Terminals</td>
</tr>
<tr>
<td>36</td>
<td>VR</td>
<td>Vehicle Registrations</td>
</tr>
</tbody>
</table>
1. **Purpose**

The Ohio Department of Public Safety (ODPS) is issuing this Request for Proposal (RFP) for a vendor hosted total enterprise ePayment Gateway Solution that supports and enables ePayments in a High Availability mode, along with disaster recovery and a minimum monthly uptime time of 99.95% and with a minimum capacity of 10k simultaneous transactions. The selected Offeror must supply, install, integrate and maintain the Solution in its entirety and support end-user issue escalations on day-to-day operations.

**Uptime calculation:**

\[
\text{Monthly Uptime} \% = \frac{\text{Maximum Available Minutes} - \text{Unscheduled Downtime}}{\text{Maximum Available Minutes}} \times 100
\]

The goal of the ODPS is to consolidate all Automated Clearing House (ACH), Credit Card, Debit Card, PIN and PIN-less Debit, and other payment transaction types (i.e. Google Pay, Apple Pay, and PayPal) to support ODPS systems, processes, and business units. The preferred solution requires the Offeror to be responsible for paying all costs (including POS hardware) associated with the acceptance of Credit Card and Debit Card transactions, through the use of a service fee that is paid by the customer, thus resulting in a “No Cost” solution to the ODPS. For ACH transactions, a volume based fee structure is acceptable to ODPS as billed per ACH transaction. A listing of our business units, transaction types, and processing volumes can be found in **EXHIBIT B – ODPS Transactions and Revenue**.

For future functionality and integration, the Offeror will make available resources to work with ODPS to integrate their ePayment Gateway Solution into any ODPS application not currently accepting credit or debit cards along with self-service smart terminals (SST), if such rollout requires integration.

2. **Broad Scope of Work**

The Offeror must act as a System Integrator for providing an end-to-end ePayment Gateway Solution that supports and enables ePayments for ODPS, including, but not limited to providing of the required hardware, operating system, application software, database, middleware, and third party utilities (if any). Also included is the installation, all testing (to include a “test” credit card for all production testing), commissioning, warranty, annual maintenance, required/guaranteed uptime, etc. with regards to the primary site as well as disaster recovery site with a minimum uptime time of 99.95% and support a minimum of five million transactions annually.

The Offeror’s Solution must be vendor hosted, operated, maintained, scalable, and secure. The ePayment service must process payments on various platforms ranging from traditional desktop and mobile Web-Based to Over the Counter (OTC) Point of Sale (POS) terminals. The required OTC POS solution must include Europay, MasterCard and Visa (EMV) compatible terminals. Online Web transactions and Interactive Voice Response (IVR) Solutions must support ODPS business unit systems and processes.
The solution must be seamless and easy to use for the end user, easily integrated with all ODPS business unit proprietary and customized systems, configurable, and scalable. The service provided must be provided in accordance with all applicable Credit Card, Debit Card, ACH transaction security rules and regulations including payment card industry, data security standards, Payment Application Data Security Standard, and National Automatic Clearing House Association (PCI DSS, PA DSS, NACHA) compliance, all laws, and any other governing authority requirements as may apply. The Offeror must be able to process various card - credit and debit / Internet Banking/ Wallet transaction on various channels like Web, Mobile, IVR, etc.

The Offeror must offer convenient reporting via a web interface to various reports online/ offline/ real time business unit settlement / usage/ charge back claims, status, transaction status / summary, etc. and admin interface for parameterization, monitor, control, etc. should be the feature of the solution.

Describe in detail, the offeror’s integration of Fraud Risk Management Monitoring Solution into their services. The selected Offeror must demonstrate the technical and resource capacity to select equipment, process financial transaction devices through Processors, provide transactional reporting, and interface into the ODPS’s proprietary and customized systems, including Business Application Services System (BASS) and other ODPS applications, including those accessed by the public via the Internet.

3. ODPS Mandatory Requirements

The offeror must show supporting evidence of meeting the following mandatory requirements in their response for this RFP:

a) Experience:

The Offeror must have a minimum of 24 months of experience with over-the-counter transactions AND 36 months of experience with web-based transactions with respect to implementing and supporting electronic payment applications for a variety of governmental and non-governmental organizations.

1. Describe and demonstrate the offeror’s experience with developing and implementing an over the counter solution.
2. Provide a detailed summary of the number of years of experience in ePayment Gateway and OTC services.

b) Capability:

The Offeror Solution must support the following transactions:

1. EMV Credit/Debit Card, PIN and PIN-less Based, POS OTC/card present (face to face).
2. Web-Based card not present (CNP) Payment Processing.
3. ACH Payment Processing.

Current ODPS business units and payment methodology:
<table>
<thead>
<tr>
<th>ODPS Business Units</th>
<th>Payment Acceptance</th>
<th>Application Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy Registrar Locations</td>
<td>Credit/Debit Card, PIN, PIN-less Debit</td>
<td>Over the counter</td>
</tr>
<tr>
<td>OPLATES</td>
<td>Credit Card and ACH</td>
<td>Web based</td>
</tr>
<tr>
<td>Abstracts (VR Only)</td>
<td>Credit Card and ACH</td>
<td>Web based</td>
</tr>
<tr>
<td>Dealers</td>
<td>ACH only</td>
<td>Web based</td>
</tr>
<tr>
<td>Drivers Training</td>
<td>ACH only</td>
<td>Web based</td>
</tr>
<tr>
<td>Scrap Metal &amp; Bulk Container Dealers</td>
<td>Credit Card and ACH</td>
<td>Web based</td>
</tr>
<tr>
<td>Private Investigator/Security Guards</td>
<td>Credit Card and ACH</td>
<td>Web based</td>
</tr>
<tr>
<td>Reinstatement Fee Payments</td>
<td>Credit Card only</td>
<td>Web based</td>
</tr>
<tr>
<td>Return Payments (Bad Check Payments)</td>
<td>Credit Card only</td>
<td>Web based</td>
</tr>
<tr>
<td>Crash Reports (OSHP)</td>
<td>Credit Card only</td>
<td>Web based</td>
</tr>
<tr>
<td>Motorcycle Ohio</td>
<td>Credit Card only</td>
<td>Web based</td>
</tr>
<tr>
<td>IRP (Commercial Truck &amp; Trailers)</td>
<td>Credit Card and ACH</td>
<td>Web based</td>
</tr>
<tr>
<td>IVR-OPLATES</td>
<td>Credit Card and ACH</td>
<td>Telecommunications</td>
</tr>
<tr>
<td>IVR-Reinstatement Fee Payments</td>
<td>Credit Card only</td>
<td>Telecommunications</td>
</tr>
<tr>
<td>Prepaid Abstracts Accounts (tentative fall 2018)</td>
<td>Payment type and go live dates have not been established</td>
<td>Web based</td>
</tr>
</tbody>
</table>

4. Offerors will provide a statement describing the number, time, volume, and nature of any clients that are similar in size to ODPS. Examples of experiences will include POS OTC, IVR, Web-Based, Near-field communication (NFC)/ Contactless (CTLS) payment systems.

c) Interface:

The Offeror must provide a seamless transaction solution, from the end user experience. For OTC transactions, the cashier must remain in BASS to process the transaction (it is acceptable for the offeror’s solution to be served up in a BASS ‘frame’). However, switching between BASS and another application to process the payment is not acceptable.

1. Demonstrate the technical capability and resource capacity to select equipment, process financial transaction devices through Processors, provide transactional reporting, and interface into the ODPS business unit proprietary and customized software system, including BASS.

(BASS) is an in-house developed Web-Based computer system used by the Bureau of Motor Vehicles’ (BMV) Deputy Registrars (DR) to issue DL and ID cards and Vehicle Registrations (VR). The multi-server system interfaces with many other ODPS systems for supporting services, as well as multiple American Association of Motor Vehicle Administrators (AAMVA) systems for national driver and SSN information. It was built using Microsoft Web-Based (.NET) technologies.
d) Funds Settlement:

The Offeror’s solution must have the ability to provide a three (3) part settlement process for ODPS OTC transactions, (See Exhibit C - Settlement Illustration).

1. Settlement part 1. **Vendor Bank Account** - All credit card transaction revenue settles directly to vendor bank account. Funds are then transferred after settlement to the appropriate bank account.

2. Settlement part 2. **ODPS Account** - Vendor sends funds owed to the state via daily ACH transfer.

3. Settlement part 3. **DR Accounts** - Vendor sends funds owed to 188 individual Deputy Registrar locations via daily ACH transfers.

The ePayment solution must also be able to work with any third party payment Processor the State may use for payment authorization and settlement. Currently the payment processor is Worldpay.

Depending on the transaction type (card-present vs card-not-present) the Offeror must settle all credit card transaction funds into a state approved checking account (DDA), or into Offeror owned United States bank account (DDA) that is collateralized per Ohio Revised Code (ORC) 135. The Offeror account must be designated for ODPS funds only, and allow ODPS fiscal contacts online (view only) access to verify card deposits.

4. Describe the offeror’s solution to migrate existing payment applications to the new payment platform with minimal disruption to ODPS applications and operations.

e) Compliance:

The Contractor must perform all work of this RFP, process all transactions, and keep all State data within the United States. ODPS shall reject any Proposal that proposes to do any work or make State data available outside the United States. ODPS also shall reject any Proposal for which the Contractor has not submitted the affirmation and disclosure form EXECUTIVE ORDER 2011-12K representing that it will ensure that all work on this RFP will be done within the United States and that all State data will remain in the United States. Additionally, the Contractor must provide written notification for approval if at any time the location of work or data changes.

The Offeror’s solution must meet all Credit Card, Debit Card, ACH transaction security rules and regulations including PCI DSS, PA DSS, EMV, NACHA compliance, all laws, and any other governing authority requirements as may apply.

1. Provide the frequency of independent PCI compliance audits with a copy of your most recent assessment. Provide summaries of all agreement(s), approval(s), and any permit(s) necessary for all major Credit/Debit Card institutions (such as Visa, MasterCard, American Express and Discover.).

Furthermore, to be fully compliant, the Contractor must comply with all current and all future State Security and Privacy Policies and Standards during the life of the awarded contract. The State Security and Privacy policies and standards should be considered as a security supplement for this RFP. For purposes of convenience, a compendium of links to this information is provided in the Table below.
4. **ODPS Preferred Solution**

   **a) Fees: ODPS “No Cost” Solution**

   1. The Preferred “No Cost” solution means the Offeror is responsible for paying all costs associated with the acceptance of credit card and debit card transactions through the use of a transaction fee or sale percentage fee that is paid by the customer, thus resulting in a “No Cost” solution to ODPS. The proposed “No Cost” solution should be all inclusive, meaning ODPS will not receive any merchant processing invoices for Credit and Debit Transactions, (including all POS hardware/equipment, software, services, interchange, and card association/assessment fees etc.). If all costs cannot be included in the service fee, explain in detail what expenses can (and cannot) be included in a service fee paid by the customer in your Fee Proposal (including fees directly incurred or fees your vendors will charge you for each transaction). Use the ePayment Gateway Cost Proposal sheet in the Price Performance Evaluation section to provide fees for ODPS evaluation. Add additional lines to the cost proposal as needed.

   2. The methodology of handling Chargebacks and the associated fees will be negotiated and mutually agreed upon between the State and the awarded Contractor before final award.

   3. Additionally, while a service fee can be passed along to the customer for credit and debit card transactions, this is not a permissible practice for customers paying by ACH. For ACH transactions, a volume based fee structure is acceptable to ODPS as billed per ACH transaction.

   **b) Business Support:**

   The vendor hosted total enterprise ePayment Gateway Solution shall offer:

   1. During normal ODPS OTC business hours (M-F; 7a-5:30p, Saturdays 8a-2p), the Offeror guarantees a monthly minimum Uptime of 99.95%.

   2. Web-Based ePayment Gateway be available to accept payment from ODPS payers’ 24 X 7 X 365/366 with a minimum monthly uptime of 99.95%.

   3. At a minimum, the ePayment Gateway service must have the following functions available for processing credit/debit cards and ACH payments:

      a. Payment Edit
      b. Payment Voids/Reversals
      c. Payment Chargebacks
      d. Payment Refunds (full or partial)
4. The Offeror accepts all major card brands (Visa, MasterCard, American Express, and Discover).

5. The ePayment Gateway service have the ability to do CVV2, CVC, CVD, CSC and CID code verification for credit cards. (VISA refers to the code as CVV2, MasterCard calls it CVC2, Discover uses CVD, and American Express calls it CID and CSC).

6. The ePayment Gateway service must provide confirmation numbers, notifications and messages at the end of payments process.
   a. Describe methods available for providing customer with confirmation number when payment is completed.
   b. Describe methods for providing customer with message or cause when a payment is declined.

7. The Offeror will be responsible for oversight and management of account on-boarding process. This process must be auditable.

8. The Contractor must publish a quarterly scheduled maintenance calendar no later than ten (10) State business days prior to the start of each quarter for all scheduled outages. Any changes to the calendar will require ten (10) State business days advance notice unless the change involves an extended outage. In this case a minimum of one (1) month advance notice is required.

9. During normal ODPS business hours (M-F; 7a-5:30p, Saturday 8a-2p), the Offeror must provide direct phone and email customer support to ODPS customer support team. The Customer Service Team shall be able to provide assistance on the following topics:
   a. Technical support, including, but not limited to, third-party integration, equipment, websites, and testing.
   b. Report to ODPS any change in its personnel that could potentially impact ODPS and its partners.
   c. Communicate any service disruptions in a timely manner to ODPS and Participants, including the manner in which the disruption will be remedied and a projected timeframe;
   d. Assist in ODPS ePayment marketing efforts by lending expertise in targeting potential new Participants and growing existing relationships.
   e. Outside of normal ODPS business hours (M-F; 7a-5:30p, Saturdays 8a-2p), the Offeror must provide support, although, direct phone support is not necessary.
   f. Describe in detail the offeror’s during and off-hours support model.

10. The Contractor must provide a dedicated support team for problem resolution for system, communication, file transport, transactional, and reconciliation issues etc.

11. In the event of a data breach as a result of a hacking incident or an insider act, the Contractor is responsible for notifying the customers, answering questions and providing credit monitoring services to the affected customers.
c) **Data:**

1. Credit/Debit card and ACH transactional data must be properly secured per credit card industry standards and best practices. Transactional non-cardholder data will have a retention period of for seven (7) years for audit and retrieval purposes.

2. **For Audits and Reports (Excluding cardholder data):** During the term of this Contract and for three (3) years after its termination, on reasonable notice and during customary business hours, the State, at its expense, may audit the Contractor's records and other materials that relate to the Services performed under this Contract, to any billing or invoices under the Contract, or to pricing representations that the Contractor made to acquire this Contract.

d) **Transmission and Security**

The Offeror’s Solution must include the following:

1. Describe the Offeror’s method of acceptance and how transaction information is captured, transmitted, stored, reconciled, audited, and protected.

2. Discuss transmission timing differences (if any) for different card types (Visa, MasterCard, Discover, and American Express) accepted.

3. Describe the secure method in which the ePayment Gateway will communicate with the ODPS POS systems. Please include a detailed workflow along with the tokenization process for both new and existing receipts.
   a. Describe the various errors that are possible between the ODPS POS system and the gateway provider and how these are handled.
   b. In an OTC environment such as the ODPS/BMV where the customer-owned POS system must integrate with the Gateway Providers solution, describe how the service provider handles the situation where the card Processor (e.g., Worldpay) accepts the transaction, but the confirmation does not immediately make it back to BMV POS system (BASS). From the Deputy perspective, the transaction is still pending. But, it is very possible the customer received a text to their phone stating their card has been charged. (When the customer is standing at the Deputy Registrar's counter, the BASS transaction cannot be released until BASS receives a positive confirmation). Describe how will this be handled and what actions, if any, are required by the cashier.

4. Payment data transmitted over the Internet must be encrypted using 128 bit Secure Socket Layer (SSL) encryption or better (preferably using TLS 1.2). Contractor must maintain compliance during the life of the contract and provide annual reports on status of compliance. Additionally, the Contractor must demonstrate the ability to keep up with payment industry security standards.

5. Describe how confidential information is stored on your database (e.g. credit/debit card numbers, account numbers, client personal information, etc.), and any encryption methodology used.

6. The ePayment Gateway service must not require that PCI data be stored on the State’s environment for any length of time. (If the Contractor cannot collect and hold PCI data in an outage situation then no payments should be accepted.)

7. The ePayment Gateway service must allow for role based security and provide for defined profiles within those roles for application and administrative access. The
Offeror must provide a description of the various roles and their associated functional abilities currently available.

8. The ePayment Gateway service must be able to link all actions and processes to an active user or system. There should be no generic users or roles or root administrator access. Each user must have a unique user identification and password.

9. On-line and off-line report availability of the payment gateway service must be based on user’s access rights.

10. Restriction and close monitoring of outsider’s presence in areas where sensitive data is accessible is required.

11. The Offeror must have the ability to perform automatic archival of sensitive data for storage on secure electronic file or database once a payment has been processed.

12. Describe the Offeror’s policies and procedures in place to prevent fraud. Explain where liability is placed in each instance and the process of recouping any loss due to fraud.

13. Web Service/API Requirement for future Project Opportunities: The payment gateway service must provide a web service/API for processing payments from web and mobile applications. The web service/API must support several methods to provide flexibility in developing the payment applications.

e) Technical Architecture

The offeror must demonstrate the capability and capacity for the following requirements:

1. The ePayment Gateway service must be able to process a minimum of 5,000,000 transactions per year. Further, the service must have the scalability to accommodate significant growth in number of transactions in the coming years.

2. The ePayment Gateway service must be able to process 30,000 ACH and credit/debit card combined transactions simultaneously per hour during peak periods.

3. The ePayment Gateway service must include a separate fully functional test environment that mirrors the production environment for application development and testing. Further, the test environment should have the same availability as the production environment.

4. ePayment gateway service includes hosted payment forms (tokenized URL pages) functionality so that the State can quickly implement an application without having to integrate the software components using web service/API.

5. Describe the Offeror’s experience and ability to provide ODPS with direction, advice, analysis, workflow/business process recommendations, and technical implementation support.

6. Hosting Data Center Requirement: The data center where the payment gateway service is hosted must be an Uptime Institute or TIA-942 Tier 3/Rated 3 (e.g., “concurrently maintainable”) or above.

7. Describe in detail the Offeror’s disaster recovery plan.

8. Describe the Offeror’s gateway service facilities and locations (must be based within the U.S). If there are multiple sites, explain load allocation and the current load capacity of each gateway service facility. Also explain failover and disaster recovery strategies.

9. Describe the technical architecture that will be used to support the ODPS acceptance and processing services.
10. Discuss the provisions for the handling of operating problems. Summarize the technology and facility redundancy in design and operations.

11. Discuss the communication and network technical support hours. [Keep in mind that DR operating hours include Saturdays]. Outline the response time standards supported by the Offeror’s technical operation and list the carriers that provide the primary telecommunications service.

12. Describe all point-of-sale/point-of-interaction equipment options that would best fit the needs of the ODPS. Include a list of components that are necessary to operate any recommended hardware. Provide equipment specifications that include, but are not limited to: USB requirements, power source (USB, power cord, etc.), size, etc.

13. Describe the technical aspects of Network connectivity that will support The Point of Sale Terminals. We have limited additional network capacity at our DR facilities and it will be very costly for us to increase our capacity. Describe what solutions you can offer to limit network load due to the addition of POS terminals to our DR facilities.

f) Over the Counter (OTC) and Point of Sale (POS)

1. The Offeror must provide ODPS all equipment or items necessary for POS service and system upgrades, including, but not limited to the following: EMV capable Card readers, contactless/near-field communication (NFC)/radio-frequency identification (RFID), point-to-point encryption, mobile terminals, debit pin pads, swivels stands, equipment instruction manuals, equipment warranty information, and window and counter displays that show card brand and device type acceptance.

2. The Offeror in their response should recommend a detailed solution that will allow the BMV within 18 months of go live to use the same signature pad (or device) for both BMV business and to process the physical credit/debit card or contactless (CTLS) payment. Currently, there are two devices: (1) a signature pad for BMV business and (2) a pin-pad card reader to process the physical credit/debit card. The existing deputy signature pads include functionality that allows the customer, based on the transaction type, to electronically read and sign electronic documents. The signature pad is also used to capture the customer’s signature for their Ohio Driver License or Identification Card, and to sign for their Credit Card transaction. The existing pin-pad card reader is used for the swiping or ‘dipping’ of the credit card or debit card, and for the entry of the customer’s pin number, if necessary. This current set up works effectively as customers are not confused as to which device they should use. However, it is awkward to switch between devices and having two devices takes up valuable counter space. As such, it is the BMV’s desire to use one device for all functionality. Although, this is not necessary on Day 1 of the implementation, but must be done within 18 months of initial go live. The single device must be able to perform all BMV functionality noted above, be EMV compliant and be able to handle cards that are not EMV compliant. The device should also be able to accept contactless payments types (e.g., Google pay, Apple iPay, etc.). It is the ODPS/BMV preference to not store any paper receipts with or without signatures and to minimize the number of customer signatures required. Finally, the signature pad should be able to perform the following BMV functions:
   a. Allow for multiple custom forms (See Exhibit A – Custom Forms).
   b. Allow for scrollable content (customer can scroll up and down the page to view content)
c. Allow for screen-by-screen display (one screen at a time)
d. Allow for ‘back’ and ‘next’ navigation
e. Allow for customer signature to be captured
f. Allow for check or acknowledgement boxes
g. Provide the ability for operator view mirroring (see on the computer monitor what the customer sees on the signature pad)
h. PDF compatibility

3. Additionally, while it is the ODPS preference the POS hardware device be tethered to the local desktop, it is not mandatory as other proposals will be considered. Although, be advised that wireless internet is not available at the ODPS Deputy Registrar facilities and many have a very limited number of open network ports. The upgrade of networking equipment at the ODPS Deputy Registrar facilities to increase the number of available ports is out of scope for this project. Describe in detail the Offeror’s solution.

4. The Offeror’s POS terminal will be used to read and transmit transaction information. As such, the terminals must meet all PCI DSS industry security requirements. Any fundamental changes to the ODPS networks are out of scope for this project and will not be considered (changes required for network connectivity are in scope). The Offeror’s solution must include the following:
   a. The required POS OTC solution must include EMV compatible terminals.
   b. Describe the Offeror’s process for card present (EMV) transaction method(s) of acceptance, including PIN and PIN-less-based debit.
   c. Manage the POS equipment implementation via PCI-certified Qualified Integrator and Reseller (QIR) staff.
   d. Manage all firmware on the POS devices (remote access to the POS devices will not be permitted).
   e. Provide a warranty for all POS equipment provided.

   g) Card not Present (CNP)

   The Offeror’s solution must respond and/or comply with the following requirements:

   1. The solution must integrate with any ODPS customer facing Web-Based application that accepts customer payments of Debit Card, Credit Card, digital wallet, and ACH.
   2. Describe in detail, Credit/Debit Card fraud prevention security options offered. Include gateway options for filtering, preventing, and/or flagging a customer multiple attempts of inputting the same Credit/Debit Card number multiple times, the integration of Fraud Risk Management Monitoring Solution. List any additional cost(s) for the filter options, i.e. per transaction cost(s), etc.
   3. Describe the Offeror’s technical capability for card-not-present transaction method for optional IVR mobile payment accepting Credit Card, Debit Card, and ACH.
   4. Describe how the Offeror will seek and advise ODPS on latest advance technology and security for ePayment solutions to address ODPS current and foreseen ePayment needs and requirements contained in this RFP.
   5. Provide the planning and the required technical resources for an efficient migration of the existing ePayment applications, including development of an ePayment solution that is technology and integration methods agnostic (i.e., web standards
h) Reporting Services

1. The ePayment Gateway service must provide a customizable web-based reporting system for State personnel to perform ad hoc reporting (other than APIs) – this would enable State personnel to access both administrative information and transactional information (excluding PCI data) without having to write a Web Application. The reports should include transactional information such as credits, debits, ACH, chargebacks, voids, test transactions and location identifiers. This service must be able to handle any load submitted by the State and produce reports in a timely manner.

2. Describe the online (Web-Based) reporting system available from the Offeror to the ODPS and each Deputy Registrar. Describe the technology that will be used to deliver the on-line information reporting.

3. The Offeror’s daily reconciliation file must include all of the following transactions: traditional transactions, voids (same day), reversals/refunds (future day), and chargebacks. All must have a unique identifier for reconciliation purposes and must match a value assigned during the original transaction (in other words, ODPS must be able to find the unique transaction identifier as originally defined by the offeror and provided to ODPS).

4. Provide an overview and samples of the Offeror’s on-line information reporting procedures and capabilities, including, but not limited to:
   a. Standard reports including single page or print screen examples of each report (include as an attachment).
   b. Level of detail and reporting frequency available for each report.
   c. Describe what time (next business day) would previous business day’s reporting information will be available.
   d. Describe how the reports can be custom-tailored by the end-user.
   e. Computer hardware and/or software specifications for the Offeror’s on-line reporting system.
   f. Export capabilities and other services available through the on-line information reporting.
   g. The Offeror’s contingency plan for providing this information in the event of unexpected system problems or natural disasters.
   h. Describe the online reporting system features that allow users to create, view, export, and/or email transaction reports. Discuss how long do the reports remain available and remain on the Offeror’s reporting system.
   i. Describe the online reporting system security features and access controls that allow the administration of assigning user roles and permissions. Explain how rights are assigned at each DR location or will ODPS be responsible for assigning credentials such as employee username, password, and access rights. Discuss both options.

5. At a minimum, the Offeror must provide End of Day reconciliation reporting files filterable by assigned agency numbers.
6. Report of payments by Business Type (DR, IVR, Internet):
   c. Intra-day Report.
   e. Summary Report by credit card type.
   f. Failed Transactions.
   g. Void, Reversals, or Refund Report.
   h. Disputed Transactions or Chargeback Report.

7. Multiple users must be able to access the Offeror’s reporting system simultaneously without performance degradation.

8. Customizable by the ODPS, based upon the data collected during the transaction.

9. Accessible by the ODPS, regardless of whether it was created for or transmitted to a Participant or Customer.

10. Correctable, in the event of an error, and includes a disclaimer that the report has been corrected for audit purposes.

11. Customizable; and can be sent daily by email.

12. Provide ODPS the following types of reports:
   a. Summary: A summary as well as transaction specific details for all payments made by every card type or source of payment through every payment processing channel the Participant utilizes.
   b. Customizable Reports: reports that can be customized by the Participant and delivered via email;
   c. Origination and Settlement Reports: reports shall provide a summary as well as transaction-specific details for all deposits, Credit Card/ACH settlements or returns, and chargeback activity.
   d. Payment Transaction Qualifying Report: reports that allow a Participant to track transactions by interchange processing fees.
   e. Retrieval and Chargeback Reports: reports shall list all retrieval requests and chargebacks related to their processing. This shall include original retrieval and chargeback documentation initiated by the Customer and/or the Credit Card issuer.

13. Provide ODPS the reporting necessary for integration of services with the Qualified Security Assessor’s (QSA) PCI audit, including a detailed listing of the services provides, and their associated PCI scope.

14. The ePayment Gateway service must be able to produce the following monthly reports (excluding PCI data) in MS Excel or CSV file formats.

   i) **Offeror Proposed Team and State Relationship Management**

   1. Describe the Offeror’s proposal as the Contractor assign a Relationship Manager (RM) dedicated to the gateway services account after selection, implementation, and each application “go-live” has occurred. This RM shall remain assigned to the State during the contract period as set out in the Gateway Services Agreement or the contractual relationship has ended; or if ODPS requests another Relationship Manager.
   2. Describe the Offeror’s proposal as the Contractor provide an implementation team that maintain the knowledge, skills and experience required to successfully implement State payment integration projects inclusive of requirements
confirmation, design/build services and production deployment until such time as ODPS accepts each integration project inclusive of meeting business, integration and technical requirements as mutually agreed under a Statement of Work as approved by the State in conjunction with each Agency implementation project.

3. For all of the aforementioned roles, the Offeror must provide a brief description, including years of experience, and brief biographical resumes for each of the key staff and Contractor role responsible for the performance of any service described in this RFP. Further, the Offeror will identify all key support staff that the Relationship Manager will rely on for day-to-day operations, including where those key support members provide services to the State whether they be project/implementation related or ongoing operations and maintenance functions.

4. The Offeror, as part of their response, must disclose all proposed subcontracted functions and identify the firm(s) that will deliver each service, such as settlement banks or front-end authorization and capture process.

5. All future work not indicated in this RFP is out of scope. At the time when such need arises, future work will need to be negotiated and mutually agreed upon, or at ODPS’s discretion, will be solicited for bids.

5. Authorization

a) Describe the process for EMV terminal authorization and the “dip” authorization process.

b) Provide response time in statistical parameters. Response times should be stated in tenth of second increments.

c) Describe the procedures to be followed if a transmission request is denied authorization.

d) Describe procedures for transmission and authorization during downtimes and system outages. Indicate any scheduled downtime periods in terms of duration and frequency.

e) Describe what authorization methods does the Offeror support and which is recommended for each processing channel.

6. Voids, Reversals, Refunds (voids – same day; reversal, refunds - any future day)

a) Describe the processes for handling voids, reversals, and refunds.

b) When voids/reversal, refunds, chargebacks are required and the ODPS POS systems (i.e. BASS) cannot reach the gateway provider, the end user (cashier) forces the transaction through the ODPS system. Thus, from the ODPS perspective, the transaction has been voided and charged back. However, the transaction still needs to be processed by the gateway provider.

c) Describe the procedures to be followed to reverse a duplicate authorization. For example, if a card is mistakenly swiped twice at a POS terminal instead of swiped once.

d) If your organization supports the undoing of a Credit Card void, please describe the process. This is an issue for the Deputies when the Credit Card cannot be recharged after a transaction is voided because the original charge has not yet cleared and the customer has insufficient funds.

e) If your organization supports the undoing a Credit Card reversal or refund, please describe the process. This is an issue for the Deputies when they accidently reverse or refund the wrong transaction and need to reinstate it. Furthermore, it is possible they reverse the transaction of the wrong customer.

f) Describe how your organization supports voiding, reversals, refunds through a batch process.

g) Describe how the provider will handle full or partial voids, reversals, refunds from either the state money or the agency money in cases where the original source of the money is not relevant. For
example, if the original $50 charge was given to the agency, the $50 (or some part of it) must be able to be voided from either the agency money or the state money. In other words, money does not need to match where it came from. Note: For a traditional OTC transaction, the money collected for the primary transaction (note: the credit service fee is a separate transaction) is divided into state money (e.g., for whatever is purchased such as new DL or renewed VR) and agency money (e.g., fee collected by the agency for processing the transaction).

h) Describe if it is possible for the customer to have the transaction voided at a different Deputy (location) than where the transaction originated (i.e., get license at Agency A, but void at Agency B). In this case, the Agency A would keep the service fee, but Agency B would lose it (even though they never collected it). Describe how the service provider handles these cases.

7. Settlement Process

a) Explain how the service provider’s daily reconciliation file will include all of the following transactions: traditional transactions, voids (same day), reversals/refunds (future day), and chargebacks. All must have a unique identifier for reconciliation purposes and must match a value assigned during the original transaction (in other words, ODPS must be able to find the unique transaction identifier as originally defined by the vendor and provided to ODPS).

b) Discuss the earliest available time that Offeror can provide previous business day reporting to the ODPS with final settlement information. Include any difference for card present vs card-not-present, and weekday vs weekend transactions.

c) Describe the point-of-sale terminal “close out” procedure and how this integrates into the end-of-day settlement process. Describe who determines what time the point-of-sale terminal “closes out”. Keep in mind Ohio is part of the Eastern Time zone. Describe if there is a specific cut off time that end of day transaction batches must be received by the Offeror in order for next day funding reporting.

d) Describe the recovery process for lost or damaged batches.

e) When voids, reversal, refunds, or chargebacks are required and the BMV POS system (BASS) cannot reach the gateway provider, the BMV forces the transaction through BASS. Thus, from the BASS perspective, the transaction has been voided or reversed. However, the transaction still needs to be processed by the gateway provider. Describe the process the BMV should follow after the fact to process chargebacks and voids.

f) Describe how does your organization support voiding reversals/refunds through a batch process.

8. Settlement Payment

a) All card-present transactions for the DR will require a THREE (3) part settlement. After settling all funds into the Offeror’s account, the Offeror will complete these steps:

1. Settlement part 1. **Vendor Bank Account** - All credit card transaction revenue settles directly to vendor bank account. Funds are then transferred after settlement to the appropriate bank account.
2. Settlement part 2. **ODPS Account** - Vendor sends funds owed to the state via daily ACH transfer.
3. Settlement part 3. **DR Accounts** - Vendor sends funds owed to 188 individual Deputy Registrar locations via daily ACH transfers.
b) All card-not-present transactions are preferred to utilize a TWO (2) part settlement.

1. Settlement part 1. Credit/Debit funds owed to the state will be deposited directly to the state DDA within 3 business days.
2. Settlement part 2. The credit card service fee transaction portion will be settled to the Offeror bank account (DDA). The Offeror will utilize this portion/account to cover all credit card processing fees (including interchange), any charge backs, and any card settlement adjustments.

c) No debits are permitted to the DR bank accounts. In the event that a debit must be passed to the state (e.g., charge back loss), the Offeror may debit the state checking account and provide debit notification to ODPS.

d) Identify any intermediary banks involved in the gateway service provider process. If applicable, describe how the Offeror uses another banking settlement layer prior to settlement with one of the state’s merchant Processor.

e) Describe if there is a limit to the number of transactions that can be contained in a batch or a limit in the number of files that can be sent daily.

9. **Retrieval Requests, Chargebacks, and Adjustments**

a) Describe the retrieval request, chargeback, and adjustment handling process and the differences between card types (Visa, MasterCard, Discover, and American Express).

b) Describe how the Offeror supports online access for transmission of, and response to, retrieval request, chargebacks, and adjustments. Describe how this information is immediately reflected on the Offeror’s reporting system.

c) Disclose the reversal rate for card types (Visa, MasterCard, Discover, and American Express) by retrieval request, chargeback, and adjustment type over the last twelve (12) months. State the average elapsed time from receipt of a retrieval request, chargeback, or adjustment request until time of resolution. Discuss any fees associated with each item.

d) Discuss if the Offeror has a method available to identify and eliminate duplicate transactions.

e) Please describe the Offeror’s procedures to correct duplicate transactions.

f) Describe special technology available to effectively support retrieval requests, chargebacks, or adjustments handling that would be advantageous to the ODPS or Deputy Registrar’s.

g) For a traditional OTC transaction, the money collected for the primary transaction (note: the credit service fee is a separate transaction) is divided into state money (e.g., for whatever is purchased such as new DL or renewed VR) and agency money (e.g., fee collected by the agency for processing the transaction):

1. Describe how will the provider handle full or partial voids/reversal/refunds (voids – same day; reversal/refunds - any future day) from either the state money or the agency money in cases where the original source of the money is not relevant. For example, if the original $50 charge was given to the agency, the $50 (or some part of it) must be able to be voided from either the agency money or the state money. In other words, money does not need to match where it came from.

2. Furthermore, for reversals and refunds, it is possible for the customer to have the transaction voided at a different Deputy (location) than where the transaction originated (i.e., get license at Agency A, but void at Agency B). In this case, the Agency A would keep the service fee, but Agency B would lose it (even though they never collected it). Describe how the service provider handles these cases.
10. Initial Implementation and Future Project Opportunities

a) This RFP will be evaluated upon criteria contained in the base RFP. At a high-level, ODPS will evaluate using the following considerations:

1. Validation that the ePayment service meets ODPS requirements and is a viable and sustainable platform for ePayment needs.
2. Confirmation that the proposed ePayment service is cost effective and scalable to meet ODPS immediate and future needs.
3. Standardization of ODPS enterprise approach to ePayment based on a configurable integration services platform.

b) ODPS requires an Enterprise ePayment Gateway Service and implementation services to provide execution leadership for entities to migrate existing applications to the new ePayment Service inclusive of entity engagement (e.g., Project definition, requirements gathering/confirmation), Design/Build Services (e.g., solution and integration development, testing/validation and migration to production use) and ongoing Operations and Maintenance of the solution (e.g., upgrades, enhancements/extensions, reporting and system administration and support functions).

1. **ACH Transaction Processing** - The State requires the ability to configure ACH limits at the account level. In the case of a banking partner change, all outstanding deferred payments to the old banking partner must be transferred to the new banking partner. The Contractor will be required to set up and maintain the processes and relationships with the banks.
2. **Implementation, Migration and Training Services** – For these services, the intent of this RFP is to establish a contracting mechanism only. Once the contract is established, each entity will be responsible for creating work orders with the Contractor to migrate existing ODPS applications to the new platform or implement new lines of business. Upon completion of a project services implementation, the completed work, once meeting the entity acceptance criteria, will, in most cases, be managed by the entity on an ongoing basis.
3. **Kick Off Meeting** - The Contractor, in conjunction with ODPS, must plan and conduct a project kickoff meeting.

c) The Contractor in collaboration with ODPS will initiate the project with a mobilization effort for the first 15 days of the project, followed by the project kick-off event. This effort will focus on planning, processes, and project methodology. The goal will be to discuss and evaluate the Contractor’s proposed practices, methodologies and recommendations and ensure Contractor’s understanding of their commitment to deliver the proposed solution to ODPS.

d) The Contractor in conjunction with ODPS must develop and deliver a presentation to the sponsors, key stakeholders and core project team after the mobilization effort. At a minimum, the presentation must include a high level overview of the following:

1. Project scope and schedule.
2. Goals of the Project.
3. Methodology, approach, and tools to achieve the goals.
4. Roles, responsibilities, and team expectations.
5. Tasks, Deliverables, Milestones and significant work products.
6. Contract content review.

e) Notwithstanding the Contractor proposed service under the aforementioned classification, the proposed service must:

1. Demonstrate adherence to all requirements in this RFP.
2. Demonstrate, via their response narrative to this RFP, the interoperable features, capabilities, architecture elements and known limitations of deploying such a model for the State;
3. Include all costs required to implement, operate and maintain the service based on the requirements herein and provisions of this RFP.
4. Include a detailed bill of materials in the Cost Workbook, listing all elements that ODPS must acquire by way of hardware, storage, networking and other infrastructure to utilize the service as proposed, including any third party licenses required to support integration with State solutions (both custom developed or third party solutions).

11. Offeror Differentiators

ODPS requires Offerors to provide brief overviews of their company, capabilities, core competencies, and market differentiators in the following areas:

a) Offerors will provide a brief overview of their organization, including their organization’s corporate structure, holding companies, parents, corporate affiliates and significant correspondent banks. Offerors will identify their headquarters location, and what year they began offering both Web-Based and OTC/POS ePayment Gateway services.
b) Offerors will provide approximate percentage of their volume, by number of transactions and dollar amount of transactions contributed by each of their largest customers, as well as an indication how many clients they have in total.
c) The Offeror will provide a detailed service fee structure of services pertaining to this RFP.
d) Offerors will provide a statement regarding the number and nature of any clients that account for more than 10% of their business including length of relationship.
e) Offerors must disclose any other companies or subsidiaries under the same ownership, and their products and services that utilize, are dependent upon, or in the absence of which would undermine or render unavailable or not viable, those services provided by the Offeror to ODPS. As part of this response the Offeror will identify any of these companies that provide services directly to the organization which are critical or essential to the delivery of the services referenced in this RFP to ODPS.
f) Offerors will provide the number of full-time employees (locally, nationally, and internationally) dedicated to supporting the services described herein to all customers and the locations from which these employees will be assigned (should the Offeror’s proposal be awarded) to provide services to ODPS.
g) The Offeror must provide significant customer references that highlight the strength of relationship and partnership between the Offeror and their customers that have resulted in achieving the strategic goals of customers of the Offeror, specifically with respect to each of their largest customers.
h) The Offeror will provide a Change of Control Statement to the effect of: Should the Contractor merge with, or is acquired by another financial institution, or acquires a financial institution, does the Contractor agree that all of its responses to this RFP, and all of the provisions of a Services Agreement, if awarded, will be incorporated into any subsequent merger, assignment, acquisition agreement(s), and/or any other governing document(s) executed to facilitate the completion of the merger, acquisition, or assignment of the terms of the Services Agreement to another entity as to not adversely impact the scope, quality or cost of ODPS.

12. **Contractor Best Practices and General Support Requirements**

   a) The Offeror must describe, and as Contractor performing the work deliver, access to best practices that the Offeror has developed with customers that result in rapid, high quality and low cost operational usage of the service while mitigating needs to customize the system.

   b) The Offeror must describe, and as Contractor performing the work deliver, Offeror’s support capabilities that will be implemented or utilized to drive the highest levels of support and service that ensure maximal usage and availability of the system – particularly during critical financial periods, but also during routine or planned maintenance and enhancement periods that minimize disruption to business and user communities.

   c) The Offeror must describe, and as Contractor performing the work deliver, its commitment to scalable, upgradeable services to ensure the State has access to current features/functionality and can pursue migrations and new service implementation in a timely and cost effective manner.

   d) The Offeror must describe, and as Contractor performing the work deliver, innovative practices and methodologies provided and followed by the Offeror that are market proven and help drive successful migrations, implementations and enhancements while mitigating project risk wherever possible.

   e) The Offeror must include, and as Contractor performing the work follow, a full description of the Offeror’s rapid implementation and quality methodologies designed to help ensure that migrations and implementations go as quickly as possible, are reviewed at each major step against quality requirements, and result in minimal business interruptions, auditable performance, and a lasting operational capability that ODPS can build on.

13. **Contractor Capability and Experience**

The Offerors and its Contractor performing the work must provide ODPS as part of the response to this RFP a complete description of the Offerors capabilities and experiences that are available to all the Offeror’s customers as well as those specific capabilities that directly align with the requirements of this RFP.

   a) All electronic (i.e., internet, telephone, ACH, third party integrations, mobile) payment gateway services and merchant services you offer including settlement time options. If the settlement option times vary by Processor connections, include those variances.

   b) New technologies you currently offer. Provide examples of any product launches or enhancements you have had in the past five (5) years.

   c) Strategic plans, product roadmaps or product initiatives that the Offeror has planned over the next two (2) years including any unique processing products or services Offeror currently offers to other government entities that differentiate the Offeror from other vendors providing similar services.
Research and development efforts as to keep pace (or establish leadership) with new payment technology, security, and industry trends in order to advance your product suite.

Specifically state what is currently being done in the area to prepare for current and future security/encryption requirements set by NACHA.

Archival component of your solution for moving the data from the production database to near and offline data stores as well as data deletion, including thresholds for relocating the data, database storage, retrieval process, automatic or manual, etc.

Describe how your payment gateway service will support ODPS normal business hours, M-F; 7a-5:30p, Saturday 8a-2p.

Describe how your payment gateway service will support ODPS outside of normal business hours.

14. Mandatory Requirements. The first table lists this RFP’s mandatory requirements. If the Offeror’s Proposal meets all the mandatory requirements, the Offeror’s Proposal may be included in the next part of the technical evaluation phase described in the next table.

In addition, ODPS has provided as part of the Requirements Matrix, a free form field labeled ‘Offeror Narrative’. Offerors must use this field to explain how their service meets the requirement for every requirement in the requirement matrix.

Offerors may also use the free form field to convey any additional considerations, showcase Offeror capability to deliver or identify any Offeror requirements for ODPS.

ODPS suggests that Offerors should not assume a uniform level of expertise in all facets of their proposal and are encouraged to illustrate the rationale, merits, completeness, capabilities and limitations of all service components including: technical, software elements, process elements, services, integrations and other operating considerations as part of their responses to this RFP.

ODPS further suggests that Offerors provide screen captures, diagrams, graphics or other information of relevant elements of their service to illustrate to ODPS the degree of compliance with ODPS’s requirements wherever possible.

Brief statements to the effect of “Offeror understands and complies” are strongly discouraged unless for those requirements that are of a trivial or affirmative representation in nature.

15. Scored Criteria. In the technical evaluation phase, the State will rate the technical merits of the Proposals based on the following requirements and the weight assigned to each requirement:
<table>
<thead>
<tr>
<th>section</th>
<th>Offeror Mandatory Requirements</th>
<th>Accept</th>
<th>Reject</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.a</td>
<td>Experience:</td>
<td></td>
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<tr>
<td></td>
<td>• Minimum of 24 months in implementing and supporting electronic payment applications for a variety of governmental and non-governmental organizations on over-the-counter transaction experience.</td>
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<tr>
<td></td>
<td>• Minimum of 36 months in implementing and supporting electronic payment applications for a variety of governmental and non-governmental organizations with web-based transactions.</td>
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<tr>
<td>3.b</td>
<td>Capability:</td>
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<td></td>
<td>• The Offeror Solution must support the following transactions:</td>
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<tr>
<td></td>
<td>o EMV Credit/Debit Card, PIN and PIN-less Based, POS OTC/card present(face to face)</td>
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<td></td>
<td>o Web-Based card not present(CNP) Payment Processing</td>
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<td></td>
<td>o ACH Payment Processing</td>
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<tr>
<td>3.c</td>
<td>Interface:</td>
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<td></td>
<td>• The Offeror must provide a seamless transaction solution, from the end user experience.</td>
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<td>3.d</td>
<td>Funds Settlement:</td>
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<td></td>
<td>• The Offeror’s solution must have the ability to provide a three (3) way settlement process for ODPS OTC transactions.</td>
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<td></td>
<td>• Depending on the transaction type (card-present vs card-not-present) the Offeror must settle all credit card transaction funds into a state approved checking account (DDA), or into Offeror owned United States bank account (DDA) that is collateralized per Ohio Revised Code (ORC) 135. The Offeror account must be designated for Ohio Department of Public Safety (ODPS) funds only, and allow ODPS fiscal contacts online (view only) access to verify card deposits.</td>
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<td></td>
<td>• The ePayment service must also be able to work with any third party payment Processor the State may use for payment authorization and settlement. Currently the payment Processor is Worldpay.</td>
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<tr>
<td>3.e</td>
<td>Compliance:</td>
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<tr>
<td></td>
<td>• The Contractor must affirm all work of this RFP, process all transactions, and keep all State data within the United States per EXECUTIVE ORDER 2011-12K.</td>
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<td></td>
<td>• The Offeror’ solution must meet all Credit Card, Debit Card, ACH transaction security rules and regulations including payment card industry, data security standards, Payment Application Data Security Standard, Europay, MasterCard and Visa, and National Automatic Clearing House Association (PCI DSS, PA DSS, EMV, NACHA) compliance, all laws, and any other governing authority requirements as may apply.</td>
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<td></td>
<td>• Furthermore, to be fully compliant, the Contractor must comply with all current and all future State Security and Privacy Policies and Standards during the life of the awarded contract.</td>
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<tr>
<td>Section</td>
<td>Requirement Description</td>
<td>Category</td>
<td>Weight</td>
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<tr>
<td>4</td>
<td>Business Requirements</td>
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<tr>
<td>4.1</td>
<td>During normal ODPS OTC business hours (M-F; 7a-5:30p, Saturdays 8a-2p), does the Offeror guarantee a monthly minimum up time of 99.99%?</td>
<td>Business 1</td>
<td>3</td>
</tr>
<tr>
<td>4.2</td>
<td>Does the Offeror’s Web-Based ePayment Gateway support the acceptance of payment from ODPS payers’ 24 X 7 X 365/366 with a minimum monthly uptime of 99.95%?</td>
<td>Business 1</td>
<td>3</td>
</tr>
<tr>
<td>4.3</td>
<td>At a minimum, does the ePayment Gateway service have the following functions available for processing credit/debit cards and ACH payments?</td>
<td>Business 3</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>• Payment Edit</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Payment voids/reversals</td>
<td></td>
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<td></td>
<td>• Payment Chargebacks</td>
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<td></td>
<td>• Payment Refund (full or partial)</td>
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<tr>
<td></td>
<td>• Payment Settlement Query</td>
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<td></td>
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<tr>
<td></td>
<td>• Payment Refund Query</td>
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<td></td>
<td>• Payment Chargeback Query</td>
<td></td>
<td></td>
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<td></td>
<td>• Payment Status Query</td>
<td></td>
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</tr>
<tr>
<td>4.4</td>
<td>Does the Offeror accept all major card brands (Visa, MasterCard, American Express, Discover)?</td>
<td>Business 2</td>
<td>3</td>
</tr>
<tr>
<td>4.5</td>
<td>Does the ePayment Gateway service have the ability to do CVV2, CVV3, CVV2, CSC and CID code verification for credit cards?</td>
<td>Business 2</td>
<td>3</td>
</tr>
<tr>
<td>4.6</td>
<td>Will the ePayment Gateway service provide confirmation numbers, notifications and messages to ODPS customers at the end of each payment process?</td>
<td>Business 1</td>
<td>3</td>
</tr>
<tr>
<td>4.7</td>
<td>Will the Offeror be responsible for oversight and management of account on-boarding process? This process must be auditable.</td>
<td>Business 3</td>
<td>3</td>
</tr>
<tr>
<td>4.8</td>
<td>Will the Contractor provide ODPS published quarterly scheduled maintenance calendar no later than ten (10) State business days prior to the start of each quarter for all scheduled outages and support the requirement that any changes to the calendar will require a ten (10) State business days advance notice unless the change involves an extended outage. In this case a minimum of one (1) month advance notice is required?</td>
<td>Business 1</td>
<td>3</td>
</tr>
<tr>
<td>4.9</td>
<td>During normal ODPS business hours (M-F; 7a-5:30p, Saturdays 8a-2p), does the Offeror provide direct phone and email customer support to ODPS customer support team? If so, in the response describe in detail, the offeror’s customer support model.</td>
<td>Business 2</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>• Technical support, including, but not limited to, third-party integration, equipment, websites, and testing.</td>
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<td></td>
<td>• Report to ODPS any change in its personnel that could potentially impact ODPS and its partners.</td>
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<td></td>
<td>• Communicate any service disruptions in a timely manner to ODPS and Participants, including the manner in which the disruption will be remedied and a projected timeframe</td>
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<tr>
<td></td>
<td>• Assist in ODPS ePayment marketing efforts by lending expertise in targeting potential new Participants and growing existing relationships</td>
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<tr>
<td>4.10</td>
<td>Does the Contractor provide a dedicated support team for problem resolution for system, communication, file transport, transactional, and reconciliation issues?</td>
<td>Business 2</td>
<td>3</td>
</tr>
<tr>
<td>4.11</td>
<td>In the event of a data breach as a result of a hacking incident or an insider act, does the Contractor own the responsibility for notifying the customers, answering questions and providing credit monitoring services to the affected customers?</td>
<td>Business 3</td>
<td>3</td>
</tr>
<tr>
<td>4.12</td>
<td>Does the Offeror acknowledge that all Credit/Debit card and ACH transactional data must be properly secured per credit card industry standards and best practices. Transactional non-cardholder data will have a retention period of for seven (7) years for audit and retrieval purposes?</td>
<td>Data 2</td>
<td>3</td>
</tr>
<tr>
<td>4.13</td>
<td>For Audits and Reports (excluding cardholder data): Does the offeror accept the terms for this RFP, during the term of this Contract and for three years after its termination, on reasonable notice and during customary business hours, the State, at its expense, may audit the Contractor’s records and other materials that relate to the Services performed under this Contract, to any billing or invoices under the Contract, or to pricing representations that the Contractor made to acquire this contract?</td>
<td>Data 2</td>
<td>3</td>
</tr>
<tr>
<td>Requirement Description</td>
<td>Category</td>
<td>Weight</td>
<td>Exceeds</td>
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<tr>
<td>4.d1 Did the Offeror provide a description of the Offeror’s method of acceptance and how transaction information is captured, transmitted, stored, reconciled, audited, and protected?</td>
<td>Security</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4.d2 Did the Offeror provide information on transmission timing differences (if any) for different card types (Visa, MasterCard, Discover, and American Express) accepted?</td>
<td>Security</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4.d3 Did the Offeror provide information describing the secure method in which the ePayment Gateway will communicate with the ODPS PCI systems including a detailed workflow along with the tokenization process for both new and existing receipts?</td>
<td>Security</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4.d4 Will payment data transmitted over the Internet be encrypted using 128 bit Secure Socket Layer (SSL) encryption or better (preferably using TLS 1.2)? Will the Contractor maintain compliance during the life of the contract and provide annual reports on status of compliance, and demonstrate the ability to keep up with payment industry security standards?</td>
<td>Security</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4.d5 Did the Offeror provide information on how confidential information is stored on the database (e.g. credit/debit card numbers, account numbers, client personal information, etc.), and any encryption methodology used?</td>
<td>Security</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.d6 Does the Contractor affirm that the ePayment Gateway service will not require any PCI data be stored on the State’s environment for any length of time? (If the Contractor cannot collect and hold PCI data in an outage situation then no payments should be accepted.)</td>
<td>Security</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4.d7 Does the ePayment Gateway service allow for role based security and provide for defined profiles within those roles for application and administrative access? The Offeror must provide a description of the various roles and their associated functional abilities currently available.</td>
<td>Security</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.d8 Will the ePayment Gateway service be able to link all actions and processes to an active user or system? Should there be no generic users or roles or root administrator access. Each user must have a unique user identification and password.</td>
<td>Security</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.d9 Will the Offeror’s On-line and off-line reporting availability of the payment gateway service be based on user’s access rights?</td>
<td>Security</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4.d10 Does the Offeror provide the restriction and close monitoring of outsider’s presence in areas where sensitive data is accessible is required?</td>
<td>Security</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.d11 Does the Offeror have the ability to perform automatic archival of sensitive data for storage on secure electronic file or database once a payment has been processed?</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4.d12 Did the Offeror provide information on the Offeror’s policies and procedures in place to prevent fraud and where liability is placed in each instance and the process of recouping any loss due to fraud?</td>
<td>Security</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.d13 The payment gateway service will provide a web service/API for processing payments from web and mobile applications for future Project Opportunities?</td>
<td>Security</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Technical Requirements</td>
<td></td>
<td></td>
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<tr>
<td>4.e1 Will the ePayment Gateway service be able to process a minimum of 5,000,000 transactions per year and have the scalability to accommodate significant growth in number of transactions in the coming years?</td>
<td>Technical</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4.e2 Will the ePayment Gateway service be able to process 30,000 ACH and credit/debit card combined transactions simultaneously per hour during peak periods?</td>
<td>Technical</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4.e3 Does the ePayment Gateway service include a separate fully functional test environment that mirrors the production environment for application development and testing and does the test environment have the same availability as the production environment?</td>
<td>Technical</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.e4 Does the ePayment Gateway service include hosted payment forms (tokenized URL pages) functionality so that the State can quickly implement an application without having to integrate the software components using web service/API?</td>
<td>Technical</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.e5 Did the Offeror provide information on the Offeror’s experience and ability to provide ODPS with direction, advice, analysis, workflow/business process recommendations, and technical implementation support?</td>
<td>Technical</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.e6 Will the data center where the payment gateway service is hosted be an Uptime Institute or TIA-942 Tier 3/Rated 3 (e.g., &quot;concurrently maintainable&quot;) or above?</td>
<td>Technical</td>
<td>1</td>
<td></td>
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<tr>
<td>4.e7 Did the Offeror provide detailed information on the Offeror’s disaster recovery plan?</td>
<td>Technical</td>
<td>1</td>
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</tr>
<tr>
<td>4.e8 Did the Offeror provide information on the Offeror’s gateway service facilities, locations, location current load capacity, failover, and disaster recovery strategies?</td>
<td>Technical</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4.e9 Did the Offeror provide information on the technical architecture that will be used to support the ODPS acceptance and processing services?</td>
<td>Technical</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.e10 Did the Offeror provide information on provisions for the handling of operating problems?</td>
<td>Technical</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.e11 Did the Offeror provide information on communication and network technical support hours, outlined the response time standards, and listed the carriers that provide the primary telecommunications service?</td>
<td>Technical</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.e12 Did the Offeror provide information on all point-of-sale/point-of-interaction equipment options that would best fit the needs of the ODPS? Include a list of components that are necessary to operate any recommended hardware, and provide equipment specifications that include, but are not limited to; USB requirements, power source (USB, power cord, etc.), size, etc?</td>
<td>Technical</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>4.e13 Did the Offeror provide information on the technical aspects of Network connectivity that will support the Point of Sale Terminals due to limited additional network capacity at our DR facilities?</td>
<td>Technical</td>
<td>1</td>
<td></td>
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<tr>
<td>Section</td>
<td>Requirement Description</td>
<td>Category</td>
<td>Weight</td>
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<tr>
<td>4.f.1</td>
<td>Will the Offering provide ODPS all equipment or items necessary for POS service or system upgrades, including, but not limited to the following: EMV capable Card readers, contactless/near-field communication (NFC)/radio-frequency identification (RFID), point-to-point encryption, mobile terminals, debit pin pads, and smart cards?</td>
<td>OTC</td>
<td>3</td>
</tr>
<tr>
<td>4.f.2</td>
<td>Did the Offering in their response to section 4.e.2 recommend a detailed solution that will allow the BMC within 18 months of go live to use the same signature pad (or device) for both BMC business and to process the physical credit/debit card or contactless (CTLS) payment?</td>
<td>OTC</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>• Allow for multiple custom forms</td>
<td>OTC</td>
<td></td>
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<tr>
<td></td>
<td>• Allow for customizable content (customer can scroll up and down the page to view content)</td>
<td>OTC</td>
<td></td>
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<td></td>
<td>• Allow for screen-by-screen display (one screen at a time)</td>
<td>OTC</td>
<td></td>
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<td></td>
<td>• Allow for back and next navigation</td>
<td>OTC</td>
<td></td>
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<tr>
<td></td>
<td>• Allow for customer signature to be captured</td>
<td>OTC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Allow for check or acknowledgement bases</td>
<td>OTC</td>
<td></td>
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<td></td>
<td>• Provide the ability for operator view mirroring (see on the computer monitor what the customer sees on the signature pad)</td>
<td>OTC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• PDF compatibility</td>
<td>OTC</td>
<td></td>
</tr>
<tr>
<td>4.f.3</td>
<td>Did the Offering in their response to section 4.e.3 provide a detailed description of the Offering’s solution?</td>
<td>OTC</td>
<td>1</td>
</tr>
<tr>
<td>4.f.4</td>
<td>Will the Offering be managing the POS equipment implementation via PCI-certified Qualified Integrator and Reseller (QIR) staff?</td>
<td>OTC</td>
<td>2</td>
</tr>
<tr>
<td>4.g.1</td>
<td>Will the solution integrated with any ODPS customer facing Web-Based application accept customer payments of Debit Card, Credit Card, digital wallet, and ACH payments?</td>
<td>CNP</td>
<td>3</td>
</tr>
<tr>
<td>4.g.2</td>
<td>Did the Offering provide information on Credit/Debit Card fraud prevention security options offered?</td>
<td>CNP</td>
<td>2</td>
</tr>
<tr>
<td>4.g.3</td>
<td>Did the Offering have an optional Interactive Voice Response (IVR) solution accepting payment options in Debit Card, Credit Card, and ACH payments?</td>
<td>CNP</td>
<td>2</td>
</tr>
<tr>
<td>4.g.4</td>
<td>Will the Offering’s solution include the ability for ODPS to offer a mobile Web-based payment option?</td>
<td>CNP</td>
<td>2</td>
</tr>
<tr>
<td>4.g.5</td>
<td>Will the Offering provide the planning and the required technical resources for an efficient migration of the existing ePayment applications, including development of an ePayment solution that is technology and integration methods agnostic (i.e., web standards based) to support easier migrations and adoptions of ePayment Gateway services in the future?</td>
<td>CNP</td>
<td>3</td>
</tr>
<tr>
<td>4.h.1</td>
<td>Does the ePayment Gateway service provide a customizable web-based reporting system for State personnel to perform ad hoc reporting (other than APIs) – enabling State personnel to access both administrative information and transactional information (excluding PCI data) without having to write a Web Application? The reports should include transactional information such as credits, debits, ACH, chargebacks, voids, test transactions and location identifiers. This service must be able to handle any load submitted by the State and produce reports in a timely manner.</td>
<td>Reporting</td>
<td>2</td>
</tr>
<tr>
<td>4.h.2</td>
<td>Did the Offering provide information on their online (Web-Based) reporting system available to ODPS and each Deputy Registrar, the technology that will be used to deliver the on-line information reporting?</td>
<td>Reporting</td>
<td>2</td>
</tr>
<tr>
<td>4.h.3</td>
<td>Does the Solution provide Unique Transactional Identifier Reports with the ability to send a list of transaction IDs to receive transaction detail in the report (excluding PCI data)?</td>
<td>Reporting</td>
<td>2</td>
</tr>
<tr>
<td>4.h.4</td>
<td>Did the Offering provide an overview and samples of their on-line information reporting procedures and capabilities?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.5</td>
<td>Will the end of day reconciliation reporting files be filterable by assigned agency numbers?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.6</td>
<td>Does the Solution have the ability to generate the following reports: • Report of payments by Business Type (DR, IVR, Internet). • Report of payments by DR locations • Report of payments by Transaction Detail • Intra-day Report • End of Day Report • Summary Report by credit card type • Failed Transactions • Void, reversals, or Refund Report • Disputed Transactions or Chargeback Report</td>
<td>Reporting</td>
<td>2</td>
</tr>
<tr>
<td>4.h.7</td>
<td>Will multiple users be able to access the Offering’s reporting system simultaneously without performance degradation?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.8</td>
<td>Will reporting be customizable by the ODPS, based upon the data collected during the transaction?</td>
<td>Reporting</td>
<td>2</td>
</tr>
<tr>
<td>4.h.9</td>
<td>Will the reports be accessible to the ODPS, regardless of whether it was created for or transmitted to a Participant or Customer?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.10</td>
<td>Will the reports be correctable, in the event of an error, and includes a disclaimer that the report has been corrected for audit purposes?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.11</td>
<td>Will the reports be customizable, and be sent daily by email?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.12</td>
<td>Does the Solution provide the following report types per section 4.h.12: • Summary • Customizable Reports by Participants • Origination and Settlement Reports • Payment Transaction Qualifying Report • Retrieval and Chargeback Reports?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.13</td>
<td>Does the Offering provide ODPS the reporting necessary for integration with the Qualified Security Assurance’s (QSA) PCI audit, including a detailed listing of the services provided, and their associated PCI scope?</td>
<td>Reporting</td>
<td>1</td>
</tr>
<tr>
<td>4.h.14</td>
<td>Will the ePayment Gateway service be able to produce the following monthly reports (excluding PCI data) in MS Excel or CSV file formats?</td>
<td>Reporting</td>
<td>2</td>
</tr>
</tbody>
</table>
### Requirement Description

#### 4.01
Does the contractor agree to assign one Relationship Manager dedicated to the payment gateway services account after selection, implementation, and "go-live" has occurred? This Relationship Manager shall remain assigned to this account until the contract period as set out in the Gateway Services Agreement or the contractual relationship has ended; or if the State requests another Relationship Manager.

**Category**: Relationship  
**Weight**: 2

#### 4.02
Does the contractor agree to provide an implementation team that maintain the knowledge, skills and experience required to successfully implement State payment integration projects inclusive of requirements confirmation, design/build services and production deployment until such time as ODPS accepts each integration project inclusive of meeting business, integration and technical requirements as mutually agreed under a Statement of Work as approved by the State in conjunction with each Agency implementation project?

**Category**: Relationship  
**Weight**: 2

#### 4.03
Did the Offeror provide a brief description, including years of experience, and brief biographical resumes for each of the key staff and Contractor role responsible for the performance of any service described in this RFP. Further, the Offeror will identify all key support staff that the Relationship Manager will rely on for day-to-day operations, including where those key support members provide services to the State whether they be project/implementation related or ongoing operations and maintenance functions?

**Category**: Relationship  
**Weight**: 1

#### 4.04
Did the Offeror disclose all proposed subcontracted functions and identify the Firm(s) that will deliver each service, such as settlement banks or front-end authorization and capture process?

**Category**: Relationship  
**Weight**: 1

#### 5.00
**Authorization**

5.a) Did the Offeror provide information on the process for EMV terminal authorization and the "clp" authorization process?

**Category**: Authorization  
**Weight**: 2

5.b) Did the Offeror provide response time in statistical parameters per RFP section 5.b)?

**Category**: Authorization  
**Weight**: 1

5.c) Did the Offeror describe the procedures to be followed if a transaction request is denied authorization?

**Category**: Authorization  
**Weight**: 2

5.d) Did the Offeror describe procedures for transmission, authorization during downtime and system outages and indicate any scheduled downtime periods in terms of duration and frequency?

**Category**: Authorization  
**Weight**: 3

5.e) Did the Offeror describe what authorization methods the Offeror supports and which the Offeror recommends for each processing channel?

**Category**: Authorization  
**Weight**: 1

#### 6.00
Voids, Reversals, Refunds (voids – same day; reversal, refunds – any future day)

6.a) Did the Offeror describe the processes for handling voids, reversals, and refunds?

**Category**: V/R/R  
**Weight**: 3

6.b) Did the Offeror describe the process the ODPS end user should follow after the fact to process chargebacks and voids per RFP section 6.1)?

**Category**: V/R/R  
**Weight**: 3

6.c) Did the Offeror describe the procedures to be followed to reverse a duplicate authorization?

**Category**: V/R/R  
**Weight**: 2

6.d) Does the Offeror support the undoing of a Credit Card voids? Information on the process provided by the offeror?

**Category**: V/R/R  
**Weight**: 1

6.e) Does the Offeror supports the undoing a Credit Card reversal or refund?

**Category**: V/R/R  
**Weight**: 1

6.f) Does the Offeror support batch processing of voids, reversals, and refunds?

**Category**: V/R/R  
**Weight**: 1

6.g) Does the Offeror describe how it will handle full or partial voids, reversals, and refunds?

**Category**: V/R/R  
**Weight**: 3

6.h) Does the Offeror support the voiding of transactions at other locations other than the originating transaction location and provide information on the process?

**Category**: V/R/R  
**Weight**: 1

#### 7.00
Settlement Process

7.a) Does the Offeror’s daily reconciliation file include all of the following transactions: traditional transactions, voids (same day), reversals/ refunds (future day), and chargebacks, and have unique identifiers linking to the original transaction for reconciliation?

**Category**: Settlement  
**Weight**: 3

7.b) What’s the earliest available time that Offeror can provide previous business day reporting to the ODPS with final settlement information card present vs card-not-present, and weekday vs weekend transactions?

**Category**: Settlement  
**Weight**: 2

7.c) In order for the Offeror to provide the next day’s funding reportings, what is the cut off time for the end of day transaction batching? What are the point of sale terminal “close out” procedures and how it integrates into the end-of-day settlement process?

**Category**: Settlement  
**Weight**: 1

7.d) Describe the recovery process for lost or damaged batches

**Category**: Settlement  
**Weight**: 2

7.e) What are the steps for the reconciliation of voids, reversals, refunds, or chargebacks after the fact when the gateway provider cannot be reached when the transactions were forced thru BASS per section 7.a)?

**Category**: Settlement  
**Weight**: 3

7.f) Does the vendor support voiding reversals/refunds through a batch process?

**Category**: Settlement  
**Weight**: 1

#### 8.00
Settlement Payment

8.a) Does vendor support THREE (3) part settlement for all card-present transactions for the DR?

**Category**: Payment  
**Weight**: 3

8.b) Does vendor support TWO (2) part settlement for all card-not-present transactions?

**Category**: Payment  
**Weight**: 3

8.c) Can the Offeror provide debit notification to ODPS if a debit is required from the state’s checking account? No debits are permitted to the DR bank accounts?

**Category**: Payment  
**Weight**: 2

8.d) Did the Offeror identify any applicable intermediary banks involved in the gateway service provider process and describe the use of another banking settlement layer prior to settlement with one of the state’s merchant Processor?

**Category**: Payment  
**Weight**: 1

8.e) Are there any limits to the number of transactions that can be contained in a batch or a limit in the number of files that can be sent daily?

**Category**: Payment  
**Weight**: 1
<table>
<thead>
<tr>
<th>Section</th>
<th>Requirement Description</th>
<th>Category</th>
<th>Weight</th>
<th>Exceeds</th>
<th>Meets</th>
<th>Partially Meets</th>
<th>Do Not Meet</th>
<th>Offeror Narrative and Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Retrieval Requests, Chargebacks, and Adjustments</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.a</td>
<td>Did the vendor describe the handling process for retrieval request, chargeback, and adjustment and the differences between card types (Visa, MasterCard, Discover, and American Express)?</td>
<td>Retrieval</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.b</td>
<td>Did the vendor describe how the Offeror supports online access for transmission of, and response to, retrieval request, chargebacks, and adjustments and the information is immediately reflected on the Offeror’s reporting system?</td>
<td>Retrieval</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.c</td>
<td>What are the teller reversals for card types (Visa, MasterCard, Discover, and American Express) by retrieval request, chargeback, and adjustment type over the last twelve (12) months? What are the average elapsed time from receipt of a retrieval request, chargeback, or adjustment request until time of resolution? What are, if any fees associated with each item?</td>
<td>Retrieval</td>
<td>1</td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>9.d</td>
<td>Does the Offeror have any methods available to identify and eliminate duplicate transactions?</td>
<td>Retrieval</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.e</td>
<td>Did the Offeror describe any procedures for correcting duplicate transactions?</td>
<td>Retrieval</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.f</td>
<td>Does the Offeror have any special technology available to effectively support retrieval requests, chargebacks, or adjustments handling that would be advantageous to the ODPS or Deputy Registrar’s?</td>
<td>Retrieval</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.g</td>
<td>Does the Offeror support the handling of full or partial voids/reversals/refunds from either the state money or the agency money in cases where the original source of the money is not relevant and it is possible for the customers to have their transactions voided at a different location than where the transactions originated, per section 9.g)?</td>
<td>Retrieval</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Other Implementation and Future Project Opportunities</td>
<td></td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>10.a</td>
<td>Will the Offeror’s proposed ePayment service be cost effective and scalable to meet ODPS immediate and future needs?</td>
<td>Implementation</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.b</td>
<td>Will the Offeror provide execution leadership for ODPS entities to migrate existing applications to the new ePayment Service inclusive of entity engagement?</td>
<td>Implementation</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>10.c</td>
<td>Will the Contractor in collaboration with ODPS initiate the project with a mobilization effort for the first 15 days of the project, followed by the project kick-off event?</td>
<td>Implementation</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>10.d</td>
<td>Will the Contractor in conjunction with ODPS develop and deliver a presentation to the sponsors, key stakeholders and core project team after the mobilization effort?</td>
<td>Implementation</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>10.e</td>
<td>In response to this RFP, did the Offeror include a detailed bill of materials in the Cost Workbook, listing all elements that ODPS must acquire by way of hardware, storage, networking and other infrastructure to utilize the service as proposed, including any third party licenses required to support integration with State solutions (both custom developed or third party solutions)?</td>
<td>Implementation</td>
<td>3</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Offeror Differentiators</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.a</td>
<td>Did the Offeror provide a brief overview of their organization, including their organization’s corporate structure, holding companies, parents, corporate affiliates and significant correspondent banks and identify headquarters location, and what year they began offering both Web-based and OTC/POS Payment Gateway services?</td>
<td>Differentiators</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.b</td>
<td>Did the Offeror provide approximate percentage of their volume, by number of transactions and dollar amount of transactions contributed by each of their largest customers, as well as an indication how many clients they have in total?</td>
<td>Differentiators</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>11.c</td>
<td>Did the Offeror provide a detailed service fee structure of services pertaining to this RFP?</td>
<td>Differentiators</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.d</td>
<td>Did the Offeror provide a statement regarding the number and nature of any clients that account for more than 10% of their business including length of relationship?</td>
<td>Differentiators</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>11.e</td>
<td>Did the Offeror disclose any other companies or subsidiaries under the same ownership, and their products and services that utilize, are dependent upon, or in the absence of which would undermine or render unavailable or not viable, those services provided by the Offeror to ODPS?</td>
<td>Differentiators</td>
<td>1</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>11.f</td>
<td>Did the Offerors provide the number of full-time employees (locally, nationally, and internationally) dedicated to supporting the services described herein to all customers and the locations from which these employees will be assigned (should the Offeror’s proposal be awarded) to provide services to ODPS?</td>
<td>Differentiators</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.g</td>
<td>Did the Offeror provide significant customer references that highlighted the strength of relationship and partnership between the Offeror and their customers that have resulted in achieving the strategic goals of customers of the Offeror, specifically with respect to each of their largest customers?</td>
<td>Differentiators</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.h</td>
<td>Did the Offeror provide a Change of Control Statement to the effect of section 11.h) of this RFP?</td>
<td>Differentiators</td>
<td>1</td>
<td></td>
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</tr>
<tr>
<td>Section</td>
<td>Requirement Description</td>
<td>Category</td>
<td>Weight</td>
<td></td>
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<tr>
<td>12</td>
<td>Did the Offeror describe, as the Contractor performing the work deliver, access to best practises that the Offeror has developed within its systems that result in rapid, high quality and low cost operational usage of the service while mitigating needs to customize the system?</td>
<td>Support</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.b)</td>
<td>Did the Offeror describe, as the Contractor performing the work deliver, Offeror's support capabilities that will be implemented or utilized to drive the highest levels of support and service that ensure maximal usage and availability of the system – particularly during critical financial periods, but also during routine or planned maintenance and enhancement periods that minimize disruption to business and users communities?</td>
<td>Support</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.c)</td>
<td>Did the Offeror describe, as the Contractor performing the work deliver, its commitment to scalable, upgradeable services to ensure the State has access to current features/functionality and can pursue migrations and new service implementation in a timely and cost effective manner?</td>
<td>Support</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.d)</td>
<td>Did the Offeror describe, as the Contractor performing the work deliver, innovative practices and methodologies provided and followed by the Contractor that are market proven and help drive successful migrations, implementations and enhancements while mitigating project risk wherever possible?</td>
<td>Support</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.e)</td>
<td>Did the Offeror describe, as the Contractor performing the work deliver, a complete description of all new features/functionality and can pursue migrations and new service implementation in a timely and cost effective manner?</td>
<td>Support</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.a)</td>
<td>Did the Offeror describe, as the Contractor performing the work deliver, access to best practises that the Offeror has developed within its systems that result in rapid, high quality and low cost operational usage of the service while mitigating needs to customize the system?</td>
<td>Support</td>
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</tr>
<tr>
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<tr>
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<td>Did the Offeror describe, as the Contractor performing the work deliver, its commitment to scalable, upgradeable services to ensure the State has access to current features/functionality and can pursue migrations and new service implementation in a timely and cost effective manner?</td>
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<td></td>
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</tr>
<tr>
<td>12.e)</td>
<td>Did the Offeror describe, as the Contractor performing the work deliver, a complete description of all new features/functionality and can pursue migrations and new service implementation in a timely and cost effective manner?</td>
<td>Support</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The evaluation team will rate the Proposals that meet the Mandatory Requirements based on the following criteria and respective weights.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Proposal (Overall)</td>
<td>70%</td>
</tr>
<tr>
<td>Cost/Fee Proposal</td>
<td>30%</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>100%</td>
</tr>
</tbody>
</table>

To ensure the scoring ratio is maintained, the State will use the following formulas to weight the points awarded to each Offeror.

The Offeror with the highest point total for the Technical Proposal will receive 700 points. The remaining Offerors will receive a percentage of the maximum points available based upon the following formula:

\[
\text{Technical Proposal Points} = \left( \frac{\text{Offeror's Technical Proposal Points}}{\text{Highest Offeror Technical Proposal Points}} \right) \times 700
\]
Price Performance Evaluation.

In addition to the pricing information required in the table below, please provide pricing details for the following categories of charges applied to End-users and/or ODPS:

1. Applicable Service Fees
   a) Please list and describe all applicable service fees charged.
   b) Include sample invoice/s, itemized applicable fees such as gateway fees for each transaction (per click charges, authorization, and settlement fees).
   c) Describe all flat or fixed fees, how they are calculated, and show how they would be applied. Include sample invoice/s of such fees.

2. All other Fees
   a) If you charge any fees that do not fall in the categories described above or in the table below, please list each fee, how it is calculated, and show how it would be applied, include sample invoice/s.

Please note that this RFP will allow ODPS a clear understanding, based on the information provided, the total cost assessed to ODPS by the gateway provider, and cost our customers will be assessed. i.e. authorization/settlement fees, and any applicable (credit card) service fee(s) the provider will assess in the chart below. Currently, ODPS assesses customers approximately 2% service fee for most credit card transactions. It is incumbent upon the proposer to ensure that their response will allow ODPS to identify the full cost of credit card processing fees completed via the proposer’s gateway solution.

Customer Fees.

The Offeror with the lowest proposed Customer Fees will receive 100 points. The remaining Offerors will receive a percentage of the maximum cost points available based upon the Customer Fees Formula below: The estimated Volumes and Values in the chart below are for evaluation purposes only. Exhibit B reflects actual historic data for 2017 for reference. The Offeror will submit proposed fees in only one of the following Chart A options.

<table>
<thead>
<tr>
<th>Chart A</th>
<th>Fee Options</th>
<th>Proposed Fee per Transaction</th>
<th>Set Maximum Dollar</th>
<th>Purposed % of Transaction</th>
<th>Offeror Narrative and Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1</td>
<td>% of Transaction</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Option 2</td>
<td>Flat Fee per Transaction</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Option 3</td>
<td>Minimum Fee per Transaction up to set Maximum Dollar, than % of Transaction</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
Example: Option 3 Selected

<table>
<thead>
<tr>
<th>Business Unit</th>
<th>Application</th>
<th>Volume of Transactions</th>
<th>Proposed % = Fees</th>
<th>$ Per Transaction</th>
<th>Total % Charged Fees</th>
<th>Proposed Flat = Fees</th>
<th>Total Flat Charged Fees</th>
<th>Total Charged Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Unit 1</td>
<td>Card not Present</td>
<td>24,000</td>
<td>$270,000.00</td>
<td>31.25</td>
<td>$</td>
<td>0.00</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td>Business Unit 2</td>
<td>Card not Present</td>
<td>1,300,000</td>
<td>$47,000,000.00</td>
<td>49.73</td>
<td>$</td>
<td>-</td>
<td>$</td>
<td>-</td>
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<tr>
<td>Business Unit 3</td>
<td>Card not Present</td>
<td>10,000</td>
<td>$525,000.00</td>
<td>57.73</td>
<td>$</td>
<td>-</td>
<td>$</td>
<td>-</td>
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<tr>
<td>Business Unit 4</td>
<td>Card not Present</td>
<td>200,000</td>
<td>$13,000,000.00</td>
<td>54.52</td>
<td>$</td>
<td>-</td>
<td>$</td>
<td>-</td>
</tr>
<tr>
<td>Business Unit 5</td>
<td>Card Present</td>
<td>2,600,000</td>
<td>$260,000,000.00</td>
<td>57.69</td>
<td>$</td>
<td>-</td>
<td>$</td>
<td>-</td>
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<tr>
<td>Business Unit 6</td>
<td>Card not Present</td>
<td>10,000</td>
<td>$1,200,000.00</td>
<td>120.00</td>
<td>$</td>
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<td>$</td>
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<tr>
<td>Business Unit 7</td>
<td>Card not Present</td>
<td>300</td>
<td>$48,000.00</td>
<td>160.00</td>
<td>$</td>
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<td>$</td>
<td>-</td>
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<tr>
<td>Business Unit 8</td>
<td>Card not Present</td>
<td>12,000</td>
<td>$2,600,000.00</td>
<td>216.67</td>
<td>$</td>
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<tr>
<td>Total</td>
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<td>$213,641,000</td>
<td>88.83</td>
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<td>$</td>
<td>-</td>
<td>$</td>
</tr>
</tbody>
</table>

Customer Fees Proposal Points = 1 - Offerors Evaluated Cost (equals) (one) minus (divided by) Highest Offerors Evaluated Cost (times)
ODPS Fees.

The Offeror will fill out column D on the table below. The Offeror with the lowest proposed ODPS Fees will receive 200 points. The remaining Offerors will receive a percentage of the maximum cost points available based upon ODPS Fees Formula below: The estimated Volumes and Values in the charts below are for evaluation purposes only.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remitted Proposed Fees that cannot be included as a &quot;No Cost&quot; Solution to ODPS</td>
<td>Estimated Annual Transaction Volume</td>
<td>Estimated Annual Transaction Revenue</td>
<td>Fees Per Transaction</td>
<td>Total Fees</td>
<td>Total</td>
</tr>
<tr>
<td>ACH Transaction (Web Based)</td>
<td>400,000</td>
<td>$53,000,000.00</td>
<td>$</td>
<td>-</td>
<td>$</td>
</tr>
<tr>
<td>Any other services/transactions for which will be charged to ODPS</td>
<td>3,977,300</td>
<td>$213,643,000.00</td>
<td>$</td>
<td>-</td>
<td>$</td>
</tr>
<tr>
<td>additional lines as needed</td>
<td>3,977,300</td>
<td>$213,643,000.00</td>
<td>$</td>
<td>-</td>
<td>$</td>
</tr>
<tr>
<td>Proposed Card Present Transactions Fees (estimated 200 DR accounts)</td>
<td>2,600,000</td>
<td>$150,000,000.00</td>
<td>$</td>
<td>-</td>
<td>$</td>
</tr>
<tr>
<td>additional lines as needed</td>
<td>2,600,000</td>
<td>$150,000,000.00</td>
<td>$</td>
<td>-</td>
<td>$</td>
</tr>
<tr>
<td>Proposed Card Present Support/Maintenance Fees</td>
<td>2,600,000</td>
<td>$150,000,000.00</td>
<td>$</td>
<td>-</td>
<td>$</td>
</tr>
<tr>
<td>additional lines as needed</td>
<td>2,600,000</td>
<td>$150,000,000.00</td>
<td>$</td>
<td>-</td>
<td>$</td>
</tr>
<tr>
<td>Total Cost to ODPS (for evaluation)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ODPS Fees Formula:

* Lowest Offeror will receive 200 points

\[
\text{ODPS Fees Proposal Points} = \frac{1}{\text{Offerors Evaluated Cost}} \times 200
\]

Offerer Total Cost Points Awarded.

\[
\text{Total Cost Point Score} = \text{Customer Fees Proposal Points} + \text{ODPS Fees Proposal Points}
\]

35
**ATTACHMENT 01: GENERAL TERMS AND CONDITIONS**

**PART ONE: PERFORMANCE AND PAYMENT**

**Statement of Work.** The selected offeror's Proposal and the ODPS’s Request for Proposal (collectively, the "RFP Documents") are a part of this Contract and describe the work (the "Project") the Contractor must do and any materials the Contractor must deliver (the "Deliverables") under this Contract. The Contractor must do the Project in a professional, timely, and efficient manner and must provide the Deliverables in a proper fashion. The Contractor also must furnish its own support staff necessary for the satisfactory performance of the Project.

The Contractor must consult with the appropriate ODPS representatives and others necessary to ensure a thorough understanding of the Project and satisfactory performance. ODPS may give instructions to or make requests of the Contractor relating to the Project, and the Contractor must comply with those instructions and fulfill those requests in a timely and professional manner. Those instructions and requests will be for the sole purpose of ensuring satisfactory completion of the Project and will not amend or alter the scope of the Project.

**Term.** Unless this Contract is terminated or expires without renewal, it will remain in effect until the Project is completed to the satisfaction of ODPS, including all optional renewal periods for maintenance or continuing commitments, and the Contractor is paid. However, the current General Assembly cannot commit a future General Assembly to an expenditure. Therefore, this Contract will automatically expire at the end of each biennium, the first of which is June 30, 2021. ODPS may renew this Contract in the next biennium by issuing written notice to the Contractor of the decision to do so. This expiration and renewal procedure also will apply to the end of any subsequent biennium during which the Project continues, including any optional renewal periods. Termination or expiration of this Contract will not limit the Contractor’s continuing obligations with respect to Deliverables that ODPS paid for before or after termination or limit ODPS’s rights in such.

ODPS’s funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails to continue funding for the payments and other obligations due as part of this Contract, ODPS’s obligations under this Contract will terminate as of the date that the funding expires without further obligation of ODPS.

The Project has a completion date that is identified in the RFP Documents. The RFP Documents also may have several dates for the delivery of Deliverables or reaching certain milestones in the Project. The Contractor must make those deliveries, meet those milestones, and complete the Project within the times the RFP Documents require. If the Contractor does not meet those dates, the Contractor will be in default, and ODPS may terminate this Contract under the termination provision contained below.

ODPS also may have certain obligations to meet. Those obligations, if any, are also listed in the RFP Documents. If ODPS agrees that the Contractor’s failure to meet the delivery, milestone, or completion dates in the RFP Documents is due to ODPS’s failure to meet its own obligations in a timely fashion, then the Contractor will not be in default, and the delivery, milestone, and completion dates affected by ODPS’s failure to perform will be extended by the same amount of time as ODPS’s delay. The Contractor may not rely on this provision unless the Contractor has in good faith exerted reasonable management skill to avoid an extension and has given ODPS meaningful written notice of ODPS’s failure to meet its obligations within five business days of the Contractor’s realization that ODPS’s delay may impact the Project. The Contractor must deliver any such notice to both the Project Representative and Procurement Representative and title the notice as a “Notice of State Delay.” The notice must identify any delay in detail, as well as the impact the delay has or will have on the Project. Unless ODPS decides, in its sole and exclusive judgment, that an equitable adjustment in the Contractor’s Fee is warranted in the case of an extended delay, an extension of the Contractor’s time to perform will be the Contractor’s exclusive remedy for ODPS’s delay. Should ODPS determine that an equitable adjustment in the Contractor’s Fee is warranted, the equitable adjustment will be handled as a Change Order under the Changes Section of this Contract, and the extension of time and equitable adjustment will be the exclusive remedies of the Contractor for ODPS’s delay.

ODPS seeks a complete project, and the Contractor must provide any incidental items omitted in the RFP Documents as part of the Contractor’s Fixed Tiered Transaction Price Schedule and Contractor Rate Card for IDA.
based projects. The Contractor also must fully identify, describe, and document all systems that are delivered as a part of the Project. Unless expressly excluded elsewhere in the RFP, all hardware, software, supplies, and other required components (such as documentation, conversion, training, and maintenance) necessary for the Project to be complete and useful to ODPS are included in the Project and the Fixed Tiered Transaction Price Schedule and Contractor Rate Card for IDA based projects.

Compensation. In consideration of the Contractor’s promises and satisfactory performance, ODPS will pay the Contractor the amount(s) identified in the RFP Documents (the "Fee"), plus any other expenses identified as reimbursable in the RFP Documents. In no event, however, will payments under this Contract exceed the Fixed Tiered Transaction Price Schedule and Contractor Rate Card for IDA based projects in the RFP Documents without the prior written approval of ODPS and, when required, the Ohio Controlling Board and any other source of funding. The Contractor’s right to the Fee is contingent on the complete and satisfactory performance of the Project or, in the case of milestone payments or periodic payments of an hourly, daily, weekly, monthly, or annual rate, all relevant parts of the Project tied to the applicable milestone or period. Payment of the Fee also is contingent on the Contractor delivering a proper invoice and any other documents the RFP Documents require. An invoice must comply with ODPS’s then current policies regarding invoices and their submission. ODPS will notify the Contractor in writing within 15 business days after it receives a defective invoice of any defect and provide the information necessary to correct the defect.

The Contractor must send all invoices under this Contract to the “bill to” address in the RFP Documents or in the applicable purchase order.

ODPS will pay the Contractor interest on any late payment, as provided in Section 126.30 of the Ohio Revised Code (the "Revised Code"). If ODPS disputes a payment for anything covered by an invoice, within 15 business days after receipt of that invoice, ODPS will notify the Contractor, in writing, stating the grounds for the dispute. ODPS then may deduct the disputed amount from its payment as a nonexclusive remedy. If the Contractor has committed a material breach, in the sole opinion of ODPS, ODPS also may withhold payment otherwise due to the Contractor. Both parties will attempt to resolve any claims of material breach or payment disputes through discussions among the Contractor’s Implementation Manager (e.g., Contractor’s Project Manager), the Contractor’s Project executive, ODPS’s Project Representative, and ODPS Contract Management Administrator. ODPS will consult with the Contractor as early as reasonably possible about the nature of the claim or dispute and the amount of payment affected. When the Contractor has resolved the matter to ODPS’s satisfaction, ODPS will pay the disputed amount within 30 business days after the matter is resolved. ODPS has no obligation to make any disputed payments until the matter is resolved, and the Contractor must continue its performance under this Contract pending resolution of the dispute or claim.

If ODPS has already paid the Contractor on an invoice but later disputes the amount covered by the invoice, and if the Contractor fails to correct the problem within 30 calendar days after written notice, the Contractor must reimburse ODPS for that amount at the end of the 30 calendar days as a nonexclusive remedy for ODPS. On written request from the Contractor, ODPS will provide reasonable assistance in determining the nature of the problem by giving the Contractor reasonable access to ODPS’s facilities and any information ODPS has regarding the problem.

Payment of an invoice by ODPS will not prejudice ODPS’s right to object to or question that or any other invoice or matter in relation thereto. The Contractor’s invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by ODPS not to constitute allowable costs, on the basis of audits conducted in accordance with the terms of this Contract. At ODPS’s sole discretion all payments shall be subject to reduction for amounts equal to prior overpayments to the Contractor.

If the RFP Documents provide for any retainage, ODPS will withhold from each invoice paid the percentage specified in the RFP Documents as retainage. ODPS will pay the retainage only after ODPS has accepted the Project, and then only in accordance with the payment schedule specified in the RFP Documents. ODPS will withhold all amounts under this section arising from claims or disputes in addition to any retainage specified in the RFP Documents.
ODPS may pay any part of the Fixed Tiered Transaction Price Schedule and Contractor Rate Card for IDA based projects identified in the RFP documents as being for a license in Commercial Material from a third party in accordance with the applicable license agreement, if the license agreement addresses payment.

**Reimbursable Expenses.** ODPS will pay all reimbursable expenses identified in the RFP Documents, if any, in accordance with the terms in the RFP Documents and, where applicable, Section 126.31 of the Revised Code. The Contractor must assume all expenses that it incurs in the performance of this Contract that are not identified as reimbursable in the RFP Documents.

In making any reimbursable expenditure, the Contractor always must comply with the more restrictive of its own, then current internal policies for making such expenditures or ODPS's then current policies. All reimbursable travel will require the advance written approval of ODPS's Project Representative. The Contractor must bill all reimbursable expenses monthly, and ODPS will reimburse the Contractor for them within 30 business days of receiving the Contractor's invoice.

**Right of Offset.** ODPS may set off the amount of any Ohio tax liability, liquidated damages or other damages or claims for damages, or other obligation of the Contractor or its subsidiaries to the State, including any amounts the Contractor owes to the State under this or other contracts, against any payments due from ODPS to the Contractor under this or any other contracts with ODPS.

**Certification of Funds.** None of the rights, duties, or obligations in this Contract will be binding on ODPS, and the Contractor will not begin its performance until all the following conditions have been met:

(a) All statutory provisions under the Revised Code, including Section 126.07, have been met;
(b) All necessary funds are made available by the appropriate ODPS entities;
(c) If required, the Controlling Board of Ohio approves this Contract; and
(d) If ODPS is relying on federal or third-party funds for this Contract, ODPS gives the Contractor written notice that such funds are available.

**Employment Taxes.** All people furnished by the Contractor (the “Contractor Personnel”) are employees or subcontractors of the Contractor, and none are or will be deemed employees or contractors of ODPS. No Contractor Personnel will be entitled to participate in, claim benefits under, or become an “eligible employee” for purposes of any employee benefit plan of ODPS by reason of any work done under this Contract. The Contractor will pay all federal, state, local, and other applicable payroll taxes and make the required contributions, withholdings, and deductions imposed or assessed under any provision of any law and measured by wages, salaries, or other remuneration paid by or which may be due from the Contractor to the Contractor Personnel. The Contractor will indemnify, defend (with the consent and approval of the Ohio Attorney General), and hold ODPS harmless from and against all claims, losses, liability, demands, fines, and expense (including court costs, defense costs, and redeemable attorney fees) arising out of or relating to such taxes, withholdings, deductions, and contributions with respect to the Contractor Personnel. The Contractor’s indemnity and defense obligations also apply to any claim or assertion of tax liability made by or on behalf of any Contractor Personnel or governmental agency on the basis that any Contractor Personnel are employees or contractors of ODPS, that ODPS is the “joint employer” or “co-employer” of any Contractor Personnel, or that any Contractor Personnel are entitled to any employee benefit offered only to eligible regular fulltime or regular part-time employees of ODPS.

**Sales, Use, Excise, and Property Taxes.** ODPS is exempt from any sales, use, excise, and property tax. To the extent sales, use, excise, or any similar tax is imposed on the Contractor in connection with the Project, such will be the sole and exclusive responsibility of the Contractor. Further, the Contractor will pay such taxes, together with any interest and penalties not disputed with the appropriate taxing authority, whether they are imposed at the time the services are rendered or a later time.
Related Contracts. The Contractor warrants that the Contractor has not and will not enter into any contracts without written approval of ODPS to perform substantially identical services for ODPS, such that the Project duplicates the work done or to be done under the other contracts.

Other Contractors. ODPS may hold other contracts for additional or related work, including among others independent verification and validation (IV&V) work for this Project. The Contractor must fully cooperate with all other contractors and ODPS employees and coordinate its work with such other contractors and ODPS employees as may be required for the smooth and efficient operation of all related or additional work. The Contractor may not act in any way that may unreasonably interfere with the work of any other contractors or ODPS’s employees. Further, the Contractor must fully cooperate with any IV&V contractor assigned to this Project. Such cooperation includes expeditiously providing the IV&V contractor with full and complete access to all project work product, records, materials, personnel, meetings, and correspondence as the IV&V contractor may request. If ODPS assigns an IV&V contractor to the Project, ODPS will obligate the IV&V contractor to a confidentiality provision similar to the Confidentiality Section contained in this Contract. Additionally, the Contractor must include the obligations of this provision in all its contracts with its subcontractors that work on this project.

Subcontracting. The Contractor may not enter into subcontracts related to the Project after award without written approval from ODPS. Nevertheless, the Contractor will not need ODPS’s written approval to subcontract for the purchase of commercial goods that are required for satisfactory completion of the Project. All subcontracts will be at the sole expense of the Contractor unless expressly stated otherwise in the RFP Documents.

ODPS’s approval of the use of subcontractors does not mean that ODPS will pay for them. The Contractor will be solely responsible for payment of its subcontractor and any claims of subcontractors for any failure of the Contractor or any of its other subcontractors to meet the performance schedule or performance specifications for the Project in a timely and professional manner. The Contractor must hold ODPS harmless for and must indemnify ODPS against any such claims.

The Contractor assumes responsibility for all Deliverables whether it, a subcontractor, or third-party manufacturer produces them in whole or in part. Further, the Contractor will be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract. Further, the Contractor will be fully responsible for any default by a subcontractor, just as if the Contractor itself had defaulted.

If the Contractor uses any subcontractors, each subcontractor must have a written agreement with the Contractor. That written agreement must incorporate this Contract by reference. The agreement also must pass through to the subcontractor all provisions of this Contract that would be fully effective only if they bind both the subcontractor and the Contractor. Among such provisions are the limitations on the Contractor’s remedies, the insurance requirements, record keeping obligations, and audit rights. Some sections of this Contract may limit the need to pass through their requirements to subcontracts to avoid placing cumbersome obligations on minor subcontractors. This exception is applicable only to sections that expressly provide an exclusion for small-dollar subcontracts. Should the Contractor fail to pass through any provisions of this Contract to one of its subcontractors and the failure damages ODPS in any way, the Contractor must indemnify ODPS for the damage.

Record Keeping. The Contractor must keep all financial records in accordance with generally accepted accounting principles or equivalent consistently applied. The Contractor also must file documentation to support each action under this Contract in a manner allowing the documentation to be readily located. Additionally, the Contractor must keep all Project-related records and documents at its principal place of business or at its office where the work was performed.

Audits. During the term of this Contract and for three years after the payment of the Contractor’s Fee, on reasonable notice, and during customary business hours, ODPS may audit the Contractor’s records and other materials that relate to the Project. This audit right also applies to ODPS’s duly authorized representatives and any person or organization providing financial support for the Project. ODPS audit rights will apply to those Contractor materials that are required to verify the accuracy of a Contractor invoice to ODPS inclusive of: Contractor personnel timesheets; Contractor purchased or provided equipment for benefit of ODPS that will remain in ODPS’s possession; ODPS deliverable acceptance documentation; any required ODPS written approvals as required herein;
final Work products and deliverables; any partial or incomplete Work products or deliverables that should the Contractor submit for partial compensation from ODPS as a result of termination of this contract.

Right to Terminate as a Result of Audit Findings. In the event ODPS determines that the results of any examination of the Contractor is unsatisfactory per the requirements of the Contract and not remedied within a 90 day period following written notice from ODPS, ODPS may terminate this Agreement, in part or in full.

If the Contractor fails to satisfy the requirements of ODPS with regard to security of information, or if an examination reveals information that would result in a continuing contractual relationship that causes ODPS to be in violation of any law, ODPS may terminate this Contract immediately without notice.

Insurance. The Contractor must provide the following insurance coverage at its own expense throughout the term of this Contract:

(a) Workers’ compensation insurance, as required by Ohio law, and, if some of the Project will be done outside Ohio, the laws of the appropriate state(s) where work on the project will be done. The Contractor also must maintain employer's liability insurance with at least a $1,000,000.00 limit.

(b) Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, as its interest may appear. The policy also must be endorsed to include a waiver of subrogation. At a minimum, the limits of the insurance must be:

- $2,000,000 General Aggregate
- $2,000,000 Products/Completed Operations Aggregate
- $1,000,000 Per Occurrence Limit
- $1,000,000 Personal and Advertising Injury Limit
- $100,000 Fire Legal Liability
- $10,000 Medical Payments

The Contractor shall, for each policy required by this Contract, provide ODPS with 30-days prior written notice of cancellation, material change, or non-renewal, except a 10-days notice of non-payment of premium. And the Contractor’s Commercial General Liability must be primary over any other insurance coverage.

(c) Commercial Automobile Liability insurance with a combined single limit of $500,000.

(d) Professional Liability insurance covering all staff with a minimum limit of $1,000,000 per incident and $3,000,000 aggregate. If the Contractor’s policy is written on a “claims made” basis, the Contractor must provide ODPS with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Contractor must purchase and maintain “tail” coverage through the applicable statute of limitations.

The certificate(s) must be in a form that is reasonably satisfactory to ODPS as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an “A-” rating by A.M. Best.

(e) The Contractor must also provide cyber liability and intellectual property infringement liability insurance of not less than $5,000,000 per occurrence and $10,000,000 in the aggregate for liability for financial loss resulting or arising from acts, errors, and omissions in connection with the Services provided under this Contract, including but not limited to:

- Breaches of security or privacy
- Data theft, damage, destruction, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential corporate information, transmission of a computer virus or other type of malicious code
- Participation in a denial of service attack on a third party
• Violation or infringement of any right of privacy, breach of federal, state, or foreign security or privacy laws or regulations
• Intellectual property infringement arising out of software or content (excluding patent and copyright infringement and misappropriation of trade secrets)
• Technology errors and omissions
• Business interruption
• Cyber extortion
• Investigation, notification, and related credit monitoring costs from any of the above.

Representatives. ODPS's representative under this Contract will be the person identified in the RFP Documents or in a subsequent notice to the Contractor as the “Project Representative.” The Project Representative will review all reports the Contractor makes in the performance of the Project, will conduct all liaison with the Contractor, and will accept or reject the Deliverables and the completed Project. The Project Representative may delegate his responsibilities for individual aspects of the Project to one or more managers, who may act as the Project Representative for those individual portions of the Project.

The Contractor’s Implementation Manager under this Contract will be the person identified on the RFP Documents as the “Implementation Manager." The Implementation Manager will be the Contractor’s liaison with ODPS under this Contract. The Implementation Manager will also conduct all Project meetings and prepare and submit to the Project Representative all reports, plans, and other materials that the RFP Documents require from the Contractor.

Either party, upon written notice to the other party, may designate another representative. However, the Contractor may not replace the Implementation Manager without the approval of ODPS if that person is identified in the RFP Documents by name or as a key individual on the Project.

Background Checks. All Contractor and subcontractor personnel assigned to the Enterprise ePayment Project who may have access to sensitive or confidential information or to sensitive ODPS systems must have a routine background check, at ODPS expense. The contractor and subcontractor will be required to complete a “Facility Access Form” furnished by ODPS. Failure to pass the background check will result in immediate dismissal of the resource, whereupon, the contractor must submit a replacement resource with equal or better qualifications before project start or before reporting to ODPS designated project facilities.

Suspension and Termination. ODPS may terminate this Contract in full or in part for cause if the Contractor defaults in meeting its obligations under this Contract and fails to cure its default within the time allowed by this Contract, or if a petition in bankruptcy (or similar proceeding) has been filed by or against the Contractor. ODPS also may terminate this Contract if the Contractor violates any law or regulation in doing the Project, fails to meet PCI DSS compliance, or if it appears to ODPS that the Contractor’s performance is substantially endangered through no fault of ODPS. In any such case, the termination will be for cause, and ODPS's rights and remedies will be those identified below for termination for cause.

On written notice, the Contractor will have a mutually agreed upon number of calendar days (with ODPS having the final determination) to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within the agreed upon calendar days after written notice, or if the breach is not one that is curable, ODPS will have the right to terminate this Contract immediately on notice to the Contractor. ODPS also may terminate this Contract in the case of breaches that are cured within the agreed upon calendar days but are persistent. "Persistent" in this context means that ODPS has notified the Contractor in writing of the Contractor's failure to meet any of its obligations three times. After the third notice, ODPS may terminate this Contract on written notice to the Contractor without a cure period if the Contractor again fails to meet any obligation. The three notices do not have to relate to the same obligation or type of failure. Some provisions of this Contract may provide for a shorter cure period than 30 calendar days or for no cure period at all, and those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

ODPS also may terminate this Contract in full or in part for its convenience and without cause or if the Ohio General Assembly fails to appropriate funds for any part of the Project. If a third party is providing funding for the Project, ODPS also may terminate this Contract should that third party fail to release any Project funds. The RFP
Documents normally identify any third party source of funds for the Project, but an absence of such in the RFP Documents will not diminish ODPS’s rights under this section.

The notice of termination, whether for cause or without cause, will be effective as soon as the Contractor receives it. Upon receipt of the notice of termination, the Contractor must immediately cease all work on the project and take all steps necessary to minimize any costs the Contractor will incur related to this Contract. The Contractor also must immediately prepare a report and deliver it to ODPS. The report must be all-inclusive and must detail the work completed at the date of termination, the percentage of the Project’s completion, any costs incurred in doing the Project to that date, and any Deliverables completed or partially completed but not delivered to ODPS at the time of termination. The Contractor also must deliver all the completed and partially completed Deliverables to ODPS with its report. However, if ODPS determines that delivery in that manner would not be in its interest, then ODPS will designate a suitable alternative form of delivery, which the Contractor must honor.

If ODPS terminates this Contract for cause, ODPS will be entitled to cover for the Work by using another Contractor on such commercially reasonable terms as ODPS and the covering contractor may agree. The Contractor will be liable to ODPS for all costs related to covering for the Work to the extent that such costs, when combined with payments already made to the Contractor for the Work before termination, exceed the costs that ODPS would have incurred under this Contract. The Contractor also will be liable for any other direct damages resulting from its breach of this Contract or other action leading to termination for cause. If the Contractor fails to deliver Deliverables or provide satisfactory services, ODPS has the right to withhold any and all payments due to the Contractor without penalty or work stoppage by the Contractor until such failure to perform is cured.

If the termination is for the convenience of ODPS, the Contractor will be entitled to the Contract price as specified by ODPS for deliverables, products or services accepted by ODPS and not previously paid for provided that in no event the total payments exceed the amount payable to the Contractor if the Contract had been fully performed. For items not specifically priced, ODPS will use fair market value to determine the price owed. The Contractor will use generally accepted accounting principles or equivalent and sound business practices in determining all costs claimed, agreed to, or determined under this clause.

ODPS will have the option of suspending this Contract in full or in part rather than terminating the Project, if ODPS believes that doing so would better serve its interests. In the event of a suspension for the convenience of ODPS, the Contractor will be entitled to receive payment for the work performed before the suspension. ODPS will calculate the amount of compensation due to the Contractor for work performed before the suspension in the same manner as provided in this section for termination for ODPS’s convenience. The Contractor will not be entitled to compensation for any other costs associated with a suspension for ODPS’s convenience, and ODPS will make no payment under this provision to the Contractor until the Contractor submits a proper invoice. If ODPS decides to allow the work to continue rather than terminating this Contract after the suspension, ODPS will not be required to make any payment to the Contractor other than those payments specified in this Contract and in accordance with the payment schedule specified in this Contract for properly completed work.

In the case of suspension of the Project for cause rather than termination for cause, the Contractor will not be entitled to any compensation for any work performed. If ODPS reinstates the Project after suspension for cause, rather than terminating this Contract after the suspension, the Contractor may be entitled to compensation for work performed before the suspension, less any damage to ODPS resulting from the Contractor’s breach of this Contract or other fault. Any amount due for work before or after the suspension for cause will be offset by any damage to ODPS from the default or other event giving rise to the suspension.

Any notice of suspension, whether with or without cause, will be effective immediately on the Contractor’s receipt of the notice. The Contractor will prepare a report concerning the Project just as is required by this Section in the case of termination. After suspension of the Project, the Contractor may not perform any work without the consent of ODPS and may resume work only on written notice from ODPS to do so. In any case of suspension, ODPS retains its right to terminate this Contract rather than to continue the suspension or resume the Project.

ODPS may not suspend the Project for its convenience more than twice during the term of this Contract, and any suspension for ODPS’s convenience may not continue for more than 30 calendar days. If the Contractor does not receive notice to resume or terminate the Project within the 30-day suspension, then this Contract will terminate automatically for ODPS’s convenience at the end of the 30 calendar day period.
Any default by the Contractor or one of its subcontractors will be treated as a default by the Contractor and all of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and must indemnify ODPS for any liability to them. Notwithstanding the foregoing, each subcontractor must hold ODPS harmless for any damage caused to them from a suspension or termination. They must look solely to the Contractor for any compensation to which they may be entitled.

**Project Responsibilities.** ODPS will be responsible for providing only those things, if any, expressly identified in the RFP Documents. If ODPS has agreed to provide facilities or equipment, the Contractor, by signing this Contract, warrants that the Contractor has either inspected the facilities and equipment or has voluntarily waived an inspection and will work with the equipment and facilities on an “as is” basis.

The Contractor must assume the lead in the areas of management, design, and development of the Project. The Contractor must coordinate the successful execution of the Project and direct all Project activities on a day-to-day basis, with the advice and consent of the Project Representative. The Contractor will be responsible for all communications regarding the progress of the Project and will discuss with the Project Representative any issues, recommendations, and decisions related to the Project.

If any part of the Project requires installation on ODPS's property, ODPS will provide the Contractor with reasonable access to the installation site for the installation and any site preparation that is needed. After the installation is complete, the Contractor must complete an installation letter and secure the signature of the Project Representative certifying that installation is complete and the Project, or applicable portion of it, is operational. The letter must describe the nature, date, and location of the installation, as well as the date the Project Representative certified the installation as complete and operational.

Unless otherwise provided in the RFP Documents, the Contractor is solely responsible for obtaining all official permits, approvals, licenses, certifications, and similar authorizations required by any local, state, or federal agency for the Project and maintaining them throughout the duration of this Contract.

**Changes.** ODPS may make reasonable changes within the general scope of the Project. ODPS will do so by issuing a written order under this Contract describing the nature of the change ("Change Order"). Additionally, if ODPS provides directions or makes requests of the Contractor without a change order, and the Contractor reasonably believes the directions or requests are outside the specifications for the Project, the Contractor may request a Change Order from ODPS. The parties will handle such changes as follows: The Contractor will provide pricing to ODPS. ODPS will execute a Change Order once it and the Contractor have agreed on the description of and specifications for the change, as well as any equitable adjustments that need to be made in the Contractor's Fee or the performance schedule for the work. Then within five business days after receiving the Change Order, the Contractor must sign it to signify agreement with it.

If a change causes an increase in the cost of, or the time required for, the performance of the Project, the Contractor must notify ODPS in writing and request an equitable adjustment in its Fee, the delivery schedule, or both before the Contractor signs the Change Order. If the Contractor claims an adjustment under this section in connection with a change to the Project not described in a written Change Order, the Contractor must notify ODPS in writing of the claim within five business days after the Contractor is notified of the change and before work on the change begins. Otherwise, the Contractor will have waived the claim. In no event will ODPS be responsible for any increase in the Fee or revision in any delivery schedule unless ODPS expressly ordered the relevant change in writing and the Contractor has complied with the requirements of this section. Provided ODPS has complied with the procedure for Change Orders in this section, nothing in this clause will excuse the Contractor from proceeding with performance of the Project, as changed.

Where an equitable adjustment to the Contractor’s Fee is appropriate, ODPS and the Contractor may agree upon such an adjustment. If ODPS and the Contractor are unable to agree, either party may submit the dispute to the senior management of the Contractor and the senior management of the ODPS for resolution. If within 30 calendar days following referral to senior management, the claim or dispute has not been resolved, the Contractor must submit its actual costs for materials needed for the change (or estimated amount if the precise amount of materials cannot be determined) and an estimate of the hours of labor required to do the work under the Change Order. The Contractor must break down the hours of labor by employee position, and provide the actual hourly
pay rate for each employee involved in the change. The total amount of the equitable adjustment for the Change Order then will be made based on the actual cost of materials (or estimated materials) and actual rate for each person doing the labor (based on the estimated hours of work required to do the change). Labor rates will be increased by 25% to cover benefits and taxes. The equitable adjustment for the Change Order then will be set based on this amount, plus 15% to cover overhead and profit. This amount will be the not-to-exceed amount of the Change Order. If the change involves removing a requirement from the Project or replacing one part of the Project with the change, ODPS will get a credit for the work no longer required under the original scope of the Project. The credit will be calculated in the same manner as the Contractor’s Fee for the change, and the not-to-exceed amount will be reduced by this credit.

The Contractor is responsible for coordinating changes with its subcontractors and adjusting their compensation and performance schedule. ODPS will not pay any subcontractor for the Change Order. If a subcontractor will perform any work under a Change Order, that work must be included in the Contractor’s not-to-exceed amount and calculated in the same manner as the Contractor’s equitable adjustment for the portion of the work the Contractor will perform. The Contractor will not receive an overhead percentage for any work a subcontractor will do under a Change Order.

If the RFP Documents provide for the retainage of a portion of the Contractor’s Fee, all equitable adjustments for Change Orders also will be subject to the same retainage, which ODPS will pay only on completion and acceptance of the Project, as provided in the RFP Documents.

**Excusable Delay.** Neither party will be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delayed party must notify the other promptly of any material delay in performance and must specify in writing the proposed revised performance date as soon as practicable after notice of delay. In the event of any such excusable delay, the date of performance or of delivery will be extended for a period equal to the time lost by reason of the excusable delay. The delayed party also must describe the cause of the delay and what steps it is taking to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the delayed party has not taken commercially reasonable steps to mitigate or avoid the delay. Things that are controllable by the Contractor’s subcontractors will be considered controllable by the Contractor, except for third-party manufacturers supplying commercial items and over whom the Contractor has no legal control.

**Independent Contractor Acknowledgement.** It is fully understood and agreed that Contractor is an independent contractor and is not an agent, servant, or employee of the State of Ohio or ODPS. Contractor declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers’ compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities. Additionally, Contractor understands that as an independent contractor, it is not a public employee and is not entitled to contributions from ODPS to any public employee retirement system.

Contractor acknowledges and agrees any individual providing personal services under this agreement is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. Unless Contractor is a “business entity” as that term is defined in ORC. 145.037 (“an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business”) Contractor shall have any individual performing services under this agreement complete and submit to the ordering agency the Independent Contractor/Worker Acknowledgement found at the following link: https://www.opers.org/forms-archive/PEDACKN.pdf

Contractor’s failure to complete and submit the Independent/Worker Acknowledgement prior to commencement of the work, service or deliverable, provided under this agreement, shall serve as Contractor’s certification that contractor is a “Business entity” as the term is defined in ORC Section 145.037.

**Publicity.** The Contractor may not advertise or publicize that it is doing business with ODPS or use this Contract or the Contractor’s relationship with ODPS as a marketing or sales tool, unless ODPS agrees otherwise in writing.
PART THREE: OWNERSHIP AND HANDLING OF INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION

Confidentiality. ODPS may disclose to the Contractor written material or oral or other information that ODPS treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation ODPS delivers to the Contractor will remain with ODPS. The Contractor must treat Confidential Information as secret, if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interest of the public, other contractors, potential contractors with ODPS, or individuals or organizations about whom ODPS keeps information. By way of example, information must be treated as confidential if it includes any proprietary documentation, materials, flow charts, codes, software, computer instructions, techniques, models, information, diagrams, know-how, trade secrets, data, business records, or marketing information. By way of further example, the Contractor also must treat as confidential materials such as police and investigative records, files containing personal information about individuals or employees of ODPS, such as personnel records, tax records, and so on, court and administrative records related to pending actions, any material to which an attorney-client, physician-patient, or similar privilege may apply, and any documents or records excluded by Ohio law from public records disclosure requirements.

The Contractor may not disclose any Confidential Information to third parties and must use it solely to do the Project. The Contractor must restrict circulation of Confidential Information within its organization and then only to people in the Contractor’s organization that have a need to know the Confidential Information to do the Project. The Contractor will be liable for the disclosure of such information, whether the disclosure is intentional, negligent, or accidental, unless otherwise provided below.

The Contractor will not incorporate any portion of any Confidential Information into any work or product, other than a Deliverable, and will have no proprietary interest in any of the Confidential Information. Furthermore, the Contractor must cause all of its Personnel who have access to any Confidential Information to execute a confidentiality agreement incorporating the obligations in this section.

The Contractor’s obligation to maintain the confidentiality of the Confidential Information will not apply where such: (1) was already in the Contractor’s possession before disclosure by ODPS, and such was received by the Contractor without obligation of confidence; (2) is independently developed by the Contractor; (3) except as provided in the next paragraph, is or becomes publicly available without breach of this Contract; (4) is rightfully received by the Contractor from a third party without an obligation of confidence; (5) is disclosed by the Contractor with the written consent of ODPS; or (6) is released in accordance with a valid order of a court or governmental agency, provided that the Contractor (a) notifies ODPS of such order immediately upon receipt of the order and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The Contractor must return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things are nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (3) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

The Contractor may disclose Confidential Information to its subcontractors on a need-to-know basis, but the Contractor first must obligate them to the requirements of this section.

Confidentiality Agreements. When the Contractor performs services under this Contract that require the Contractor’s and its subcontractors’ personnel to access facilities, data, or systems that ODPS in its sole discretion deems sensitive, ODPS may require the Contractor’s and its subcontractors’ personnel with such access to sign an individual confidentiality agreement and policy acknowledgements, and have a background check performed before accessing those facilities, data, or systems. Each ODPS division, board, and commission may require a different confidentiality agreement or acknowledgement, and the Contractor’s and its subcontractors’ personnel may be required to sign a different confidentiality agreement or acknowledgement for each agency. The Contractor must
Ownership of Deliverables. ODPS owns all Deliverables that the Contractor produces under this Contract, including any software modifications, and documentation, with all rights, title, and interest in all intellectual property that come into existence through the Contractor’s custom work being assigned to ODPS. Additionally, the Contractor waives any author rights and similar retained interests in custom-developed material. The Contractor must provide ODPS with all assistance reasonably needed to vest such rights of ownership in the State. The Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated into any custom Deliverable (“Pre-existing Materials”), if the Contractor provides the non-exclusive license described in the next paragraph.

The Contractor may grant ODPS a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, and distribute all Pre-existing Materials that are incorporated into any custom-developed Deliverable rather than grant ODPS ownership of the Pre-existing Materials. ODPS may distribute such Pre-existing materials to third parties only to the extent required by governmental funding mandates. The Contractor may not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing Materials into a custom Deliverable, the Contractor must first disclose that desire to ODPS in writing and seek ODPS’s approval for doing so in advance. ODPS will not be obligated to provide that approval, unless the Contractor disclosed its intention to do so in the RFP Documents. On the Contractor’s request, ODPS will incorporate into any copies of a custom Deliverable any proprietary notice that the Contractor included with the original copy, if that notice is reasonably necessary to protect the Contractor’s interest in any Pre-existing Materials contained in the custom Deliverable.

Subject to the limitations and obligations of ODPS with respect to Pre-existing Materials, ODPS may make all custom Deliverables available to the general public without any proprietary notices of any kind.

For Deliverables that include custom materials such as software, scripts, or similar computer instructions developed for ODPS, ODPS is entitled to the source material. Scripts and similar functionality may not be locked or otherwise protected from access by ODPS, unless ODPS has any passwords or other tools necessary to access the material. Source material must include annotations or comments according to industry standards. Further, ODPS is entitled to any working papers the Contractor has developed during the performance of the Project that would reasonably assist ODPS in using the Deliverables that include source materials or that would help ODPS protect its interests in the Deliverable or update, modify, or otherwise maintain the Deliverable. This also includes all design and architectural materials, such as schemas.

The Contractor may use Confidential Information only as necessary for Contractor’s performance under or pursuant to rights granted in this Agreement and for no other purpose. The Contractor’s limited right to use Confidential Information expires upon expiration or termination of this Agreement for any reason. The Contractor’s obligations of confidentiality and non-disclosure survive termination or expiration for any reason of this Agreement.

License in Commercial Material. As used in this section, "Commercial Material" means anything that the Contractor or a third party has developed at private expense, is commercially available in the marketplace, subject to intellectual property rights, and readily copied through duplication on magnetic media, paper, or other media. Examples include written reports, books, pictures, videos, movies, computer programs, and computer source code and documentation. It does not include Key Commercial Software (The ePayment Gateway Service is considered a key application “Key Commercial Software”).

Any Commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in the RFP Documents or as an attachment referenced in the RFP Documents, if that scope of license is different from the scope of license contained in this section for Commercial Materials.

Except for Commercial Material that is software (“Commercial Software”), if the Commercial Material is copyrighted and published material, then Contractor will ensure that ODPS will have the rights permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.
Except for Commercial Software, if the Commercial Material is patented, then ODPS will have the rights permitted under the federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material consists of trade secrets, then ODPS will treat the material as confidential. In this regard, ODPS will assume all obligations with respect to the Commercial Material that the Contractor assumes under the Confidentiality section of this Contract with respect to ODPS’s Confidential Information. Otherwise, ODPS will have the same rights and duties permitted under the federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor, whether or not the material is copyrighted when delivered to ODPS.

For Commercial Software, ODPS will have the rights in items (1) through (6) of this section with respect to the software. ODPS will not use any Commercial Software except as provided in the six items below or as expressly stated otherwise in this Contract. The Commercial Software may be:

1. Used or copied for use in or with the computer or computers for which it was acquired, including use at any ODPS installation to which such computer or computers may be transferred;
2. Used or copied for use in or with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative;
3. Reproduced for safekeeping (archives) or backup purposes;
4. Modified, adapted, or combined with other computer software, but the modified, combined, or adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions set forth in this Contract;
5. Disclosed to and reproduced for use on behalf of ODPS by support service contractors or their subcontractors, subject to the same restrictions set forth in this Contract; and
6. Used or copied for use in or transferred to a replacement computer.

Commercial Software delivered under this Contract is licensed to ODPS without disclosure restrictions unless it is clearly marked as confidential or secret. ODPS will treat any Commercial Software that is marked as confidential or secret as Confidential Information to the extent that such is actually the case and is permitted by law.

Key Commercial Software will be covered by a separate Contract for Software Licensing, when applicable. When such a Contract is executed by ODPS, it will be a separate agreement and not part of this Contract, though the Contractor remains responsible for ensuring that the completed Project, including any Key Commercial Software, meets the requirements of this Contract and performs according to the RFP Documents’ requirements.

Cloud Software services will be covered by a separate Cloud Services Agreement and Service Attachment for Software Licensing, in the form of Attachment 02. When such a Cloud Service Agreement and Service Attachment are executed, it will be a separate agreement and not part of this Contract, though the Contractor remains responsible for ensuring that the completed Project, including any Cloud Software, meets the requirements of this Contract and performs according to the RFP Documents’ requirements.

**PART FOUR: REPRESENTATIONS, WARRANTIES, AND LIABILITIES**

**General Warranties.** The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will: (1) be in accordance with sound professional standards and the requirements of this Contract and without any material defects; and (2) unless otherwise provided in the RFP Documents, be the work solely of the Contractor. The Contractor also warrants that: (1) no Deliverable will infringe on the intellectual property rights of any third party; and (2) the Contractor’s work and the Deliverables resulting from that work will be merchantable and fit for the particular purposes described in the RFP Documents.

Additionally, with respect to the Contractor’s activities under this Contract, the Contractor warrants that: (1) the Contractor has the right to enter into this Contract; (2) the Contractor has not entered into any other contracts or employment relationships that restrict the Contractor’s ability to perform the contemplated services; (3) the Contractor will observe and abide by all applicable laws and regulations, including those of ODPS regarding conduct on any premises under ODPS’s control and security for ODPS’s data, systems, and networks; (4) the Contractor has good and marketable title to any goods delivered under this Contract and in which title passes to
ODPS; (5) the Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to ODPS; and (6) the Contractor is not subject to any unresolved findings of the Auditor of State under Revised Code Section 9.24 and will not become subject to an unresolved finding that prevents the extension or renewal of this Contract.

The warranties regarding material defects, merchantability, and fitness are one-year warranties. All other warranties will be continuing warranties. If any portion of the Project fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor must correct such failure with all due speed or must refund the amount of the compensation paid for such portion of the Project. The Contractor also must indemnify ODPS for any direct damages and claims by third parties based on a breach of these warranties. This obligation of indemnification will not apply where ODPS has modified or misused the Deliverable and the claim is based on the modification or misuse. ODPS will give the Contractor notice of any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor must do one of the following things: (1) modify the Deliverable so that it is no longer infringing; (2) replace the Deliverable with an equivalent or better item; (3) acquire the right for ODPS to use the infringing Deliverable as it was intended for ODPS to use under this Contract; or (4) remove the Deliverable and refund the amount ODPS paid for the Deliverable and the amount of any other Deliverable or item that requires the availability of the infringing Deliverable for it to be useful to ODPS.

Software Warranty. If this Contract involves software as a Deliverable, then, on acceptance and for 12 months after the date of acceptance of any Deliverable that includes software, the Contractor warrants as to all software developed under this Contract that: (a) the software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation, the Contractor's Proposal, and the RFP Documents; (b) the software will be free of any material defects; (c) the Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code; and (d) the source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and (e) the software and all maintenance will be provided in a professional, timely, and efficient manner.

For Commercial Software licensed from a third party that is incorporated into a Deliverable, and for which ODPS has not approved a separate license agreement governing that Commercial Software’s warranties as part of the RFP process, the Contractor represents and warrants that it has done one of the following things: (a) obtained the right from the third-party licensor to commit to the warranties and maintenance obligations in this Section; (b) obtained a binding commitment from the licensor to make those warranties and maintenance obligations directly to ODPS; or (c) fully disclosed in the RFP Documents any discrepancies between the requirements of this section and the commitment the third-party licensor has made.

In addition, for Commercial Software that is incorporated into a Deliverable, the Contractor will: (a) maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner described in the RFP Documents (or any attachment referenced in the RFP Documents) and relevant Commercial Software documentation; (b) supply technical bulletins and updated user guides; (c) supply ODPS with updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code; (d) correct or replace the Commercial Software and/or remedy any material programming error that is attributable to the Contractor or the third-party licensee; (e) maintain or cause the third-party licensor to maintain the Commercial Software and documentation to reflect changes in the subject matter the Commercial Software deals with; (f) maintain or obtain a commitment from the third-party licensor to maintain the Commercial Software so that it will properly operate in conjunction with changes in the operating environment in which it is designed to operate.

For purposes of the warranties and the delivery requirements in this Contract, software documentation means well written, readily understood, clear, and concise instructions for the software’s users as well as a system administrator. The software documentation will provide the users of the software with meaningful instructions on how to take full advantage of all of the capabilities designed for end users. It also means installation and system administration documentation for a system administrator to allow proper control, configuration, and management of the software. Source code means the uncompiled operating instructions for the software. However, the Contractor will not be obligated to provide source code for Commercial Software unless it is readily available from the licensor. The source code must be provided in the language in which it was written and will include
commentary that will allow a competent programmer proficient in the source language to readily interpret the source code and understand the purpose of all routines and subroutines contained within the source code.

**Equipment Warranty.** If any electrical equipment, mechanical device, computer hardware, telecommunications hardware, or other type of physical machinery ("Equipment") will be a part of any Deliverable, the following warranties apply. The Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment. The Contractor also warrants for one year from the acceptance date of the Equipment that the Equipment will perform substantially in accordance with specifications described in the RFP Documents, the user manuals, technical materials, and related writings published by the manufacturer for the Equipment. The foregoing warranties will not apply to Equipment that is modified or damaged after title passes to ODPS.

The Contractor must notify ODPS in writing immediately upon the discovery of any breach of the warranties given above.

The Contractor must do the following if any Equipment does not meet the above warranties:

(a) Cause the Equipment to perform as required, or, if that is not commercially practicable, then;
(b) Grant ODPS a refund equal to the amount ODPS paid for the Equipment or, if such has not been individually priced, the manufacturer’s suggested retail price for the Equipment.

Except where the Contractor’s breach of a warranty makes it not possible for ODPS to do so, ODPS will return the affected Equipment to the Contractor in the case of a refund under the previous paragraph.

**GENERAL EXCLUSION OF WARRANTIES. THE CONTRACTOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THOSE EXPRESS WARRANTIES CONTAINED IN THIS CONTRACT.**

**Indemnity for Property Damage and Bodily Injury.** The Contractor must indemnify ODPS for all liability and expense resulting from bodily injury to any person (including injury resulting in death) and damage to tangible or real property arising out of the performance of this Contract, provided that such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors. The Contractor will not be responsible for any damages or liability to the extent caused by the negligence or willful misconduct of ODPS, its employees, other contractors, or agents.

**Limitation of Liability.** Neither party will be liable for any indirect, incidental, or consequential loss or damage of the other party, including but not limited to lost profits, even if the parties have been advised, knew, or should have known of the possibility of such damages. The limitations in this paragraph do not apply to any obligation of the Contractor to indemnify ODPS against claims made against it or for damages to ODPS caused by the Contractor’s negligence or other tortious conduct.

**PART FIVE: ACCEPTANCE AND MAINTENANCE**

**Standards of Performance and Acceptance.** There will be a period for performance testing of the completed Project. During the performance period, ODPS, with the assistance of the Contractor, will perform acceptance testing. The performance period will last up to 90 calendar days, during which time the Project must meet the standard of performance required by the RFP Documents for 30 consecutive calendar days. The performance criteria in the RFP Documents will be supplemented with the relevant user manuals, technical materials, and related writings, to the extent that the specifications in those writings supplement and refine rather than contradict the performance criteria in the RFP Documents. Acceptance of the Project depends on a successful completion of the performance period defined in this section and the RFP Documents. This section applies to the Project, and any part of it, as well as replacements or substitutes for the Project after completion of a successful performance period.

If the Project does not meet the standard of performance during the initial performance period, ODPS will give the Contractor details about the problems in a timely manner and in a useful and relevant form. Until the Contractor demonstrably corrects all outstanding problems, the second performance period will not start, and ODPS will not accept the Project (or part thereof). The second performance test will continue on a day-by-day basis until the
standard of performance is met for a total of 30 consecutive calendar days or until the 90-day performance period has ended without meeting the standard of performance.

If the Project fails to meet the standard of performance after 90 calendar days from the start of the second performance period, the Contractor will be in default and will not have a cure period. In addition to all other remedies ODPS may have under this Contract, ODPS may request a correction or replacement of the relevant portion of the Project.

The Project will have components that can be tested for acceptance individually (Card Present and Card not Present). The acceptance criteria listed on the RFP Documents for each part of the Project that will be independently tested and accepted. However, unless the RFP Documents expressly provide otherwise, the failure of any independently tested component to meet its acceptance criteria will give ODPS the right to reject the entire Project. Alternatively, if ODPS determines that it is in ODPS’s interest to reject only the part of the Project that was independently and unsuccessfully tested, it may do so. If ODPS chooses this option, ODPS will be entitled to a refund or credit toward the Contractor’s Fee equal to the cost of acquiring a replacement for the rejected component.

The acceptable level of performance for the Project will be 99.95%, unless otherwise specified in the RFP Documents. The performance level for the Project is computed by dividing the sum of the uptime by the number of working hours during the test time. “Uptime” means the total hours, rounded to the nearest quarter hour, during which all components of the Project are operational and all functions of the Project are available to its users. The number of “working hours” means the total number of working hours for the period during which the Project was scheduled to be available to its users. Uptime and downtime will be measured in hours and quarter hours.

The Project “downtime” is that period when any part of the Project is inoperable due to failure of the Project or a particular Deliverable to operate according to the specifications in the RFP Documents, the user documentation, or the published technical specifications. During a period of downtime, ODPS may use operable components of the Project when that will not interfere with repair of inoperable components of the Project. Downtime will start from the time ODPS notifies the Project Manager of the inoperable condition of the Project until the Project is returned in proper operating condition.

The Project will not be accepted until the performance period is complete.

Should it be necessary, ODPS may delay the start of the performance period, but the delay will not exceed 30 consecutive calendar days after the scheduled date for implementation of the Project. Such a delay will not be considered a suspension of work under the Suspension and Termination section of this Contract.

**Passage of Title.** Title to any Deliverable will pass to ODPS only on acceptance of the Deliverable. All risk of loss, regardless of the cause, will remain with the Contractor until title to the Deliverable passes to ODPS.

**Software Maintenance.** If this Contract involves software as a Deliverable, then, during the warranty period, as well as any optional maintenance periods that ODPS exercises, the Contractor must correct any material programming errors that are attributable to the Contractor within a reasonable period of time. However, ODPS must notify the Contractor, either orally or in writing, of a problem with the software and provide sufficient information for the Contractor to identify the problem.

The Contractor’s response to a programming error will depend upon the severity of the problem. For programming errors that slow the processing of data by a small degree, render minor and non-mandatory functions of the System inoperable or unstable, or require users or administrators to employ workarounds to fully use the software, Contractor will respond to the request for resolution within four business hours. Furthermore, the Contractor must begin working on a proper solution for the problem within one business day, dedicating the resources required to fix the problem. For any defects with more significant consequences, including those that render key functions of the System inoperable or significantly slow processing of data, the Contractor will respond within two business hours of notice. The Contractor also must begin working on a proper solution for the problem immediately after responding and, if requested, provide on-site assistance and dedicate all available resources to resolving the problem.
For software classified as Commercial Software in the Ownership of Deliverables section and for which ODPS has not signed a separate license agreement, the Contractor must acquire for ODPS the right to maintenance for one year. That maintenance must be the third-party licensor’s standard maintenance program, but at a minimum, that maintenance program must include all, updates, patches, and fixes to the software. It also must include a commitment to keep the software current with the operating environment in which it is designed to function (and, if applicable, the subject matter covered by the software) and to correct material defects in the software in a timely fashion. Additionally, the Contractor must obtain a commitment from the licensor to make maintenance available for the product for at least five years after the first year of maintenance. The Contractor also must obtain a commitment from the licensor to limit increases in the annual Fee for maintenance to no more than 7% annually. If the licensor is unable to provide maintenance during that five-year period, then the licensor must be committed to doing one of the following two things: (a) give ODPS a pro rata refund of the license fee based on a five-year useful life; or (b) release the source code for the software (except third party software) to ODPS for use by ODPS solely for the purpose of maintaining the copy(ies) of the software for which ODPS has a proper license. For purposes of receiving the source code, ODPS agrees to treat it as confidential and to be obligated to the requirements under the Confidentiality section of this Contract with respect to the source code. That is, with respect to the source code that ODPS gets under this section, ODPS will do all the things that the Confidentiality section requires the Contractor to do in handling ODPS's Confidential Information.

**Equipment Maintenance.** If this Contract involves Equipment as a Deliverable that falls outside of the “No Cost” solution criteria listed on the RFP, then, upon Equipment delivery and for 12 months after acceptance, the Contractor must provide Equipment maintenance to keep the Equipment in or restore the Equipment to good working order. If ODPS exercises its right to any optional maintenance periods, the Contractor’s obligations hereunder will extend to those periods as well. This maintenance must include preventative and remedial maintenance, installation of safety changes, and installation of engineering changes based upon the specific needs of the individual item of Equipment. This maintenance must include the repair, replacement, or exchange deemed necessary to keep the Equipment in good working condition. For purposes of this Contract, Equipment restored to good working condition means Equipment that performs in accordance with the manufacturer’s published specifications and the RFP Documents.

The Contractor must exert its best efforts to perform all fault isolation and problem determination attributed to the Equipment covered under this Contract.

The following services are outside the scope of this Contract:

a. Maintenance to bring the Equipment into compliance with any law, rule, or regulation if such law, rule, or regulation was not in effect on the acceptance date.

b. Repair and replacement work or increase in maintenance time as a result of damage or loss resulting from casualty or ODPS's misuse of the Equipment, damage resulting from improper packing or failure to follow prescribed shipping instructions (if such is done by ODPS), failure of electrical power, air conditioning or humidity control, use of supplies not approved by the original manufacturer of the Equipment as described or included in the Contractor’s Proposal, or causes other than ordinary use of the Equipment.

c. Furnishing supplies or accessories, making specification changes, or adding or removing approved accessories, attachments, or other devices.

d. Maintenance or any increase in maintenance time resulting from any maintenance or inappropriate connection to other equipment (not done by the Contractor) that results in damage to the Equipment.

e. Activities required to restore the Equipment to good operating condition if the problem has resulted from someone other than Contractor’s authorized service personnel repairing, modifying, or performing any maintenance service on the Equipment.

**Equipment Maintenance Standards.** This section applies if Equipment will be a Deliverable under this Contract.

The Contractor must complete all remedial Equipment maintenance within eight business hours after notification by ODPS that maintenance is required. In the case of preventative maintenance, the Contractor must perform such in accordance with the manufacturer’s published schedule and specifications. If maintenance is not
completed or substitute equipment provided within eight hours after notification by ODPS, the Contractor will be in default.

All maintenance also must meet any standards contained in the RFP Documents. Failure of the Contractor to meet or maintain these requirements will provide ODPS with the same rights and remedies specified elsewhere in the RFP Documents for default, except that the Contractor will only have eight hours to remedy the default.

The Contractor must provide adequate staff to provide the maintenance required by this Contract.

**Equipment Maintenance Continuity.** This section applies if Equipment will be a Deliverable under this Contract.

If the Contractor is unable to provide maintenance services to meet ODPS’s ongoing performance requirements for Equipment delivered under this Contract, and if, in ODPS’s sole opinion, the Contractor is unlikely to resume providing warranty services that meet ODPS’s ongoing performance requirement, the Contractor will be in default. ODPS then will be entitled to the remedies in the default section of this Contract. However, ODPS will also be entitled to the following items from the Contractor: (a) all information necessary for ODPS to perform the maintenance, including logic diagrams, maintenance manuals and system and unit schematics, as modified by the Contractor; and (b) a listing of suppliers capable of supplying necessary spare parts.

Any information in items (a) and (b) above that is rightfully identified by the Contractor as confidential information will be maintained in confidence by ODPS, except where disclosure to a third party is necessary for ODPS to continue the maintenance. However, any third party to whom disclosure is made must agree to hold such proprietary information in confidence and to make no further disclosure of it. Further, any such confidential information will be used solely to perform the Contractor’s maintenance obligations hereunder and will be returned to the Contractor upon completion of such use.

**Principal Period of Maintenance (General).** This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must make maintenance available twelve working hours per weekday, between 7:00 a.m. and 7:00 p.m. (Columbus, Ohio local time). Travel time and expenses related to remedial and preventive maintenance will not be considered billable but will be included in the Contractor’s firm, fixed Fee for the Project during the warranty period and a part of the annual maintenance Fee during later annual maintenance periods.

**Maintenance Access (General).** This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must keep the Project in good operating condition during the warranty period and any annual maintenance period during which ODPS contracts for continued maintenance. ODPS will provide the Contractor with reasonable access to the Project to perform maintenance. All maintenance that requires the Project to be inoperable must be performed outside ODPS’s customary working hours, except when the Project is already inoperable. Preventive or scheduled maintenance will be performed at mutually agreeable times, within the parameters of the manufacturer’s published schedule.

**Key Maintenance Personnel (General).** This section applies if software or Equipment will be a Deliverable under this Contract.

The Contractor must identify all key people responsible for providing maintenance on the Project, furnish ODPS with a means of identifying these people, furnish ODPS with their credentials, and notify ODPS at least 30 calendar days in advance of any reductions in staffing levels of key people at the office serving ODPS.

**PART SIX: CONSTRUCTION**

**Entire Document.** This Contract is the entire agreement between the parties with respect to its subject matter and supersedes any previous agreements, whether oral or written.
Binding Effect. This Contract will be binding upon and inure to the benefit of the respective successors and assigns of ODPS and the Contractor.

Amendments – Waiver. No change to any provision of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be a waiver of those terms. Waivers must be in writing to be effective, and either party may at any later time demand strict performance.

Severability. If any provision of this Contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Contract will remain in full force and effect to the extent that such does not create an absurdity.

Construction. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

Headings. The headings used herein are for the sole sake of convenience and may not be used to interpret any section.

Notices. For any notice under this Contract to be effective, it must be made in writing and sent to the address listed below, unless such party has notified the other party, in accordance with the provisions of this section, of a new mailing address. This notice requirement will not apply to any notices that this Contract expressly authorized to be made orally.

Send to:
Jeffrey S. Shadburn
Chief, Procurement Services
Ohio Department of Public Safety
1970 W. Broad St., 5th Floor
Columbus, Ohio 43223
614-752-7876 (phone)

The Contractor’s address for notification is:

<Contractor Address>

With a copy to:

<Contractor Address>

Continuing Obligations. The terms of this Contract will survive the termination or expiration of the time for completion of Project and the time for meeting any final payment of compensation, except where such creates an absurdity.

Time. Unless otherwise expressly provided, any reference in this document to a number of days for an action or event to occur means calendar days, and any reference to a time of the day, such as 5:00 p.m., is a reference to the local time in Columbus, Ohio.

Time is of the Essence. Contractor hereby acknowledges that time is of the essence for performance of this Contract unless, otherwise agreed to in writing by the parties.
Compliance with Law. The Contractor must comply with all applicable federal, state, and local laws while performing under this Contract.

Drug-Free Workplace. The Contractor must comply with all applicable state and federal laws regarding keeping a drug-free workplace. The Contractor must make a good faith effort to ensure that all the Contractor’s Personnel, while working on state property, will not have or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

Conflicts of Interest and Ethics Compliance Certification. None of the Contractor’s Personnel may voluntarily acquire any personal interest that conflicts with their responsibilities under this Contract. Additionally, the Contractor may not knowingly permit any public official or public employee who has any responsibilities related to this Contract or the Project to acquire an interest in anything or any entity under the Contractor’s control, if such an interest would conflict with that official’s or employee’s duties. The Contractor must disclose to ODPS knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. The Contractor also must take steps to ensure that such a person does not participate in any action affecting the work under this Contract. However, this will not apply when ODPS has determined, in light of the personal interest disclosed, that person’s participation in any such action would not be contrary to the public interest.

Ohio Ethics Law and Limits on Political Contributions. The Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor also certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with Ohio Revised Code Section 3517.13.

Unresolved Finding for Recovery. If the Contractor was subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on the date the parties sign this Contract, the Contract is void. Further, if the Contractor is subject to an unresolved finding of the Auditor of State under Revised Code Section 9.24 on any date on which the parties renew or extend this Contract, the renewal or extension will be void.

Equal Employment Opportunity. The Contractor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the Department of Administrative Services Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Ohio Business Gateway at: http://business.ohio.gov/efiling/

Use of MBE and EDGE Suppliers. ODPS encourages Contractor to purchase goods and services from Minority Business Enterprises (MBE) and Encouraging Diversity, Growth, and Equity (EDGE) suppliers.

Security & Safety Rules. When using or possessing ODPS data or accessing ODPS networks and systems, the Contractor must comply with all applicable ODPS rules, policies, and regulations regarding data security and integrity. And when on any property owned or controlled by ODPS, the Contractor must comply with all security and safety rules, regulations, and policies applicable to people on those premises.

Governing the Expenditure of Public Funds on Offshore Services (EO 2011-12K). The Service Provider affirms it has read and understands Executive Order 2011-12K and will abide by those requirements in the performance of this Agreement. Notwithstanding any other terms of this Agreement, ODPS reserves the right to recover any funds paid for Services the Service Provider performs outside of the United States for which it did not receive a waiver. ODPS does not waive any other rights or remedies provided ODPS in this Agreement.

The Service Provider agrees to complete the attached Executive Order 2011-12K Affirmation and Disclosure Form, which is incorporated and becomes a part of this Agreement.
Injunctive Relief. Nothing in this Contract is intended to limit ODPS’s right to injunctive relief, if such is necessary to protect its interests or to keep it whole.

Assignment. The Contractor may not assign this Contract or any of its rights or obligations under this Contract without the prior, written consent of ODPS. ODPS is not obligated to provide its consent to any proposed assignment.

Governing Law. This Contract will be governed by the laws of Ohio, and venue for any disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

Registration with the Secretary of State. By providing a Charter Number and signature within the Certification Offer Letter, the Contractor attests that the Contractor is:

- An Ohio corporation that is properly registered with the Ohio Secretary of State; or
- A foreign corporation, not incorporated under the laws of the State of Ohio, but is registered with the Ohio Secretary of State pursuant to Ohio Revised Code Sections 1703.01 to 1703.31, as applicable.

Any foreign corporation required to be licensed under O.R.C. § 1703.01-1703.31, which transacts business in the State of Ohio, without being so licensed, or when its license has expired or been canceled, shall forfeit not less than $250.00 nor more than ten thousand dollars. No officer of a foreign corporation http://codes.ohio.gov/orc/1703.01 shall transact business in the State of Ohio, if such corporation is required by O.R.C. § 1703.01-1803.31 to procure and maintain a license, but has not done so. Whoever violates this is guilty of a misdemeanor of the forth degree. Questions regarding registration should be directed to (614) 466-3910, or visit http://www.sos.state.oh.us.

Boycotting. Pursuant to Ohio Revised Code 9.76 (B) Contractor warrants that Contractor is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the contract period.
EXHIBIT A – Custom Forms

Customer Information

DEPUTYR
A
DLTEST'A

SSN: 000000000  DL/ID Number: ZZ000003
DOB: 08/14/1985  Sex: M
Weight: 140 lbs  Height: 6'1"
Hair: Brown  Eyes: Brown
Resident: OH, 31yrs  U.S. Citizen: Yes

Signature obtained at end of transaction.

Residential Address
180 E BROAD ST
COLUMBUS, OH 43215
25 - FRANKLIN

Mailing Address
PO BOX 910 LOT 1111
COLUMBUS, OH 43216

Signature
**EXHIBIT A – Custom Forms**

<table>
<thead>
<tr>
<th>Transaction Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Transaction:</strong> Duplicate</td>
</tr>
<tr>
<td><strong>Class:</strong> D-Operator</td>
</tr>
<tr>
<td><strong>Endorsements:</strong> M-Motorcycle</td>
</tr>
<tr>
<td><strong>Expiration:</strong> 08/14/2019</td>
</tr>
<tr>
<td><strong>Restrictions:</strong></td>
</tr>
</tbody>
</table>

![Signature]

---

<table>
<thead>
<tr>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Endorsement Fee</td>
</tr>
<tr>
<td>Vision Fee</td>
</tr>
<tr>
<td>Lamination Fee</td>
</tr>
<tr>
<td>Excess Fee</td>
</tr>
<tr>
<td>License Fee</td>
</tr>
<tr>
<td>DL/ID Total Fee</td>
</tr>
<tr>
<td>Deputy Fee</td>
</tr>
<tr>
<td><strong>Total Fees</strong></td>
</tr>
</tbody>
</table>

![Signature]
EXHIBIT A – Custom Forms

ANATOMICAL DONOR: Yes. UPON MY DEATH, I MAKE AN ANATOMICAL GIFT OF MY ORGANS, TISSUES AND EYES FOR ANY PURPOSE AUTHORIZED BY LAW.

I DO have a current driver license or I.D. card from Ohio ID# ZZ000003 Exp 08/14/2019.

I do NOT have driving privileges now suspended or revoked or cancelled or otherwise disqualified or subject to an out of service order in this state or any other state.

I do NOT have a pending citation for a violation of any motor vehicles law or ordinance in this or any other state.

I do NOT have a condition that results in episodic impairment of consciousness or loss of muscular control.

I do NOT have a physical or mental condition that prevents me from exercising reasonable and ordinary control of a motor vehicle.

I am NOT chemically dependent on alcohol or a drug of abuse or currently using alcohol or a drug of abuse.

WARNING: APPLICANT GIVING FALSE INFORMATION IS SUBJECT TO PROSECUTION-O.R.C. SEC. 2921.13. APPLICATION INFORMATION AND SIGNATURE(S) CAPTURED ELECTRONICALLY.
Financial Responsibility Statement

I have read and understand the financial responsibility statement (BMV 3135).

I affirm that I now have insurance or other proof of financial responsibility (FR PROOF) and that I will not operate any motor vehicle without FR PROOF (R.C. 4509.101).

By signing I agree to and attest that all the above is true and accurate.

[Signature]
Customer Information
[First Name]
[Middle Name]
[Last Name] [Suffix]
SSN: 
DL/ID Number:
DOB: 
Sex:
Weight: 
Height:
Hair: 
Eyes:
Resident: [State, yrs, months] 
U.S. Citizen:
USCIS Document: 
Exp: 
Nonrenewable and Nontransferable

Address
[Address]
[City, State, Zip5]
[County (number - name)]

Mailing Address
[Address]
[City, State, Zip5]

Transaction Information
Transaction:
Ignition Interlock: Yes
Class: 
Expiration Date:
[Class 1] 
[Exp 1]
[Class 2] 
[Exp 2]
[Class 3] 
[Exp 3]
Endorsements:
[Letter – Description]
[Letter – Description]
Restrictions:
[Letter – Description]
[Letter – Description]
MC Novice Until: [Date]

Fees
Endorsement Fee $ 
Vision Fee $ 
Lamination Fee $ 
DL/ID Fee $ 
Deputy Fee $ 
Total Fees $
EXHIBIT A – Custom Forms

Life Sustaining Equipment
Health Care power of Attorney
DL Indicates above Instrument(s) Executed
Vision Screening Passed
I have read and understand that my Ohio driver license or state ID card will reflect a symbol, representing the armed forces.

Anatomical Donor: Yes
UPON MY DEATH, I MAKE AN ANATOMICAL GIFT OF MY ORGANS, TISSUES AND EYES FOR ANY PURPOSE AUTHORIZED BY LAW.

18 YEARS OF AGE OR OLDER FOR I.D. CARD APPLICANT’S CONSENT TO REGISTER WITH SELECTIVE SERVICE AS REQUIRED BY LAW.

I have not held any type of driver’s license from other state(s) or jurisdiction(s) in the previous ten years. OR I hereby certify that, in the previous ten (10) years, I have held driver’s license in the following states:

I self-certify my expected type of driving to be [CATEGORY 1: INTERSTATE]
Medical Certificate Exp:

I am applying for a Commercial Driver’s License and have met the driver physical qualification standards as stated in 49 CFR Part 391. Unless exempt, I do possess a valid Medical Examiner’s Certificate (DOT card or medical waiver) and I have complied with all other requirements described in this application. The vehicle I am using to take the driving skills is representative of the type of vehicle I expect to operate or I am currently operating.

The skills test may be waived if I am regularly employed at a job requiring a commercial motor vehicle; if I have previously taken and passed a skills test given by a state with a classified licensing and testing system and the test was behind the wheel of a vehicle representative of this CDL driver’s license classification; if I have legally operated for at least two years immediately prior to this application, a vehicle representative to the vehicle I expect to operate or I am currently operating.

I have agreed to obtain a TIPIC in lieu of a driver license for this transaction [when skills test is passed and customer gets replacement TIPIC instead of DL]

I have read and understand the license cancellation form BMV 2028. [For cancelling DL for ID]

Please review carefully the restrictions of your temporary instruction permit identification card, as outlined in the Digest of Motor Vehicle Laws. [For all Temporary permits]

I DO have a current driver license or I.D. card from [state] ID # [number] Exp [Date].
I do NOT have driving privileges now suspended or revoked or cancelled or otherwise disqualified or subject to an out of service order in this state or any other state.
I do NOT have a pending citation for a violation or any motor vehicle law or ordinance in this or any other state.
I do NOT have a condition that results in episodic impairment of consciousness or loss of muscular control.

EXHIBIT A – Custom Forms

I do NOT have a physical or mental condition that prevents me from exercising reasonable and ordinary control of a motor vehicle.
I am NOT chemically dependent on alcohol or a drug of abuse or currently using alcohol or a drug of abuse.

Warning: Applicant giving false information is subject to prosecution – Ohio Revised Code (R.C.) 2913.42.

Financial Responsibility Statement

I have read and understand the financial responsibility statement (BMV 3135).

I affirm that I now have insurance or other proof of financial responsibility (FR PROOF) and that I will not operate any motor vehicle without FR PROOF (R.C. 4509.101).

By signing I agree to and attest that all the above is true and accurate.

[Signature]

Cosigner Information

[First Middle Last Name]
Relationship:
ID Presented:

I have been informed of my potential financial liability under R.C. 4507.07 (Driver License Applicants)
I have read and understand the cosigner liability form BMV 2203.

[Signature]
**EXHIBIT B – ODPS Transactions and Revenue**

**CALENDAR YEAR 2017 (CY17) ODPS ELECTRONIC TRANSACTION AND REVENUE DATA**

<table>
<thead>
<tr>
<th>BUSINESS UNIT</th>
<th>APPLICATION TYPE</th>
<th>TRANSACTIONS</th>
<th>REVENUE</th>
<th>TRANSACTIONS</th>
<th>REVENUE</th>
<th>TOTAL TRANSACTIONS</th>
<th>TOTAL REVENUE</th>
<th>AVG TRANSACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>BMV Deputy Registrars</td>
<td>Over the counter</td>
<td>N/A</td>
<td>2,597,023</td>
<td>$149,504,964</td>
<td>2,597,023</td>
<td>$149,504,964</td>
<td>37.57</td>
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</tr>
<tr>
<td>Crash Reports</td>
<td>Web based</td>
<td>N/A</td>
<td>23,354</td>
<td>$270,520</td>
<td>23,354</td>
<td>$270,520</td>
<td>11.58</td>
<td></td>
</tr>
<tr>
<td>Dealers</td>
<td>Web based</td>
<td>26,125</td>
<td>18,317,611</td>
<td>N/A</td>
<td>N/A</td>
<td>26,125</td>
<td>$18,317,611</td>
<td>701.15</td>
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<td>Drivers Training</td>
<td>Web based</td>
<td>2,398</td>
<td>623,970</td>
<td>N/A</td>
<td>N/A</td>
<td>2,398</td>
<td>$623,970</td>
<td>260.20</td>
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<tr>
<td>International Registration Plan</td>
<td>Web based</td>
<td>5,467</td>
<td>765,053</td>
<td>11,385</td>
<td>$2,614,512</td>
<td>16,832</td>
<td>$3,379,565</td>
<td>200.14</td>
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<tr>
<td>IVR: Oplates &amp; Reinstatement</td>
<td>Telecommunications</td>
<td>N/A</td>
<td>N/A</td>
<td>57.57</td>
<td>$2,597,023</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Motorcycle Ohio</td>
<td>Web based</td>
<td>N/A</td>
<td>N/A</td>
<td>10,775</td>
<td>524,900</td>
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<td>$524,900</td>
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<tr>
<td>OPLATES/Abstracts</td>
<td>Web based</td>
<td>339,757</td>
<td>32,178,722</td>
<td>1,097,801</td>
<td>$46,611,391</td>
<td>1,437,558</td>
<td>$78,790,113</td>
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<tr>
<td>Private Investigator Security Guard Services</td>
<td>Web based</td>
<td>1,476</td>
<td>188,220</td>
<td>9,966</td>
<td>$1,175,660</td>
<td>11,442</td>
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<tr>
<td>Reinstatement Fees</td>
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<td>2,669</td>
<td>300,706</td>
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<td>219,323</td>
<td>$11,923,129</td>
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<tr>
<td>Return Payments (Bad Check Payments)</td>
<td>Web based</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
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<td></td>
</tr>
<tr>
<td>Scrap Metal</td>
<td>Web based</td>
<td>36</td>
<td>5,590</td>
<td>300</td>
<td>47,750</td>
<td>336</td>
<td>53,700</td>
<td>159.82</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td></td>
<td>377,928</td>
<td>52,380,232</td>
<td>3,967,258</td>
<td>$212,372,120</td>
<td>4,345,186</td>
<td>$264,752,352</td>
<td>60.93</td>
</tr>
</tbody>
</table>

*All data sourced from vendor payment system unless otherwise noted.*

1 Data pulled from BASS to break out ACH vs credit/debit card
2 Interactive Voice Response System not yet implemented. Transaction data not available for CY17.
3 Effective 1/21/17 changed online payment acceptance from ACH only to credit card only
4 Online Return Payment System implemented in January '18. Transaction data not available for CY17.
EXHIBIT C – Settlement Illustration

**DEPUTY REGISTRAR (DR) CREDIT CARD TRANSACTIONS MONEY FLOW**

- Credit card sales composed of state revenue, deputy revenue, and vendor fees collected at 188 Deputy Registrar locations.
- **Vendor Bank Account**
  - All credit card transaction revenue settles directly to vendor bank account. Funds are then transferred after settlement to the appropriate bank account.
- **ODPS Account**
  - Vendor sends funds owed to the state via daily ACH transfer.
ATTACHMENT 02

<Contractor>

Cloud Services Contract

THIS CLOUD SERVICES CONTRACT ("Contract") is by and between
_______________________________________ ("Contractor"), having an office at
__________________________ and the State of Ohio ("State"), through its Department of Public
Safety ("ODPS"), having its principal place of business at 1970 W Broad Street, Columbus, OH 43223. The
State and the Contractor also are sometimes referred to jointly as the "Parties" or individually as a "Party".
The effective date of this Contract is the date it is signed on behalf of the State ("Effective Date").

1. General Information

1.1. Organization

This Contract covers subscriptions to cloud services through one or more attachments ("Service
Attachments") that describe the cloud offerings ("Services") that the Contractor makes available
to its customers by subscription and that it is authorized to sell to the State. The Service
Attachments describe the Services the Contractor offers under this Contract, along with any
special terms or conditions applicable only to those Services, descriptions of those Services,
features, and all fees associated with such Services, as well as any other provisions to which the
Parties have agreed with respect to the those Services. Such Service Attachments, when
executed by the Parties, are incorporated into this Contract and become a part hereof.

1.2. Subscribers

A “Subscriber” means State entities such as agencies, boards, and commissions (sometimes
referred to as “State Entities”) that place requests ("Orders") through the State’s Ordering
System described in another section under this Contract for any of the Services identified by one
or more Service Attachments incorporated into this Contract. And it includes other entities of
the State, such as the legislative and judicial branches of State government and the independent
offices of elected State officials that place Orders under this Contract. It also means the
Cooperative Purchasing Members, defined in the next section, that place Orders under this
Contract.

1.3. Cooperative Purchasing Members

“Cooperative Purchasing Members” or “Co-op Members” are entities that qualify for
participation in the State’s cooperative purchasing program under Section 125.04 of the Ohio
Revised Code ("ORC") and that have completed the steps necessary to participate in that
program. They may include Ohio political subdivisions, such as counties, townships, municipal
corporations, school districts, conservancy districts, township park districts, park districts
created under Chapter 1545 of the ORC, regional transit authorities, regional airport authorities,
regional water and sewer districts, and port authorities. They also may include any Ohio county
board of elections, state institutions of higher education, private fire companies, private, nonprofit emergency medical service organizations, and chartered nonpublic schools.

1.4. Term

The current General Assembly cannot commit a future General Assembly to any expenditure. Therefore, this Contract along with all Service Attachments will automatically expire at the end of the State’s current biennium, which is June 30, «YEAR».

1.5. Contract – Renewal

The State may renew this Contract in the next biennium by issuing written notice to the Contractor of the decision to do so. Renewals will be initiated by the State in writing at least 30 days before the expiration of the then current term. This expiration and renewal procedure will also apply to the end of any subsequent biennium.

1.6. Service Attachment(s) – Renewal

As part of the renewal of this Contract, the State may renew any or all Service Attachments for the next biennium by issuing written notice to the Contractor of the decision to do so. Renewals will be initiated by the State at least 30 days before the expiration of the then current term. This expiration and renewal procedure will also apply to any subsequent biennium.

After the first renewal, the Parties agree that pricing of Services under any Service Attachment may be renegotiated to reflect more favorable rates to the State. Upon termination of this Contract, all rights of the Subscribers to order new Services cease and the Contractor may not fulfill any new requests for any Subscriber under this Contract. Further, all existing Service Attachments and all existing Orders under those Service Attachments also will terminate, except to the extent that the Contractor has any prepaid Services to perform.

The Subscribers have the option anytime during the Contract’s term to upgrade to a new technology or Service offering with the Contractor without incurring any charges for terminating the existing technology or Service offering before the agreed upon term of the Subscriber’s Order (“Early Termination Charge”), if any such charge is provided for in the applicable Service Attachment.

1.7. Relationship of the Parties and Subscribers

The Contractor is an independent contractor and is not an agent, servant, or employee of the State. The Contractor is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers’ compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal, or other tax liabilities. Additionally, as an independent contractor, The Contractor is not a public employee and is not entitled to contributions from the State to any public employee retirement system or any other benefit of public employment.

Further, any individual providing personal Services under this Contract is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. And unless the Contractor is a “business entity” as that term is defined in ORC 145.037 (“an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business”) the Contractor must have any individual performing work...
under this Contract complete and submit to the ordering agency the Independent Contractor/Worker Acknowledgement form found at the following link:

https://www.opers.org/forms-archive/PEDACKN.pdf#zoom=80

The Contractor’s failure to complete and submit the Independent/Worker Acknowledgement form before providing any Service or otherwise doing any work hereunder will serve as the Contractor’s certification that the Contractor is a “Business entity” as the term is defined in ORC Section 145.037.

1.8. Dealers and Distributors

The State authorizes the Contractor to name one or more dealers to work with the State on behalf of the Contractor. But if the Contractor decides to use any dealers, the Contractor must submit the name, principal business address, addresses for Orders and for payments, telephone number, and its federal tax identification number. The Contractor also must submit a completed W9 form for each dealer it wishes to name under this section. The Contractor’s submission must be on its official letterhead, signed by an authorized representative, and sent to the address listed in The Notices section of this Contract.

In doing the above, the Contractor warrants that:

i. The Contractor has provided the dealer with a copy of this Contract, and a duly authorized representative of the dealer has agreed, in writing, to be bound by the terms and conditions in this Contract.

ii. Such agreement specifically provides that it is for the benefit of the State as well as the Contractor.

iii. The Contractor will remain liable under this Contract for the Services of its dealers and will remedy any breach of any of its dealers under this Contract.

iv. Payments under this Contract for the Services of any dealer may be made directly to that dealer, and the Contractor will look solely to the dealer for any payments due to the Contractor once the State has paid the dealer.

v. To the extent that there is any liability to the State arising from doing business with a dealer that has not signed the Contract required under this section with the Contractor, the Contractor will indemnify the State for such liability.

If the Contractor wants to designate a dealer that will not receive payments (a "distributor"), the Contractor may do so by identifying the person or organization as a distributor in the authorizing letter. In such cases, information regarding taxpayer identification and payment addressing may be omitted, as may the distributor’s W9 form. All other requirements and obligations for designating a dealer apply to designating a distributor.

Section 125.081 of the Ohio Revised Code requires the State to set-aside purchases for MBE and Executive Order 2008-13S encourages use of EDGE businesses. Therefore the State encourages the Contractor to purchase goods and services from Ohio certified Minority Business Enterprises (MBE) and Encouraging Diversity, Growth and Equity (EDGE) vendors and to use such for its dealers and distributors under this Contract.
1.9. Audits and Reports

During the term of this Contract and for three years after its termination, on reasonable notice and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Services performed under this Contract, to any billing or invoices under the Contract, or to pricing representations that the Contractor made to acquire this Contract. This audit right also will apply to the State's duly authorized representatives and any organization providing funding for any Order hereunder.

The Contractor must make such records and materials available to the State within 15 days after receiving the State's written notice of its intent to audit the Contractor's records and must notify the State as soon as the records are ready for audit.

If any audit reveals any material misrepresentation, overcharge to the State, or violation of the terms of this Contract, the State will be entitled to recover its damages, including the cost of the audit.

The State also may require various reports from the Contractor related to the Services. Such reports include those identified in the Cost Recovery section of this Contract and those identified in any Service Attachment. Further, the State will be entitled to any other reports that the Contractor makes generally available to its other customers without additional charge. The State's rights under this section will apply to all Services provided to all Subscribers under this Contract, but a Subscriber's rights to reports will apply solely to Services it orders or receives under this Contract.

1.10. Subscribers' Reliance on Contract

Subscribers may rely on this Contract. But whenever a Subscriber is a Cooperative Purchasing Member and relies on this Contract to issue an Order, the Subscriber will step into the shoes of the State under this Contract for purposes of its Order, and, as to the Subscriber's Order, this Contract will be between the Contractor and that Subscriber. The Contractor must look exclusively to that Subscriber for performance, including but not limited to payment, and must hold the State harmless with regard to such Orders and the Subscriber's performance. But the State, through ODPS, will have the right to terminate this Contract and seek such remedies on termination as this Contract provides should the Contractor fail to honor its obligations under an Order from any Subscriber, whether a Cooperative Purchasing Member or not.

1.11. Third-Party Suppliers

The Contractor must incorporate the costs of any third-party supplies and services in the Contractor's fees identified on the applicable Service Attachment under this Contract.

The Contractor’s use of other suppliers does not mean that the State will pay for them. The Contractor will be solely responsible for payment of its suppliers and any claims of those suppliers for any failure of the Contractor to meet its obligations under this Contract in the required manner. The Contractor will hold the State harmless and indemnify the State against any such claims.

The Contractor assumes responsibility for all Services provided under this Contract whether it or one of its suppliers provides them in whole or in part. Further, the Contractor will be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract and all Service requests.
1.12. Non-Exclusivity

This Contract is non-exclusive and is not a requirements contract. Nothing herein prevents either Party from entering into similar agreements with other entities.

1.13. Competitive Pricing and Services

For the purposes of maintaining pricing and Service competitiveness through the term of the Contract, the Contractor agrees to an annual joint review of its pricing and Service offerings. The annual review will include, but need not be limited to, a like-customer review wherein the Contractor must provide an analysis that includes both retail and wholesale prices of the similar services it provides to other customers similar to the State to ensure the State and the Subscribers are receiving cost-competitive and technologically competitive Services. Written amendments to the Service Attachments to reduce fees and introduce technological Service improvements may be submitted throughout the term of the Contract.

1.14. Conflict Resolution

If one Party believes the other Party has violated or is not complying with the terms of this Contract or if any other dispute arises under this Contract, the Party raising the matter may provide to the other Party written notice referencing this section and specifying the nature of the dispute (the “Dispute Notification”). The Parties then will seek to resolve the dispute in accordance with the procedures in this Section.

All disputes will be submitted first to the State’s Contract Category Manager or equivalent and the Contractor’s Account Manager (or equivalent) for resolution. For 15 days from receipt of the Dispute Notification (“Dispute Date”), the State’s Contract Category Manager and Contractor’s Account Manager will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith.

If after the 15 days identified above, the State’s Contract Category Manager and the Contractor’s Account Manager are unable to resolve the dispute, the Parties will then submit the dispute to the State’s IT Contract Administrator and to the Contractor’s Sales Director (or equivalent) for resolution. For the next 15 days, the State’s IT Contract Administrator and Contractor’s Sales Director will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith.

If following the 15 days in the previous section, the State’s IT Contract Administrator and the Contractor’s Sales Director are unable to resolve the dispute, the Parties will then submit the dispute to the State’s Chief Information Officer (“CIO”) or a designee and to the Contractor’s Vice President of Sales (or equivalent executive) for resolution. For the next 15 days, the State’s CIO and Contractor’s Vice President will meet in person or by telephone as often as is reasonably necessary to discuss and attempt to resolve the dispute in good faith. If the State’s CIO and Contractor’s Vice President are unable to resolve the dispute within that time, the Parties will nevertheless continue to retain their rights to initiate formal proceedings hereunder.

The specific format for such discussions will be left to the discretion of the representatives of the State and Contractor responsible for attempting to resolve the dispute, but each Party will involve the business, technical, and legal resources reasonably necessary to attempt in good faith to resolve the dispute at the earliest possible time and without undue delay.
If the Parties are unable to resolve the dispute and the dispute involves a claim that the Contractor is noncompliant with its obligations hereunder or has overcharged for a Service, the State or affected Subscribers may withhold payment for any Services that are the subject of the dispute until the Contractor cures the noncompliance, the Parties arrive at an agreement to resolve the dispute, or a Party obtains a resolution in a court of competent jurisdiction.

Nothing in this section is intended to limit the rights provided under termination section of this Contract or be a prerequisite to exercising those rights.

Once the dispute has been resolved, any payments withheld will be handled in the following manner:

If the resolution was in favor of the State or one or more Subscribers, the Contractor will issue a credit on the next invoice for the affected Subscribers. If the credit exceeds the Service charges on the next invoice or an invoice will not be issued within 60 days of the resolution, the Contractor will issue payment in the form of a check in the amount exceeding the Service charges or for the full amount if an invoice will not be issued within 60 days. Any such checks must be issued within that 60-day period.

If in favor of the Contractor, the affected Subscribers will submit appropriate payment within 30 days of receiving notification of the resolution at the office designated to receive the invoice.

In either of the above cases, the amount or amounts withheld by the State or Subscriber(s) will be taken into account in calculating any amount(s) due.

2. General Requirements for Cloud Services

2.1. Standards

All Service subscriptions must provide a Service that maintains a redundant infrastructure that will ensure access for all of the State’s enrolled users in case of a failure at any one of the Contractor locations, with effective contingency planning (including back-up and disaster recovery capabilities) and 24x7 trouble shooting service for inquiries, outages, issue resolutions, etc. All such Services must be dependable and provide response rates that are as good as or better than industry standards. They also must meet the Service Level Agreements (“SLAs”) provided in the applicable Service Attachment and be supported with sufficient connectivity and computing resources to handle reasonably anticipated peak demand, and the Contractor must ensure that sufficient bandwidth and computing resources are dedicated to the Services to meet peak demand times without material degradation in performance.

The Services must also operate at the moderate level baseline as defined in the National Institute of Standards and Technology (“NIST”) 800-53 Rev. 4 moderate baseline requirements, be consistent with Federal Information Security Management Act (“FISMA”) requirements, and offer a customizable and extendable capability based on open-standards APIs that enable integration with third party applications. Additionally, they must provide the State’s systems administrators with 24x7 visibility into the services through a real-time, web-based “dashboard” capability that enables them to monitor, in real or near real time, the Services’ performance against the established SLAs and promised operational parameters.
The Contractor has and will continue to use its best efforts through quality assurance procedures to ensure that there are no viruses or malware or undocumented features in its infrastructure and Services and that they do not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent any use of or access to them by the Subscribers. The Contractor hereby waives under any and all circumstances any right it may have or may hereafter have to exercise electronic self-help.

User access to the Services must be capable of being integrated with a Subscriber’s Active Directory or other Lightweight Directory Access Protocol (LDAP) service to support single sign-on capability for users and to ensure that every user is tied to an Active Directory or other LDAP account and to prevent user access when a user is disabled or deleted in the applicable Subscriber’s Active Directory or other LDAP service.

The Contractor must obtain an annual audit that meets the AICPA’s Statements on Standards for Attestation Engagements ("SSAE") No. 16, Service Organization Control 1 Type 2. The audit must cover all operations pertaining to the Services covered by this Contract. The audit will be at the sole expense of the Contractor and a copy of it must be provided to the State within 30 days of its completion each year.

At no cost to the State, the Contractor must immediately remedy any issues, material weaknesses, or other items identified in each audit as they pertain to the Services.

2.2. Object Reassignment

Any Service subscriptions that are provided by the number of items that may be used by or in conjunction with it, such as nodes, users, or connections ("Objects"), may be reassigned to other, similar Objects within the Subscriber’s organization at any time and without any additional fee or charge. For example, a named user subscription may be assigned to another user. But any such reassignment must be in conjunction with termination of use by or with the previous Object, if such termination is required to keep the total number of licensed Objects within the scope of the applicable subscription. Should a Subscriber require a special code, a unique key, or similar item to reassign the subscription as contemplated by this section, the Contractor will provide such a code, key, or similar item to the Subscriber at any time and without a fee or charge. A later section in this Contract governs assignment of a Subscriber’s subscription to any Service to a successor in interest.

2.3. Generated Files

“Generated Files” are files storing information, instructions, or data that a Subscriber creates or modifies using the Contractor’s Services and in which the data or other information was provided or created by a Subscriber. Such Generated Files are also included in the definition of “Subscriber’s Data” in a later section of this Contract. Examples of such files could include, among others, text files generated with a word processor, data tables created with a database engine, and image files created with a graphics application. Applications consisting of instruction sets created with a programming language that the Contractor provided to a Subscriber also would be considered Generated Files. As between the Subscriber and the Contractor, the Subscriber will own all Generated Files that the Subscriber prepares by using the Services, excluding such portions of the Generated Files that consist of embedded portions of the Software. The Contractor or its licensors will retain ownership of any portions of the Software embedded into Generated Files. But the Contractor grants to the Subscriber a nonexclusive, royalty-free right to reproduce and distribute to third parties any portions of the
intellectual property embedded in any Generated Files that the Subscriber creates while using
the Services in the manner in which the Services are designed to be used. In the Subscriber’s
distribution of the Generated Files, the Subscriber may not use the Contractor’s name, logo, or
trademarks, except to the extent that such are incorporated in such Generated Files by the
design of a Service when used as intended.

2.4. Contractor Warranties

The Contractor warrants the following:

i. It has validly entered into this Contract and has the legal power to do so.
ii. The Services will perform materially in accordance with the applicable user guide and the
   requirements of this Contract.
iii. Subject to any limitations specified in the applicable Service Attachment, the functionality
   of the Services will not be materially decreased during a subscription term.
iv. It will not transmit viruses, worms, time bombs, Trojan horses or other harmful or
   malicious code, files, scripts, agents or programs ("Malicious Code") to a Subscriber.

For any breach of a warranty above, the State’s and individual Subscribers’ remedies will be as
provided in the section of this Contract dealing with termination.

Failure of the Contractor to meet any SLAs in an applicable Service Attachment will not be
considered a breach of this warranty section unless the State reasonably determines that the
failure is persistent or extended in duration.

2.5. State and Subscribers Responsibilities

The State and each Subscriber will be responsible for their respective compliance with this
Contract. Additionally, each Subscriber will:

i. Be responsible for the accuracy, quality, and legality of its data and of the means by which
   the data was acquired.
ii. Use commercially reasonable efforts to prevent unauthorized access to or use of the
   Services to which it subscribes and notify the Contractor promptly of any unauthorized
   access or use of which it becomes aware.
iii. Use the Services only in accordance with the applicable user guide, to the extent it is not
   inconsistent with this Contract, applicable laws, or government regulations.

A Subscriber may not:

i. Intentionally make the Services available to anyone other than its employees and
   contractors acting on its behalf.
ii. Sell, resell, rent or lease the Services,
iii. Use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious
   material, or to store or transmit material in violation of third-party privacy rights.
iv. Intentionally use the Services to store or transmit Malicious Code,
v. Intentionally interfere with or disrupt the integrity or performance of the Services or
   third-party data contained therein.
vi. Attempt to gain unauthorized access to the Services or their related systems or networks.
3. Insurance, Indemnification, Limitation of Liability

3.1. Insurance

Throughout the term of this Contract and at its own expense, the Contractor must provide proof of the following insurance coverage to the State:

i. Workers’ compensation insurance, as required by Ohio law, and if some work will be done outside Ohio, the laws of the appropriate states where work will be done. The Contractor also must maintain employer's liability insurance with at least a $1,000,000.00 limit.

ii. Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, and property damage. The defense cost must be outside of the policy limits. Such policy must designate the State of Ohio as an additional insured, as its interest may appear. The policy also must be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance must be:

   $ 2,000,000 General Aggregate
   $ 2,000,000 Products/Completed Operations Aggregate
   $ 1,000,000 per Occurrence Limit
   $ 1,000,000 Personal and Advertising Injury Limit
   $ 100,000 Fire Legal Liability
   $ 10,000 Medical Payments

   For each policy required by this Contract the Contractor must provide the State with 30-days prior written notice of cancellation, non-renewal, or material change, except a ten-day notice is required for nonpayment of the premium. And the Contractor’s Commercial General Liability must be primary over any other insurance coverage.

iii. Commercial Automobile Liability insurance with a combined single limit of $500,000. The policy must be endorsed to include a waiver of subrogation.

   iv. Professional Liability insurance covering all staff with a minimum limit of $1,000,000 per incident and $3,000,000 aggregate. If the Contractor’s policy is written on a “claims made” basis, the Contractor must provide the State with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Contractor must purchase and maintain “tail” coverage through the applicable statute of limitations.

   The Contractor must also provide cyber liability and intellectual property infringement liability insurance of not less than $5,000,000 per occurrence and $10,000,000 in the aggregate for liability for financial loss resulting or arising from acts, errors, and omissions in connection with the Services provided under this Contract, including but not limited to:

   i. Breaches of security or privacy
   ii. Data theft, damage, destruction, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential corporate information, transmission of a computer virus or other type of malicious code
iii. Participation in a denial of service attack on a third party
iv. Violation or infringement of any right of privacy, breach of federal, state, or foreign security or privacy laws or regulations
v. Intellectual property infringement arising out of software or content (excluding patent and copyright infringement and misappropriation of trade secrets
vi. Technology errors and omissions
vii. Business interruption
viii. Cyber extortion
ix. Investigation, notification, and related credit monitoring costs from any of the above.

Commercial General Liability must be primary over any other insurance coverage.

All certificates must be in a form that is reasonably satisfactory to the State as to the contents of the policies and the quality of the insurance carriers. All carriers must have at least an “A-“ rating by A.M. Best.

Any Subscriber that is a Cooperative Purchasing Member that Orders Services also may require a certificate of insurance from the Contractor naming it as an additional insured.

Whenever a Subscriber locates its equipment at facilities owned or controlled by the Contractor or one of its contractors, the Contractor must maintain:

   i. Property insurance insuring the equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement used by the Contractor for its own property or that in common use in the industry, and any other risks reasonably required and covered by the Contractor’s insurance. The coverage must be in an amount at least equal to the reasonable replacement value of the equipment.

   ii. Workers’ compensation coverage as required by the laws of the State in which the equipment is located.

The Contractor must furnish evidence to each Subscriber of the above coverages coverage throughout each Order’s term.

All such insurance must be with insurers that are authorized to issue such insurance in the applicable state(s). All such property insurance must name the applicable Subscriber as the loss payee. All such insurance also must contain a provision to the effect that it cannot be canceled or modified without first giving written notice thereof to the Contractor and the applicable Subscribers without at least 30 days written notice. Such changes may not become effective without the applicable Subscribers’ prior written consent.

3.2. Indemnification for Bodily Injury and Property Damage

The Contractor must indemnify the State and the Subscribers against all liability or expense resulting from bodily injury to any person (including death) or damage to property arising out of its performance under this Contract, provided such bodily injury or property damage is due to the negligence or other tortious conduct of the Contractor, its employees, agents, or subcontractors.

3.3. Indemnification for Infringement
The Contractor will release, protect, indemnify, defend, and hold the State and the Subscribers harmless from and against any claims of infringement by any third parties based on any Service provided under this Contract. Any defense of the State or a State Subscriber requires and is subject to the approval and consent of the Ohio Attorney General. Any such defense will be at the Contractor’s sole cost and expense. Further, the Contractor will indemnify the State and Subscribers for any liability resulting from any such claims, demands, or suits, as well as hold the State and the Subscribers harmless for the Contractor’s liability, losses, and damages resulting from such. This obligation of defense and indemnification will not apply where the State or a Subscriber has modified or misused the Service and the claim or the suit is based on the modification or misuse. The State or affected Subscribers will give the Contractor notice of any such claim as soon as reasonably practicable and allow the Contractor to control the defense of any such claim, upon consultation with and the approval of the Office of the State’s Attorney General.

If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement or similar claim that is pending actually may succeed, the Contractor will do one of the following four things as soon as reasonably possible to avoid or minimize any interruption of the Subscribers business:

i. Modify the offending Service so that it is no longer infringing but provides substantially the same functionality as before the modification.
ii. Replace the offending Service with an equivalent or better, non-infringing offering.
iii. Acquire the right for the Subscribers to use the infringing Service as it was intended to be used under this Contract.
iv. Terminate the infringing Service and refund the amount the Subscribers paid for the Service and the amount of any other Service that requires the availability of the infringing Service for it to be useful to the Subscribers.

3.4. Limitation of Liability - State

The State’s and Subscribers’ combined total liability for damages, whether in contract, law, or equity, will not exceed two times the amount of compensation payable to Contractor for the previous 12 months of Service related to the Service Attachment under which the damages occurred or the amount of direct damages incurred by the Contractor, whichever is less.

3.5. Limitation of Liability - Contractor

The Contractor will be responsible for any liability, claims, losses and damages arising out of the performance of this Contract provided such liability, claim, loss or damage is due to the fault or negligence of the Contractor, its employees, agent, subcontractors or affiliates.

NOTWITHSTANDING THE PREVIOUS SENTENCE AND EXCEPT AS EXPRESSLY PROVIDED IN THIS CONTRACT, NEITHER PARTY, ITS AFFILIATES OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

4. Confidentiality and Handling of Data

4.1. Confidentiality
The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor must treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. The Contractor may not disclose any Confidential Information to third parties and must use it solely to perform under this Contract.

If any Service delivered under this Contract contains data, documentation, or other written information that is confidential in nature and properly labeled as such, then it also will be Confidential Information for purposes of this section. The State will keep all such Confidential Information in confidence and will not use it other than as authorized under this Contract. Nor will the State disclose any such Confidential Information to any third party without first obligating the third party to maintain the secrecy of the Confidential Information.

If one Party discloses Confidential Information ("Disclosing Party") to the other Party to this Contract ("Receiving Party"), the Receiving Party’s obligation to maintain the confidentiality of the Confidential Information will not apply where such:

i. was already in the possession of the Receiving Party without an obligation of confidence;
ii. is independently developed by the Receiving Party, provided documentary evidence exists to support the independent development;
iii. except as provided in the next paragraph, is or becomes publicly available without a breach of this Contract;
iv. is rightfully received by the Receiving Party from a third party without an obligation of confidence;
v. is disclosed by the Receiving Party with the written consent of the Disclosing Party; or
vi. is released under a valid order of a court or governmental agency, provided that the Receiving Party:
   a. Notifies the Disclosing Party of the order immediately upon receipt of it, unless it is legally prohibited from doing so; and
   b. Makes a reasonable effort to obtain a protective order from the issuing court or agency limiting the disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production.

Information that may be available publicly through other sources about people that is personal in nature, such as medical records, addresses, phone numbers, social security numbers, and similar things, is nevertheless sensitive in nature and may not be disclosed or used in any manner except as expressly authorized in this Contract. Therefore, item (iii) in the preceding paragraph does not apply, and the Contractor must treat such information as Confidential Information whether it is available elsewhere or not.

The Receiving Party must return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

The disclosure of the Confidential Information of the Disclosing Party in a manner inconsistent with the terms of this provision may cause the Disclosing Party irreparable damage for which remedies other than injunctive relief may be inadequate, and each Receiving Party agrees that
in the event of a breach of the Receiving Party’s obligations hereunder, the Disclosing Party will be entitled to seek temporary and permanent injunctive relief to enforce the provisions of this Contract without the necessity of proving actual damages. However, this provision does not diminish or alter any right to claim and recover damages.

This Contract is not Confidential Information. All its terms and conditions, including pricing and any attachments, represent public information.

4.2. Public Records Requests.

Should the Contractor receive any public records request with respect to any Subscriber’s Data, the Contractor will immediately notify any affected Subscriber and fully cooperate with the affected the Subscriber directs.

4.3. Handling of Subscriber’s Data

“Subscriber’s Data” is any information, data, files, or software that a Subscriber uses or stores on or in conjunction with the Services, including but not limited to Generated Files. The Contractor must use due diligence to ensure computer and telecommunications systems and Services involved in storing, using, or transmitting Subscriber’s Data are secure and to protect that data from unauthorized disclosure, modification, or destruction. To accomplish this, the Contractor must comply with all applicable National Institute of Standards and Technology (“NIST”) standards for Moderate Impact systems and:

   i. Apply appropriate risk management techniques to ensure security for all sensitive data, including but not limited to any data identified as Confidential Information elsewhere in this Contract.
   ii. Ensure that its internal security policies, plans, and procedures address the basic security elements of confidentiality, integrity, and availability.
   iii. Maintain plans and policies that include methods to protect against security and integrity threats and vulnerabilities, as well as detect and respond to those threats and vulnerabilities.
   iv. Maintain appropriate identification and authentication processes for information systems and services associated with Subscriber’s Data.
   v. Maintain appropriate access control and authorization policies, plans, and procedures to protect system assets and other information resources associated with Subscriber’s Data.
   vi. Implement and manage security audit logging on information systems, including computers and network devices.

The Contractor must maintain a robust boundary security capacity that incorporates generally recognized system hardening techniques. This includes determining which ports and services are required to support access to systems that hold Subscriber’s Data, limiting access to only these points and disabling all others. To do this, the Contractor must use assets and techniques such as properly configured firewalls, a demilitarized zone for handling public traffic, host-to-host management, Internet protocol specification for source and destination, strong authentication, encryption, packet filtering, activity logging, and implementation of system security fixes and patches as they become available. And the Contractor must use two-factor authentication to limit access to systems that contain Subscriber’s Data.

Unless a Subscriber instructs the Contractor otherwise in writing, the Contractor must assume all Subscriber’s Data is both confidential and critical for Subscriber operations, and the Contractor’s security policies, plans, and procedure for the handling, storage, backup, access,
and, if appropriate, destruction of that data must be commensurate to this level of sensitivity. As part of the Contractor’s protection and control of access to and use of data, the Contractor must employ appropriate intrusion and attack prevention and detection capabilities. Those capabilities must track unauthorized access and attempts to access Subscriber’s Data, as well as attacks on the Contractor’s infrastructure associated with Subscriber’s Data. Further, the Contractor must monitor and appropriately address information from its system tools used to prevent and detect unauthorized access to and attacks on the infrastructure associated with Subscriber’s Data.

The Contractor must use appropriate measures to secure a Subscriber’s Data before transferring control of any systems or media containing that Subscriber’s Data. The method of securing the data must be appropriate to the situation and may include erasure, destruction, or encryption of the data before transfer of control. The transfer of any such system or media must be reasonably necessary for the performance of the Contractor’s obligations under this Contract.

The Contractor must have a business continuity plan in place. The Contractor must test and update the IT disaster recovery portion of its business continuity plan at least annually. The plan must address procedures for response to emergencies and other business interruptions. Part of the plan must address backing up and storing data at a location sufficiently remote from the facilities at which the Contractor maintains Subscriber’s Data in case of loss of that data at the primary site. The plan also must address the rapid restoration, relocation, or replacement of resources associated with Subscriber’s Data in the case of a disaster or other business interruption. The Contractor’s business continuity plan must address short- and long-term restoration, relocation, or replacement of resources that will ensure the smooth continuation of operations related to Subscriber’s Data. Such resources may include, among others, communications, supplies, transportation, space, power and environmental controls, documentation, people, data, software, and hardware. The Contractor also must provide for reviewing, testing, and adjusting the plan on an annual basis.

The Contractor may not allow Subscriber’s Data to be loaded onto portable computing devices or portable storage components or media unless necessary to perform its obligations under this Contract properly. Even then, the Contractor may permit such only if adequate security measures are in place to ensure the integrity and security of the data. Those measures must include a policy on physical security for such devices to minimize the risks of theft and unauthorized access that includes a prohibition against viewing sensitive or confidential data in public or common areas. At a minimum, portable computing devices must have anti-virus software, personal firewalls, and system password protection. In addition, Subscriber’s Data must be encrypted when stored on any portable computing or storage device or media or when transmitted from them across any data network. The Contractor also must maintain an accurate inventory of all such devices and the individuals to whom they are assigned.

Any encryption requirement identified in this provision must meet the NIST standards identified above.

The Contractor must have reporting requirements for lost or stolen portable computing devices authorized for use with Subscriber’s Data and must report any loss or theft of such to the State in writing as quickly as reasonably possible. The Contractor also must maintain an incident response capability for all security breaches involving Subscriber’s Data whether involving mobile devices or media or not. The Contractor must detail this capability in a written policy that defines procedures for how the Contractor will detect, evaluate, and respond to adverse events that may indicate a breach or attempt to attack or access Subscriber’s Data or the infrastructure associated with Subscriber’s Data.
In case of an actual security breach that may have compromised Subscriber’s Data, including but not limited to loss or theft of devices or media, the Contractor must notify the Subscriber in writing of the breach within 24 hours of the Contractor becoming aware of the breach, and fully cooperate with the Subscriber to mitigate the consequences of such a breach. This includes any use or disclosure of the Subscriber’s Data that is inconsistent with the terms of this Contract and of which the Contractor becomes aware, including but not limited to, any discovery of a use or disclosure that is not consistent with this Contract by an employee, agent, or subcontractor of the Contractor.

The Contractor must give affected Subscribers full access to the details of the breach and assist each Subscriber in making any notifications to potentially affected people and organizations that the affected Subscribers deem are necessary or appropriate. The Contractor must document all such incidents, including its response to them, and make that documentation available to the affected Subscribers on request. In addition to any other liability under this Contract related to the Contractor’s improper disclosure of Subscriber’s Data, and regardless of any limitation on liability of any kind in this Contract, the Contractor will be responsible for acquiring one year’s identity theft protection service on behalf of any individual or entity whose personally identifiable information is compromised while it is in the Contractor’s possession. Such identity theft protection must be reasonably acceptable to the State.

All Subscriber Data will remain the property of the Subscriber. The Contractor must ensure that the Subscriber retains access and download capability for purposes of retrieving its data for research, investigation, transfer, or migration to other systems.

All Subscriber Data at rest in systems supporting the Contractor’s Services must reside within the contiguous United States with a minimum of two data center facilities at two different and distant geographic locations and be handled in accordance with the requirements of this section at all Contractor locations.

When the Contractor performs any Services under this Contract that require the Contractor’s and its subcontractors’ personnel to access facilities, data, or systems that the State, in its sole discretion deems sensitive, the State may require the Contractor’s and its subcontractors’ personnel with such access to sign an individual confidentiality agreement and policy acknowledgements, and have a background check performed before accessing those facilities, data, or systems. Each State agency, board, and commission may require a different confidentiality agreement or acknowledgement, and the Contractor’s and its subcontractors’ personnel may be required to sign a different confidentiality agreement or acknowledgement for each agency. The Contractor must immediately replace any of its or its subcontractors’ personnel who refuse to sign a required confidentiality agreement or acknowledgment or have a background check performed or whose results from such background check are unacceptable to the applicable Subscriber.

4.4. Subscriber Responsibilities

Each Subscriber will be responsible for its compliance with this Contract, be responsible for the accuracy, quality, and legality of its Subscriber’s Data and for the means by which it acquired that Subscriber’s Data, use commercially reasonable efforts to prevent unauthorized access to
or use of the Services, and notify the Contractor promptly of any unauthorized access or use of which it becomes aware. Further, the Subscriber will use the Services only in accordance with the applicable user guide(s), to the extent not inconsistent with the Subscriber’s rights under this Contract, applicable laws, and government regulations.

Further, a Subscriber may not intentionally make the Services available to anyone other than its employees and its contract personnel, unless the applicable Service or Services are designed to be publically facing or intended for interaction with clients of the Subscriber (e.g., hosted web sites), sell, resell, rent, or lease the Services, use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights. The Subscribers also may not intentionally use the Services to store or transmit Malicious Code, intentionally interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or attempt to gain unauthorized access to the Services or their related systems or networks.

5. Orders, Requesting Service, Delivery, Acceptance, Termination, and Modification

5.1. Acceptance

The acceptance procedure for setup or installation of a Service will be a review by the Subscriber acquiring the Service to ensure that it meets the performance standards and other requirements in the applicable Service Attachment and that the setup or installation has been done in a professional manner and that the Service itself meets all requirements. For Services not requiring setup or installation, the acceptance procedure will be a review by the Subscriber to ensure the Service complies with the performance requirements in the applicable Service Attachment.

In addition to the requirements of the applicable Service Attachment, if ordering documents such as a statement of work are authorized in that Service Attachment, the review will include any additional requirements in the applicable Order Form. The Subscriber will have up to 15 days after the setup, installation, or establishment of the Service to do this. The Subscriber will not issue a formal letter of acceptance, unless otherwise specified in the applicable Service Attachment, and passage of 15 days will imply acceptance, though the Subscriber will issue written notice of noncompliance if setup, installation, or the Service does not meet the requirements in this Contract.

If the Subscriber issues a noncompliance letter, the Contractor will have 30 days to correct the problems listed in the letter. If the Subscriber has issued a noncompliance letter, the Service, installation, or set up will not be accepted until that Subscriber issues a letter of acceptance indicating that each problem noted in the noncompliance letter has been cured. If the problems have been fixed during the 30-day period, the Subscriber will issue the acceptance letter within 15 days after all defects have been fixed. If the Contractor fails to correct the defect(s), the applicable Order(s) will terminate without cost or obligation to the Subscriber, and the Subscriber will be entitled to a full refund of any payments made for the Service, setup, and installation.

The applicable Service Attachment may provide additional or alternative acceptance procedures, but no Order may change the acceptance process.
5.2. Service, Termination, or Modification

All Orders for Service, as well as any termination of an Order or modification to an Order, including termination, must be made through the State’s Ordering System. Therefore, the Contractor must notify the State when an Order is received that was placed outside the State’s Ordering System and the Contractor will not accept the Order. If a Contractor accepts an Order outside the State’s Ordering System, the State or the Subscriber may either withhold payment for the unverified Order or require termination of the Service under the unverified Order without cost or obligation to the State or the Subscriber and with a full refund of any fees the Subscriber paid for any Service under the Order.

The Contractor agrees to keep Subscribers’ Orders updated and current in the State’s Ordering System.

The Contractor is responsible for processing all Orders, billing, payments, cancellations, changes, and receiving and managing all Service calls in a consolidated manner. In this regard, the Contractor must act as the sole point of contact for all Services under this Contract and any related Service Attachments for all Subscribers. The Contractor may not require a Subscriber to contact any of the Contractor’s third-party suppliers or otherwise transact business directly with such suppliers for any Services ordered under this Contract, and in all respects, the Contractor must maintain a seamless, single-point-of-contact business relationship with each Subscriber for the Services ordered under this Contract.

6. Termination – Contract, Service Attachments, Orders

6.1. Termination by the State

The Contractor must comply with all terms and conditions of this Contract. If the Contractor fails to perform any one of its obligations under this Contract, it will be in default, and the State may proceed in any or all of the following ways:

I. The State may terminate this Contract, the applicable Service Attachment(s), or the affected Order(s) under this Contract.

II. The State may withhold payment for any affected Service until the Contractor cures the noncompliance or the Parties agree on the corrective action the Contractor must take to cure the noncompliance.

III. The State may file a complaint for damages with a court of competent jurisdiction in Ohio.

The State also may terminate this Contract or any Service Attachments for its convenience with 30 days written notice to the Contractor. In any such event, each Subscriber must pay for all accrued and unpaid charges for Services and any fee specified in the affected Service Attachment(s) for early termination (“Early Termination Charge”), if applicable.

If the termination of the Contract or any Service Attachment(s) is for cause, then neither the State nor any Subscribers will be liable for any Early Termination Charge outlined in any affected Service Attachments. And the Contractor will fully cooperate in any disentanglement efforts any affected Subscribers reasonably request at no cost to the requesting Subscribers, even if disentanglement is a separately priced Service in the applicable Service Attachment(s).

The State’s funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the payments and other obligations due as part of this Contract, the State’s obligations under this
Contract will terminate as of the date the funding expires without further obligation of the State, including but not limited to any Early Termination Charge outlined in any affected Service Attachment(s).

6.2. Termination of Orders by Subscriber or Contractor

Under this Contract, specific Orders also may be terminated by either a Subscriber or the Contractor, as follows:

6.2.1. By a Subscriber

A Subscriber may terminate Service under any Order it has placed, and it may do so at any time for any or no reason. The Subscriber will be liable for Services delivered but unpaid as of the termination date, as well as any Early Termination Charge outlined in the appropriate Service Attachments.

If the Subscriber’s funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly or other governmental body, and the General Assembly or other governmental body fails at any time to continue funding for the payments and other obligations due under an Order, the Subscriber’s obligations with respect to that Order will terminate as of the date the funding expires, and the Subscriber will have no further obligation with respect to such Order, including but not limited to any Early Termination Charge outlined in any affected Service Attachments.

If a termination of any Service under one or more Orders is for cause or non-appropriation of funds, as described in this Section 6, the Subscriber will not be liable for any Early Termination Charge, if such are otherwise applicable to the Service or Services so terminated. If the termination is for cause, the Contractor will fully cooperate in any disentanglement efforts the Subscriber reasonably requests at no cost to the Subscriber.

6.2.2. By the Contractor

If a Subscriber materially defaults in the performance of any of its duties or obligations under this Contract, the Contractor, by giving at least 30 days prior written notice, may cancel any affected Services provided to that Subscriber under this Contract.

If the Subscriber cures the default before the cancellation of Service date, the Order will remain in full force and effect.

If the Subscriber fails to cure, then the Subscriber will remain liable for charges accrued but unpaid as of the cancellation date and any Early Termination Charge as outlined in the appropriate Service Attachment(s), if applicable.

7. Financial – Fees, Claims and Disputes, Billing, and Payment

7.1. Fees

All applicable charges are fully documented in the appropriate Service Attachment(s). The Subscriber will not be responsible for any charges not documented in the applicable Service Attachment(s) or be responsible for any charges waived by the Contractor in this Contract or the applicable Service Attachment(s).

Subscribers are not subject to increases in fees during the term of this Contract.
Subscribers are not responsible for any charges from the Contractor’s third-party suppliers for any Services ordered under this Contract, unless an applicable Service Attachment expressly provides otherwise. In this regard, the Contractor is the seller or reseller of all Services covered by this Contract, and any payments due to the Contractor’s third-party suppliers for Services under this Contract are included in the Contractor’s fees specified in the applicable Service Attachment, unless that Service Attachment expressly provides otherwise.

7.2. Billing

Invoices will be issued at the Order level, but the Subscriber may require a recap at the agency, division, or district level based on the organizational structure of the Subscriber.

Invoices must be submitted to the office designated in the State’s Ordering System as the “bill to address”. The invoice must be submitted within 60 days of the Service. If the Subscriber does not receive the invoice within the 60 days of the date of Service, the Subscriber will be entitled to deny payment of the invoice.

A proper invoice must include the following information:

i. Name and address of the Contractor as designated in this Contract.
ii. Federal Tax Identification Number of the Contractor as designated in this Contract.
iii. Invoice remittance address as designated in the Contract.
iv. A sufficient description of the Services to allow the Subscriber to identify the Services and perform an audit of the Services.

7.3. Payment

Payments for Services under this Contract will be due on the 30th calendar day after the actual receipt of a proper invoice in the office designated to receive the invoice. The Contractor agrees to receive payment from approved vouchers by electronic fund transfer (“EFT”) for Subscribers that rely on them to make payment. The Contractor will cooperate with Subscribers in providing the necessary information to implement EFT. The date the EFT is issued in payment will be considered the date payment is made, or if a Subscriber does not use an EFT process, the date its check or warrant is issued in payment will be considered the date payment is made.

7.4. State Reporting Requirements

The Contractor must provide the State with a recap of all Services provided to the Subscribers on a monthly basis. Additional, specific reporting data requirements may be outlined in the Service Attachment(s).

7.5. Service Level Guarantee and Credits

The Contractor will issue a credit allowance to any Subscriber affected by a Service outage, as defined in the Service Level Contract contained in the applicable Service Attachment. The credit will appear on the affected Subscriber’s next invoice, or if the Subscriber so requests, the Contractor will issue a check to the Subscriber as payment within 30 days of the request.

7.6. Cost Recovery
(ii) The Contractor must pay a fee to the State to cover the estimated costs the State will incur administering this Contract and the Services offered under it (“Cost Recovery Fee”).

(iii) The Cost Recovery Fee will be 2% of the total dollar amount of Services the Contractor invoices under this Contract to all Subscribers, including all State-level entities and all Cooperative Purchasing Members. The Cost Recovery Fee is included in the prices reflected on the Service Attachment and the Contractor may not add a surcharge to Orders under this contract to cover the amount of the Cost Recovery Fee. The State will generate notification to the Contractor via email on the last day of the calendar quarter advising the Contractor to complete a revenue reporting form provided by the State within 30 days after the close of the quarter. The State may compare the form provided by the Contractor to information in the State’s accounting system, the State’s Ordering System, and other records for purposes of verifying the accuracy of the form. The State will generate an invoice to the Contractor for the quarterly Cost Recovery Fee based on reported revenue from the Contractor or the State’s records, whichever is greater.

(v) Examples of the calculation of a Cost Recovery Fee:

1. An example of a contractor with sales only to State Entities and thus no revenue from Co-op Members:

<table>
<thead>
<tr>
<th>FY15</th>
<th>Quarter</th>
<th>Revenue from State Entities</th>
<th>Revenue from Co-op Members</th>
<th>Revenue Share Due</th>
<th>Reported by</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Q1</td>
<td>$ 79,193</td>
<td>$ 0</td>
<td>$ 1,584</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q2</td>
<td>$ 10,392</td>
<td>$ 0</td>
<td>$ 208</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q3</td>
<td>$ 209,105</td>
<td>$ 0</td>
<td>$ 4,182</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q4</td>
<td>$ 74,970</td>
<td>$ 0</td>
<td>$ 1,499</td>
<td>Name of Contact</td>
</tr>
</tbody>
</table>

2. An example of a contractor with sales to both State Entities and Co-op Members and thus revenue from both:

<table>
<thead>
<tr>
<th>FY15</th>
<th>Quarter</th>
<th>Revenue from State Entities</th>
<th>Revenue from Co-op Members</th>
<th>Revenue Share Due</th>
<th>Reported by</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Q1</td>
<td>$ 79,193</td>
<td>$ 20,963</td>
<td>$ 2,003</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q2</td>
<td>$ 10,392</td>
<td>$ 4,197</td>
<td>$ 292</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q3</td>
<td>$ 209,105</td>
<td>$ 63,210</td>
<td>$ 5,446</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q4</td>
<td>$ 74,970</td>
<td>$ 1,471</td>
<td>$ 1,529</td>
<td>Name of Contact</td>
</tr>
</tbody>
</table>

3. An example of a contractor with sales to neither State Entities nor Co-op Members and thus no revenue to report:

<table>
<thead>
<tr>
<th>FY15</th>
<th>Quarter</th>
<th>Revenue from State Entities</th>
<th>Revenue from Co-op Members</th>
<th>Revenue Share Due</th>
<th>Reported by</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Q1</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q2</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q3</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>Name of Contact</td>
</tr>
<tr>
<td></td>
<td>Q4</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>Name of Contact</td>
</tr>
</tbody>
</table>

The Contractor must use the State’s Web-based system for reporting revenue generated under this Contract.

The Contractor must remit the 2% Cost Recovery Fee to the State quarterly by check to the State of Ohio, Department of Public Safety. The check must be made payable to the Treasurer, State of Ohio, and must be sent to the State at the following address:
To ensure that the payment is credited properly, the Contractor must identify the payment as a State of Ohio Cost Recovery Fee and reference this Contract and the Quarterly Activity Reports supporting the check amount. The data requirements for the Quarterly Activity Reports will be detailed in the Service Attachment(s). Credit for the Cost Recovery Fee will begin in the month of execution of this Contract.

A copy of the Quarterly Activity Report will be sent to the Contract Administrator at the following address:

Department of Public Safety
1970 W. Broad Street
Columbus, Ohio 43223
Attention: Jeff Shadburn
Chief, Procurement Services

The first payment will be calculated against all Services rendered to the existing Subscribers transferred to the Contract in the month of effective date. Subsequent payments will be calculated against all Subscribers as stated above.

The Contractor’s contact person for Cost Recovery Section will be:

Name:
Address:
Phone:
Email:

8. Support

8.1. Service Support Generally

During the term of any Order, the Contractor will provide the Subscriber with telephonic assistance and advice for using all Services covered by the Order. The Contractor also will provide troubleshooting and problem resolution by developing and providing fixes or patches for errors in any software it provides and contract with any third party providing software that supports the Services for the same. As part of the support the Contractor provides in exchange for the applicable fee, the Contractor also will keep all software current by installing all relevant service packs and patches as well as all updates and new releases and versions of the software as soon as reasonably possible. The Contractor also will keep its own software offering compatible with any updated third-party software that is part of the Services or supports the Services. The manner in which the Contractor provides support will be governed by the Contractor’s policies and programs described in the applicable documentation or other materials that the Contractor uses to notify its customers generally of such policies. But regardless of the Contractor’s policies and programs, unless otherwise agreed in the applicable Service Attachment, in all cases such support must comply with the requirements of this Contract and the applicable Service Attachment(s). And the Contractor must provide the support in a competent, professional, and timely manner.
8.2. Equipment Support Generally

For any equipment used to provide the Services, remedial equipment maintenance by the Contractor will be completed within eight business hours after notification by the Subscriber that maintenance is required. In the case of preventative maintenance, the Contractor will perform such in accordance with the manufacturer’s published schedule and specifications. If maintenance is not completed within eight hours after notification by the Subscriber, the Contractor will be in default. Failure of the Contractor to meet or maintain these requirements will provide the Subscriber with the same rights and remedies as specified elsewhere in this Contract for default, except that the Contractor will only have eight hours to remedy a default. Nothing contained herein will limit the application of any credits for failure to meet any service level agreements in the applicable Service Attachment. The Contractor will provide adequate staff to provide the maintenance required by this Contract.

8.3. Adjustments

A Subscriber may acquire subscriptions that are based on the number of users, nodes, computers, processors, or other counts of items covered by an Order ("Objects"). In any such cases, the Subscriber may request the fees for a subscription renewal be calculated based on fewer Objects than included in the previous Order, with an appropriate adjustment in the applicable fee(s). Despite the reduction, fees for the remaining Objects may not be increased over the applicable fees from the previous Order.

During an Order’s duration ("Order Term"), a Subscriber may increase the volume of its Order (e.g., add additional users) without increasing the Order Term. The cost of any addition Objects or similar increase in usage must be prorated to reflect the time remaining in the Order Term rather than be based on the full Order Term.

8.4. Support Parameters

A Subscriber may initiate support requests for problems it encounters with the Software by telephone, email, Internet, or fax, and the Contractor must maintain lines of communication that support all four forms of communication. The Contractor must make support available 24 hours a day, seven days per week (the “Support Window”), and it must do so by staffing its support function with an adequate number of qualified personnel to handle its traditional volume of calls. Further, the Contractor must maintain at least one support center in North America with adequate English-speaking support personnel. The applicable Service Attachment(s) may provide for different support periods. A Subscriber’s technical staff may contact any support center that the Contractor maintains, and they may choose to do so based on convenience, proximity, service hours, languages spoken, or otherwise.

8.5. Incident Classification

The Contractor must classify and respond to support calls by the underlying problem’s effect on a Subscriber. In this regard, the Contractor may classify the underlying problem as critical, urgent, or routine. The guidelines for determining the severity of a problem and the appropriate classification of and response to it are described below.

The Contractor must designate a problem as “critical” if the Service is functionally inoperable, the problem prevents the Service or a major component or function from being used in production mode or there is significant potential for data integrity problems. This classification assumes there is no existing patch for the problem. The Contractor must classify a problem as
“urgent” if the underlying problem significantly degrades the performance of the Service or a major function or component of it or materially restricts a Subscriber’s use of the Service in a production mode. A problem also will be considered urgent if a commonly used feature often generates application errors, causes the Service to freeze, locks up the computer on which the Service is running, or otherwise routinely does not work as intended. Classification of a problem as urgent rather than critical assumes that an affected Subscriber still can conduct business with the Service and response times are consistent with the needs of the Subscriber for that type of Service. As with the critical classification, the urgent classification assumes there is no existing patch or acceptable workaround procedure for the problem. Finally, the Contractor may classify a support call as “routine” if the underlying problem is a question on end use or configuration of the Service. It also may be classified as routine when the problem does not materially restrict a Subscriber’s use of the Service in its production environment, such as when a feature or combination of features generates minor or rare errors. Also, if any problem that otherwise should be classified as critical or urgent can be solved either by a known workaround or an existing patch that does not materially interfere with a Subscriber’s use of the Service, the problem may be treated as routine.

The Contractor must apply the above classifications in good faith to each call for support, and the Contractor must give due consideration to any request by a Subscriber to reclassify a problem, taking into account the Subscriber’s unique business and technical environments and any special needs it may have.

8.6. Incident Response

The Contractor must respond to critical problems by ensuring that appropriate managerial personnel are made aware of the problem and that they actively track and expedite a resolution. The Contractor must assign support or development personnel at the appropriate level to the problem, and those personnel must prepare a work plan for the problem’s expeditious resolution. The work plan must assume that the Contractor’s appropriate staff will work without material interruption until the problem is resolved properly. At the request of an affected Subscriber, the Contractor’s personnel must maintain daily contact with the Subscriber’s technical staff to keep the Subscriber abreast of efforts being made to solve the problem. The Contractor also must provide the Subscriber’s technical staff with direct access to the Contractor’s support personnel and product development personnel, if appropriate, who are assigned to the problem.

The Contractor must respond to urgent problems by having its product development and support personnel work in concert to develop a fix or a workaround. If requested, the Contractor’s support personnel must maintain regular contact with the affected Subscribers to keep their technical staff abreast of progress toward a resolution of the problem. The Contractor’s support staff must include the problem in regular status reports to the Contractor’s management team. And the Contractor’s support staff must provide the fix or workaround procedure as soon as it is available.

The Contractor must respond to routine problems by providing the affected Subscribers with a fix or workaround on a priority basis if the problem is one for which an existing patch or workaround already exists. For newly identified problems falling into this classification, the Contractor’s support personnel must generate a problem report, and the appropriate development or support personnel then must prioritize the problem in relation to other outstanding product issues. The assigned priority then will govern the problem solving or developmental work needed to address the problem and the schedule for delivering a solution. For routine calls that involve end usage and configuration issues rather than bugs or other
technical problems, the Contractor’s first or second level support personnel must provide the Subscriber’s technical staff with telephonic assistance on a non-priority basis.

8.7. Response Times

The maximum time that the Contractor takes to respond initially to a support request may vary based upon the classification of the request. During the Support Window, the Contractor’s response time for a critical support request will be less than one hour. The Contractor’s response time for an urgent request must be less than two hours during the Support Window. And the Contractor’s response time for a routine support request must be less than four hours during the Support Window. The applicable Service Attachment may provide for shorter response times, and nothing contained herein will limit the application of any credits for failure to meet any service level agreements in the applicable Service Attachment.

8.8. Escalation Process

Any support call that is not resolved must be escalated to the Contractor’s management under the following parameters. Unresolved problems that are classified as critical must be escalated to the Contractor’s support manager within one hour and to the director level after four hours. If a critical problem is not resolved within one day, it must escalate to the CEO level after two days. The Contractor’s support staff will escalate unresolved urgent problems to its support manager within three hours, to the director level after one day, and to the CEO level after two days.

8.9. Subscriber Obligations

To facilitate the Contractor meeting its support obligations, Subscribers must provide the Contractor with the information reasonably necessary to determine the proper classification of the underlying problem. They also must assist the Contractor as reasonably necessary for the Contractor’s support personnel to isolate and diagnose the source of the problem. Additionally, to assist the Contractor’s tracking of support calls and the resolution of support issues, Subscribers must make a reasonable effort to use any ticket or incident number that the Contractor assigns to a particular incident in each communication with the Contractor.

8.10. Relationship to Support Level Agreements (“SLA”)

The Contractor’s support obligations are in addition to the SLAs in the Service Attachment(s). Furthermore, the SLAs may provide for credits to the Subscribers even though the Contractor is meeting its support obligations hereunder.


9.1. Certification of Funds

None of the rights, duties, or obligations in this Contract will be binding on the State or a Subscriber, and the Contractor will not begin its performance under any Order, until all the following conditions occur for that Order:

i. All statutory provisions under the ORC, including Section 126.07, have been met.
ii. All necessary funds are made available by the appropriate State agencies.
iii. If required, approval of this Contract or the applicable Order is given by the Controlling Board of Ohio.

88
iv. If the Subscriber is relying on federal or third-party funds for its Order, the Subscriber gives the Contractor written notice that such funds have been made available.

Additional or alternate legal requirements may apply to a political subdivision that is a Subscriber for an Order to be binding on it.

9.2. Excusable Delay

Neither Party will be liable for any delay in its performance arising from causes beyond its control and without its negligence or fault. The delayed Party will notify the other promptly of any material delay in performance and will specify in writing the proposed revised performance date or dates as soon as practicable after notice of delay. The proposed date or dates must be reasonable and cannot exceed the actual delay caused by the events beyond the control of the Party. In the case of such an excusable delay, the dates of performance or delivery affected by the delay will be extended for a period equal to the time lost by reason of the excusable delay. The delayed Party must also describe the cause of the delay and what steps it is taking to remove the cause.

The delayed Party may not rely on a claim of excusable delay to avoid liability for a delay if the delayed Party has not taken commercially reasonable steps to mitigate or avoid the delay.

Things that are controllable by the Contractor's suppliers will be considered controllable by the Contractor.

In the case of subscriptions to Services for a term that an excusable delay interrupts, the term of that subscription will be extended at no additional cost to affected Subscribers by the same amount of time as the excusable delay.

9.3. Employment Taxes

Each Party will be solely responsible for reporting, withholding, and paying all employment related taxes, contributions, and withholdings for its own personnel, including, but not limited to, federal, state, and local income taxes, and social security, unemployment and disability deductions, withholdings, and contributions, together with any interest and penalties.

9.4. Sales, Use, Excise, and Property Taxes

The State and most Subscribers are exempt from any sales, use, excise, and property tax. To the extent sales, use, excise, or any similar tax is imposed on the Contractor in connection with any Service, such will be the sole and exclusive responsibility of the Contractor, and the Contractor will pay such taxes (together with any interest and penalties not disputed with the appropriate taxing authority) whether they are imposed at the time the Services are rendered or a later time.

9.5. Equal Employment Opportunity

The Contractor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including ORC Section 125.111 and all related Executive Orders.

Before this Contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the ODPS Equal Opportunity Division to comply with the affirmative
action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by to the Ohio Business Gateway at:

http://business.ohio.gov/efiling/

The State encourages the Contractor to purchase goods and services from Minority Business Enterprises (“MBEs”) and Encouraging Diversity, Growth and Equity (“EDGE”) contractors.

9.6. Drug-Free Workplace

The Contractor must comply with all applicable state and federal laws regarding keeping a drug-free workplace. The Contractor must make a good faith effort to ensure that all its employees, while working on State property or the property of any Subscriber, will not have or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

9.7. Conflicts of Interest

No Contractor personnel may voluntarily acquire any personal interest that conflicts with the Contractor’s responsibilities under this Contract. Additionally, the Contractor will not knowingly permit any public official or public employee who has any responsibilities related to this Contract to acquire an interest in anything or any entity under the Contractor’s control, if such an interest would conflict with that official’s or employee’s duties. The Contractor will disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. The Contractor will take all legal steps to ensure that such a person does not participate in any action affecting the work under this Contract, unless the State has determined that, in the light of the personal interest disclosed, that person's participation in any such action would not be contrary to the public interest.

9.8. Assignment

The Contractor may not assign this Contract or any of its rights or obligations under this Contract without the prior, written consent of the State.

9.9. Governing Law

This Contract will be governed by the laws of Ohio, and venue for any disputes will lie with the appropriate court in Ohio.

9.10. Finding for Recovery

The Contractor warrants that the Contractor is not subject to an unresolved finding for recovery under ORC §9.24. If the warranty is false on the date the Parties signed this Contract, the Contract is void ab initio.

9.11. Anti-trust

The Parties recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by the State and the Subscribers. The Contractor therefore assigns to the State all state and federal antitrust claims and causes of action that the Contractor now has or may acquire relating to the Services that are covered by this Contract.
9.12. Use of Name

Neither Party will use the other Party’s name in any marketing material, advertisement, or press release without the other Party’s written consent. Further, neither Party may use any contact information collected from the other in the performance of this Contract for general marketing nor sales purposes, such as using email addresses to send mass marketing material, and must use such information solely for purposes of administering this Contract.

9.13. Executive Order 2011-12K Compliance

The Contractor affirms it has read and understands Executive Order 2011-12K and will abide by those requirements in the performance of this Contract.

Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for Services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights or remedies provided to the State in this Contract.

The Contractor agrees to complete the attached Executive Order 2011-12K Affirmation and Disclosure Form, which is attached hereto, is incorporated herein, and becomes a part of this Contract.


By signing this document, the Contractor certifies that all applicable parties listed in ORC Section 3517.13 are in full compliance with ORC Section 3517.13.

9.15. Export Compliance

The Services and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Both the Contractor and the State represent that it is not named on any U.S. government denied-party list. Neither Party will permit others to access or use the Services in a US-embargoed country or in violation of any U.S. export law or regulation.

9.16. Safety and Security Rules

When accessing State networks and systems, the Contractor must comply with all applicable State policies and regulations regarding data security and integrity. And when on any property owned or controlled by the State, the Contractor must comply with all security and safety rules applicable to people on those premises. Subscribers may have policies and regulations that are specific to them and with which the Contractor must also comply.

9.17. Ohio Ethics Law

The Contractor certifies that it is currently in compliance with and will continue to adhere to the requirements of the Ohio ethics laws. The Contractor also certifies that all applicable parties listed in Ohio Revised Code Section 3517.13 are in full compliance with that section.
9.18. HIPPA Compliance

When the Contractor is handling Subscriber Data that includes health or medical data, the Contractor must comply with data handling and privacy requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its associated regulations.

9.19. Federal Tax Information

When the Contractor is handling Subscriber Data that includes Federal Tax Information, the Contractor must comply with the safeguards contained in the IRS 1075 Attachment hereto.

9.20. Entire Contract

This Contract, together with any Service Attachments and all additional documents expressly incorporated herein, sets forth the entire agreement of the Parties with respect to the subject matter hereof and supersedes any prior agreements, promises, representations, understandings, and negotiations between the Parties with respect to the subject matter hereof.

Only an executable Order attached to a Service Attachment as an exhibit and identified as such in the applicable Service Attachment may be executed by a Subscriber to evidence a transaction under this Contract. Further, neither the Subscriber nor the Contractor may add or require additional terms as part of any authorized Order. Documents attached to a Service Contract as exhibits to be executed by a Subscriber typically identify authorized Service options the Subscriber has selected, provide information about a Subscriber, identify installation or configuration requirements or similar statements of work to be done by the Contractor, set schedules for performance, and similar matters.

9.21. Severability

If any provision hereunder is held invalid, illegal, or unenforceable by a court of competent jurisdiction, this Contract will be revised only to the extent necessary to make that provision legal and enforceable or, if that is not possible, the unaffected portions of this Contract will remain in full force and effect so long as the Contract remains consistent with the Parties’ original intent.

9.22. Survival

Any terms or conditions contained in this Contract that must survive termination or expiration of this Contract to be fully effective will survive the termination or expiration of the Contract, unless expressly provided otherwise in this Contract. Additionally, no termination or expiration of the Contract will affect the State’s right to receive Services for which the State has paid before expiration or termination, but no subscription to a Service will continue beyond the period paid for before termination or expiration of the Contract.

If any Service Attachment should expire or be terminated, the remaining portions of this Contract will survive.

9.23. No Waiver
The failure of a Party to demand strict performance of any terms or conditions of this Contract may not be construed as a waiver of those terms or conditions, and that Party may later demand strict and complete performance by the other Party.

9.24. Order of Precedence

If a conflict between the terms and conditions of this Services Contract and those in a Service Attachment arises, this Services Contract will prevail, unless the Service Attachment specifically provides otherwise. If a user guide or other documentation is incorporated into the Contract by reference, this Contract, including any applicable Service Attachment(s), will prevail over any conflicting terms or conditions in any such incorporated documentation.

9.25. Headings

The headings herein are for convenience only and are not intended to have any substantive significance in interpreting this Contract.


This Contract is subject to all applicable federal, state, and local laws, rules, orders, and regulations, and each Party must comply with such in performing its obligations hereunder. To the extent any provision of this Contract conflicts with any such law, rule, order, or regulation, that law, rule, order, or regulation will supersede the conflicting provision of this Contract.

The Contractor may discontinue, limit, or impose additional requirements to the provision of Service, upon no less than 30 days written notice, if required to meet federal, state or local laws, rules, orders, or regulations. But if any such action materially affects any Subscriber’s use of a Service, the Subscriber may on written notice to the Contractor terminate its use of the Service without an Early Termination Charge and receive a pro rata refund of any amounts paid in advance for the Service.

9.27. Notices

Except as otherwise provided in this Contract, all notices hereunder must be in writing and may only be sent by registered or certified mail, postage prepaid; facsimile transmission, overnight courier, or email, upon confirmation of receipt.

Alternatively, such notices may be hand delivered if confirmation of receipt is attained at delivery.

The State’s address for notification is:

Department of Public Safety
1970 W. Broad Street
Columbus, Ohio 43223
Attention: Jeff Shadburn
Chief, Procurement Services

The Contractor’s address for notification is:
9.28. Travel Expenses

Any travel that the Contractor requires to perform its obligations under this Contract will be at the Contractor’s expense. The State will pay for any additional travel that it requests only with prior written approval. The State will pay for all additional travel expenses that it requests in accordance with the State’s travel policy in Rule126-1-02 of the Ohio Administrative Code.

9.29. Amendments

No amendment or modification of this Contract will be effective unless it is in writing and signed by both Parties.

9.30. IRS 1075 Form

The attached Internal Revenue Service issued Publication 1075 form is a part of this Contract and incorporated herein by reference.

Boycotting.

Pursuant to Ohio Revised Code 9.76 (B) Contractor warrants that Contractor is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the contract period.

TO SHOW THEIR AGREEMENT, the Parties have executed this Contract on the date(s) identified below.

<Contractor>  

STATE OF OHIO,  
DEPARTMENT OF PUBLIC SAFETY

_________________________  ____________________________
Signature  
Signature

_________________________  ____________________________
Printed Name  
Printed Name

ODPS Director’s Office

Director

_________________________  ____________________________
Title  
Title

_________________________  ____________________________
Date  
Effective Date
This Service Attachment (the “Service Attachment”) is between _____________________ (“Contractor”), having an office at _____________________________, and the State of Ohio, through the Department of Public Safety, having its principal place of business at 1970 West Broad Street, Columbus, OH 43223. The State and the Contractor are sometimes referred to jointly as the "Parties" or individually as a “Party”. This Service Attachment is effective as of the date signed by the State. It amends that certain Cloud Services Contract between the Parties dated ______.

1. Definitions. <None.>

   The defined terms in the Cloud Service Contract will have the same meanings in this Service Attachment as they do in the Cloud Service Contract. There may be additional definitions contained herein.

2. Services.

   Overview. <Provide a list of all Services available under this Service Attachment and a description of each. A separate Services Attachment must be used for each major Service of the Contractor.>

   Standard Service Features. <List and provide a description of all Service features that are included as part of the standard cost.>

   Optional Service Features. <List and provide a description of all optional Service features that are not included as part of the standard cost, such as costs associated with bandwidth, page views, storage, organizations ("Orgs"), domains, sandboxes, full sandboxes, and such. Otherwise it will be agreed and stated that all such items are free of charge and will be provided in unlimited quantities.>

   Provision of Services. The Contractor will make the Services available to the Subscribers pursuant to the Contract, including this this Service Attachment and the applicable Order Forms, during each Order Term. The State agrees that purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by the Contractor regarding future functionality or features.

   The Contractor Responsibilities. The Contractor must provide the Contractor’s basic support for the Services to the Subscribers at no additional charge and/or upgraded support if available and if purchased by a Subscriber. The Contractor also must use commercially reasonable efforts to make the Services <available 24 hours a day, 7 days a week>, except for planned downtime (of which the Contractor must give at least 8 hours notice via the Services and which the Contractor must schedule <10 p.m. and 6 a.m. Eastern Time and on Saturdays>), or any unavailability covered by the Cloud Service Contract’s Excusable Delay clause or by the Service Level section later herein. And the Contractor must provide the Services in full accordance with applicable laws and government regulations.

3. Fees and Payment
Fee Structure. <Provide pricing information for all Services and all optional features. Include all parameters, such as length of subscription, volume discounts, discount from list price, and payment intervals and due dates. Include a professional services rate card or a blended rate, if applicable, for such things as training, consulting, etc.>

Fees. The Subscribers will pay all fees specified in all Order Forms hereunder, subject to the terms of the Contract. Except as otherwise specified in the Contract, fees are based on Services purchased and not actual usage, and the number of Object subscriptions (e.g., the number of users) purchased cannot be decreased during the relevant Order Term. They may, however, be increased during an Order Term. Object subscription fees are based on <monthly> periods that begin on the subscription start date and each <monthly> anniversary thereof; therefore, fees for Object subscriptions added in the middle of a <monthly> period will be charged for that full <monthly> period and the <monthly> periods remaining in the subscription term. Additions of Object subscriptions during a term does not extend that term. No Order Form may specify a subscription term not identified and priced in this Attachment. Nor may it cover any billable services not listed in this Service Attachment as a Service.

After 90 days, the Contractor may suspend a delinquent Subscriber’s access to the unpaid Services until all delinquent amounts are paid, notwithstanding the prohibition against self-help provided for elsewhere in the Contract, but the Contractor may not do so if the Subscriber is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

Invoicing and Payment. Fees will be invoiced <monthly in arrears> and otherwise in accordance with the Contract. Fees are due in accordance with the terms of the Cloud Service Contract and this Service Attachment, which no Order Form may alter. The Subscriber is responsible for providing complete and accurate billing and contact information to the Contractor and notifying the Contractor of any changes to such information.

4. Proprietary Rights

Reservation of Rights in Services. Subject to the limited rights expressly granted hereunder, the Contractor reserves all rights, title, and interest in and to the Services, including all related intellectual property rights. No rights are granted to the State or Subscribers hereunder other than as expressly set forth herein or elsewhere in the Contract.

Restrictions. Subscribers will not intentionally permit any third party to access the Services, except as permitted herein or in an Order Form, create derivative works based on the Services except as permitted in the Contract, reverse engineer the Services, or access the Services to build a competitive product or service or to copy any features, functions, or graphics of the Services. Nothing herein prohibits a Subscriber from porting and hosting Generated Code, as defined in this Contract, to other sites to support its own business purposes during and after any term of an Order.

State Applications and Code. If a Subscriber, a third party acting on a Subscriber’s behalf, or a user creates applications data, or code using the Services, such will be part of the Subscriber’s Data. The Subscriber authorizes the Contractor to host, copy, transmit, display, and adapt such Subscriber Data solely as necessary for the Contractor to provide the Services in accordance with this Contract. Further, the Subscriber will be entitled to port, use, modify, disclose, license, sell, and host such anywhere.
Subscriber Data. Subject to the limited rights granted by a Subscriber hereunder, the Contractor acquires no right, title, or interest from a Subscriber or its licensors under this Contract in or to the Subscriber Data, including any intellectual property rights therein.

5. Service Levels

SLAs for the Services. This Contract includes SLAs that will be used to monitor and manage the Contractor’s performance of Services. The minimum SLAs are listed below, but the Contractor may supplement them with additional SLAs that are generally applicable to its other Services customers, so long as those additional SLAs cover parameters not addressed in the below SLAs or are more stringent than those listed below. Modifications to the SLAs provided below may only be made by the written agreement of the State and the Contractor, except with respect to SLAs the Contractor offers generally to other customers that are more stringent or in addition to those below.

Availability. “Availability” or “Available” means the Subscriber’s users are able to access a Service and use all material features and functions of the Service effectively and efficiently and the Service meets all the SLAs contained in this Attachment. “Unavailable” or “Unavailability” means the Subscriber’s users are unable to access the Service or use all the Service’s features and functions effectively and efficiently or they do not otherwise meet all SLAs in this Service Attachment, subject to the following:

A Service may be inaccessible to a Subscriber’s users during scheduled downtime. Scheduled downtime will occur for less than <one hour> between <10 p.m. and 6 a.m. Eastern Time and on Saturdays>, but not more than once <monthly>. The Contractor may change the scheduled downtime to other non-business hours upon reasonable notice to the affected Subscribers. Scheduled downtime will not be considered times when the Services are Unavailable.

In addition to scheduled downtime, the following will not be considered times when a Service is Unavailable:

(vi) Outages resulting from a Subscriber’s equipment or its Internet service provider;
(vii) A Subscriber’s negligence or breach of its material obligations under this Contract; and
(viii) Excusable Delays, as provided for and handled in accordance with the Contract.

SLA Credits.

The “Target Availability Level” is the Service’s Availability Level that the Contractor plans to meet or exceed during each calendar month. The “Service Availability Level” is the number of hours during a particular period that the Service was Available to the Subscriber, excluding scheduled downtime permitted above, divided by the total number of hours during such period. The Target Availability Level is provided in the next section.

The Contractor must actively monitor and report to the State and each Subscriber any and all Unavailability of a Service monthly, along with reasonable details regarding such Unavailability. The Contractor also must provide each Subscriber that uses the Service a credit within 30 days of any calendar month in which the Service Availability Level is below the Target Availability Level, calculated as set forth herein.
The applicable credit will be calculated as follows: If the Contractor fails to meet the Target Availability Level by up to four hours, each affected Subscriber will be entitled to the equivalent of one day’s fee for the Service. That is, if the fee is an annual fee, the credit would be $\frac{1}{365}$ of that annual fee, or if it is a monthly fee, the Subscriber would be entitled to $\frac{1}{30}$ of its monthly fee as a credit. Further, the credit will double if the Target Availability Level is missed by more than four but less than eight hours for any calendar month. And if the failure to meet the Target Availability Level is greater than eight hours, the Subscriber will be entitled to the entire fee applicable to that month.

Any such credits must be paid to the Subscriber within 30 days after the month in which the Contractor fails to meet the Target Availability Level.

If the Contractor fails to meet the Target Availability Level for three consecutive calendar months, any affected Subscriber may terminate any or all Orders for that Service for cause.

**Specific SLAs.**

The Target Availability Level is <99.95%> in any calendar month. For a Service to be considered Available, the following parameters also must be met:

<Insert SLAs for performance parameters such as response time, page refresh rate, a permissible window for disaster recover, etc.>

6. **Terms and Termination**

**Term of Subscriptions.** Subscriptions commence on the start date specified in the applicable Order Form and continue for the subscription term specified therein, subject to relevant provisions in the Contract, such as the Cloud Service Contract’s termination and the non-appropriation provisions. Should a Subscriber elect to renew a subscription, provided this Contract remains in effect, the renewal will be at the Subscriber’s option and will be for the same or greater discount from list as the subscription being renewed and under the same terms and conditions, unless a change in governmental law, rules, or regulations requires a modification, in which case the Parties will in good faith negotiate the modifications necessitated by such a change in governmental law, rules, or regulations.

7. **Miscellaneous**

**Return of Subscriber Data**

At no additional cost to the Subscriber, upon request made at any time during a Service term or within 90 days after the effective date of termination or expiration of a Subscriber’s Order for that Service, the Contractor will make available to the Subscriber for download its Subscriber Data covered by that terminated or expired Service, including any Generated Files, in native format or any other format the Subscriber reasonably requests within one day of the request and at no additional charge to the Subscriber. After such 90-day period, the Contractor will have no obligation to maintain the Subscriber Data covered by an expired Service Order and must thereafter, unless legally prohibited, delete the applicable Subscriber Data in its systems or otherwise in its possession or under its control.
In Witness Whereof, the Parties have executed this Service Attachment, which is effective on the date the State’s duly authorized representative signs it on behalf of the State, (“Effective Date”).

<table>
<thead>
<tr>
<th>SERVICE PROVIDER</th>
<th>STATE OF OHIO, DEPARTMENT OF PUBLIC SAFETY</th>
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<tbody>
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<td>Signature</td>
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CONTRACTOR / SUBCONTRACTOR AFFIRMATION AND DISCLOSURE

By the signature affixed to this response, the Bidder/Offeror affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, the Bidder/Offeror becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Bidder/Offeror shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the Bidder/Offeror not responsive and no further consideration will be given to the response. Bidder/Offeror’s offering will not be considered. If the Bidder/Offeror will not be using subcontractors, indicate “Not Applicable” in the appropriate spaces.

1. Principal location of business of Contractor:

   (Address) ____________________________________________
   (City, State, Zip) ____________________________

   Name/Principal location of business of subcontractor(s):

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

2. Location where services will be performed by Contractor:

   (Address) ____________________________________________
   (City, State, Zip) ____________________________

   Name/Location where services will be performed by subcontractor(s):

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

   (Address) ____________________________________________
   (Address, City, State, Zip) ____________________________

   Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

   (Name) ____________________________________________
   (Address, City, State, Zip) ____________________________

4. Location where services to be performed will be changed or shifted by Contractor:

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE (CONT)

   ____________________________________________
   (Address, City, State, Zip) ____________________________
Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name)  
(Address, City, State, Zip)

(Name)  
(Address, City, State, Zip)

(Name)  
(Address, City, State, Zip)

(Name)  
(Address, City, State, Zip)

(Name)  
(Address, City, State, Zip)

(Name)  
(Address, City, State, Zip)

NAME:  
(PLEASE PRINT)  

SIGNATURE:  

TITLE:  

DATE:  

102