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**CONTRACT FOR
SECURITY AUDIT SERVICES FOR
THE STATE LOTTERY COMMISSION OF INDIANA
WITNESSETH:**

WHEREAS, the State Lottery Commission of Indiana (herein referred to as the "Lottery" or "Commission") issued a Request for Proposals for Security Audit Services ("RFP") on XXX, 2021 and published Answers to Contractors' Questions on XXX, 2021; and

WHEREAS, XXXXX (herein referred to as "XXX" or "Contractor") responded to said RFP by a Proposal dated XXX, 2021; and

WHEREAS, the Lottery has selected Contractor's Proposal as the Proposal which best addresses the requirements specified in the RFP; and

WHEREAS, the Lottery and XXX wish to enter into this Contract to govern the parties' relationship with respect to providing Security Audit services set forth in the RFP;

NOW THEREFORE, this Contract ("Contract"), entered into by the State Lottery Commission of Indiana doing business as the Hoosier Lottery and XXX is executed pursuant to the terms and conditions set forth herein and in consideration of those mutual undertakings and covenants, the parties agree as follows:

**PART I
CONTACTOR DUTIES, RELATIONSHIP, AND PERFORMANCE**

- 1.1 Duties of the Contractor.** Contractor agrees to provide the products and services necessary to carry out the requirements set forth in the Security Audit Services RFP and the Contractor's Proposal. Specifically, as defined in more detail in the RFP and the Proposal, Contractor agrees to audit the Lottery's security controls, identify risks, and provide recommendations and strategies to address those risks in each of the audit areas outlined in the RFP. The Contractor shall execute its responsibility by following and applying at all times the highest professional and technical guidelines and standards.

Contractor shall commence with audit field work as soon as possible following execution of this Contract. Contractor shall deliver a final report to Lottery no later than 4:00 P.M. EST on XXX, 2021.

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- 1.2 Additional Products and Services.** The Lottery may during the term of this Contract acquire additional products or services whether or not designated in the Proposal. If such goods or services are designated in the Proposal, the Lottery shall compensate Contractor at the prices quoted in the Proposal. The parties agree to negotiate a price for items not in the Proposal.
- 1.3 Independent Contractor.** In the performance of this Contract, both parties shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will make commitments on behalf of the other without prior written approval of the other party.
- 1.4 Assignment; Successors.** Contractor may not sell, assign, subcontract or pledge its rights and obligations under this Contract or take any other action which may tend to encumber the direct contractual relationship between the Lottery and the Contractor without express prior written consent of the Lottery, which shall not be unreasonably withheld. Notwithstanding any such assignment or subcontract, the Contractor shall remain obligated to the Lottery for performance of the obligations of the Contractor under this Contract.

**PART II
CONSIDERATION, EXPENSES, AND TERMS OF PAYMENT**

- 2.1 Consideration.** The Contractor will be paid in accordance with the pricing submitted in the Proposal and incorporated into this contract as "Exhibit A".
- 2.2 Taxes.** The Lottery is exempt from state, federal, and local taxes. The Lottery will not be responsible for any taxes levied on the Contractor or any other person or entity as a result of this Contract.
- 2.3 Penalties/Interest/Attorney's Fees.** The Lottery will in good faith perform its required obligations hereunder and does not agree to pay any penalties, interest, or attorney's fees, except as permitted by Indiana law.
- 2.4 Payment Terms.** The Lottery shall pay Contractor one half of the agreed upon amount upon delivery of a draft audit report in substantial compliance with the RFP as determined by the Lottery. The balance of the agreed upon compensation shall be paid to Contractor upon delivery of a final audit report determined by the Lottery, in its sole discretion, to meet the requirements of the RFP. Contractor shall submit detailed billing statements to the Lottery and the Lottery shall pay such statements, subject to satisfactory completion of the billed work and resolution of any disputes, within thirty (30) days of its receipt thereof.

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- 2.5 Financial Audits.** Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, *et seq.* and audit guidelines specified by the Lottery.
- 2.6 Guaranteed Most Favorable Terms.** Contractor warrants that all of the prices, terms, warranties, all benefits granted by Contractor under the contract are the same as or more favorable to the Lottery than those offered or made available by Contractor for comparable products or services to other customers. In the event that during the term of the contract Contractor shall offer to any other customer any lower unit price for any product or service (or components thereof) provided under the contract, then Contractor shall immediately notify the Lottery of any such unit price and shall afford such price to the Lottery, effective as of the date on which such price is made available to any other customer.

PART III
CONTRACT TERM AND RENEWAL

- 3.1 Term.** This Contract shall become binding upon execution by both parties. Notwithstanding the date of execution, the term of this Contract shall commence on the date of execution and conclude upon the submission of a final audit report acceptable to the Lottery. Any references in the Contract to the "term of this Contract" shall be deemed to include any extensions to this Contract.
- 3.2 Extension of Time.** The Lottery may, in its sole discretion and without the necessity of Contractor countersignature or agreement thereto, grant extensions of time for a total not to exceed ninety (90) calendar days.

PART IV
DISPUTES, TERMINATION, DEFAULT, AND REMEDIES

- 4.1 Disputes.** The Contractor and the Lottery agree to act immediately to resolve any and all disputes that may arise with respect to this Contract. Time is of the essence in the resolution of disputes. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute.

The Lottery may withhold payments on work that is in good faith dispute, pending resolution of the dispute, but shall in no event withhold timely payment of all undisputed work. The nonpayment by the Lottery to the Contractor of one or more disputed work items in accordance with the terms of this Contract shall not be deemed an act of default and will not be cause for Contractor to terminate the Contract.

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4.2 Termination. Notwithstanding any other provision of this Contract to the contrary, this Contract may be terminated in whole or in part upon the following conditions:

4.2.1 Insolvency: The Lottery may immediately terminate this Contract without liability of the Lottery and without prejudice to any rights and causes of action the Lottery may have against the Contractor, if:

- (i) Contractor files a voluntary petition or is the subject of an involuntary petition in bankruptcy or is adjudged bankrupt;
- (ii) Contractor makes a general assignment for the benefit of creditors;
- or
- (iii) A receiver is appointed due to the Contractor's insolvency and the appointment is not dismissed within thirty (30) days.

4.2.2 Default: When the Lottery determines that the Contractor has failed to perform any provision of this Contract and that the Contractor has failed to cure such failure to perform within thirty (30) days after written notice by the Lottery, the Lottery may immediately terminate this Contract without liability to the Lottery and without prejudice to any right or cause of action the Lottery may have against the Contractor. In addition, if the Lottery terminates this Contract, it may acquire, under the terms and in the manner the Lottery considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Lottery for any excess costs for those supplies or services. The rights and remedies provided herein shall not be exclusive and are in addition to any other available rights and remedies provided at law or in equity or under this Contract.

4.2.3 Convenience: The Lottery may terminate this Contract, in whole or in part, when it is in the best interest of the Lottery or the State of Indiana as determined by the Lottery. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date. If this Contract is so terminated, the Lottery shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination.

4.2.4 State Action: The Lottery may immediately terminate this Contract without prejudice to any right or cause of action the Lottery may have against Contractor if the State of Indiana enacts a statute or the Governor of the State of Indiana issues a mandate that removes the authority or ability of the Lottery to continue its operations. In the event of such action, the Lottery shall send written notice of the action to the Contractor. The Lottery shall have no other liability or obligation to Contractor in connection with any termination under this Section, including, but not limited to any obligations for claims of lost profits or other consequential damages.

4.3 Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately

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give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the ForceMajeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

- 4.4 Liquidated Damages.** If Contractor willfully violates the terms of this Contract or acts with gross negligence, damage to the Lottery will result and accurately determining such damages will be difficult. The liquidated damages clauses below represent a good faith effort to quantify damages in the event of certain actions or omissions by Contractor which could reasonably be anticipated at the time of making of the Contract and do not constitute a penalty.

The Lottery agrees that this Liquidated Damages provision does not apply: if a delay is caused by force majeure or failure of the Lottery, its contractors, agents or other third parties to cooperate with coordination of the field inspection; failure of the Lottery, its contractors, agents or other third parties to timely respond to the rough draft; any interference of the Contractor's performance by the Lottery, its contractors, agents or other third parties; or anyother event out of the control of the Contractor.

4.4.1 Assessment of Liquidated Damages.

When the Lottery has determined that liquidated damages will be assessed, the Executive Director shall notify the Contractor of such determination and assessment in writing. At the Lottery's discretion, it may (i) require the Contractor to pay the assessment in full within thirty (30) days after receipt of the assessment notice, (ii) assert or set off a claim against the Performance Bond in the amount of the assessment, or (iii) withhold the amount of the assessment from any payment or payments due the Contractor after the date of assessment. In the event that the Lottery chooses to assert or set off a claim for the liquidated damages against the Performance Bond (without waiver as to recovery of any deficiency from the Contractor), the Contractor shall within thirty (30) days thereafter increase the amount of the Performance Bond to its original amount or post an additional performance bond so that the total of the Performance Bond provided equals the total amount required.

4.4.2 Liquidated Damages Conditions and Amounts.

In the event Contractor fails to furnish the Lottery with its final audit report by XXX, 2021 or any other date mutually agreed upon in writing by the parties, the Executive Director may assess liquidated damages against Contractor in the amount of five thousand dollars (\$5,000.00) plus one thousand dollars (\$1,000.00) per day up to the date of cure.

The Lottery may, at its discretion, set off against or withhold from payments to Contractor any liquidated damages assessed by the Lottery under this Contract. Nothing in this Section shall be construed as relieving Contractor from performing all Contract requirements whether listed or not, and the provisions of this Section shall in no way restrict the Lottery's right to enforce or seek other remedies in connection with the failure of the Contractor to perform any provision of this Contract.

- 4.5 Faithful Performance Bond.** Pursuant to IC 4-30-8-5, Contractor, as a major

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~~procurement Contractor, shall furnish to the Lottery a Performance Bond at the time of the execution of this Contract equal to the full amount estimated to be paid annually under this Contract. The Performance Bond may be in the form of an unconditional, irrevocable letter of credit, cash deposited in the form of either a cashier's check, certified check, a surety bond, or securities satisfactory to the Lottery. Any change in work, extension of time or termination of this Contract, if any, made pursuant to this Contract shall in no way release the Contractor or any of its sureties from any of their obligations. Such bond shall contain a waiver of notice of any change to this Contract. The bond shall remain in effect throughout the initial term and any and all extension terms of this Contract. Notwithstanding any other provisions relating to the beginning of the term, this Contract will not become effective until the Performance Bond required by this section is delivered in the correct form and amount to the Lottery. Contractor will forfeit the Performance Bond or a portion thereof if Contractor fails to perform pursuant to the terms of this Contract.~~

PART V
**INTELLECTUAL PROPERTY, RECORDS,
AND CONFIDENTIALITY**

- 5.1 Infringement of Patents, Trademarks, and Copyrights.** Contractor warrants that the products and services to be provided by Contractor under the Contract shall not infringe upon any patents, trademarks, or copyrights of any other person. Contractor shall obtain, at its expense, any and all licenses or consents of others required to avoid infringement in connection with its performance under this Contract. Contractor shall defend the Lottery against any claim that services and/or materials supplied hereunder infringe upon any U.S. patent, copyright, or trademark. Contractor shall pay any and all judgments, costs, and expenses of any kind, including without limitation attorney's fees, against or incurred by the Lottery in connection with any such claims.
- 5.2 Confidentiality of Contractor Information.** Contractor acknowledges that the Lottery is subject to the Access to Public Records Act of Indiana such that any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with the Lottery, regardless of form or characteristics, may be considered a public record and any person may have a right to inspect and copy the same. To the extent that the Contractor discloses to the Lottery certain information that is considered confidential and proprietary under the Access to Public Records Act, including without limitation trade secrets and confidential financial information, Contractor agrees to identify such confidential or proprietary information by plainly marking the same as "Confidential Information." The Lottery agrees to maintain the confidentiality of the Contractor's marked information to the extent allowed under the Indiana Access to Public Records Act and other applicable law.
- 5.3 Confidentiality of Lottery Information.** The Contractor understands and agrees that data, materials, and information disclosed to Contractor by the Lottery may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior

Commented [JK1]: As the oldest continuously operating security consultancy in the nation, JANUS has an unblemished record of performance with our clients including the CT State Lottery Corporation, the OR State Lottery Commission, and multiple engagements with the MN State Lottery. JANUS is a certified woman-owned small business and is able to offer the highest quality services at extremely low costs by carefully controlling our expenses and cash flow. Posting a Performance Bond by an irrevocable letter of credit or one of the other methods described above would create an undue financial hardship for our firm. We urge the selection committee to consider this request and as part of its due diligence, contact our references to confirm the quality of our work and our ability to meet or exceed all areas of our contracts with those clients.

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written consent of the Lottery.

The data, materials and information subject to this agreement does not include any information which: (i) was known to Contractor notwithstanding disclosure by the Lottery; (ii) is available or becomes generally available to the public other than through a breach of this Agreement by Contractor; (iii) is acquired or received rightfully and without confidential limitation by Contractor from a third party; (iv) is independently developed by Contractor without breach of this Agreement; or (v) is required by applicable law or court order.

- 5.4 Confidentiality of Social Security Numbers.** The parties acknowledge that the services to be performed by Contractor for the Lottery may require access to data, materials, and information containing Social Security numbers or other personal information maintained by the Lottery in its computer system or other records. Pursuant to 10 IAC 5-3-1(4), the Contractor and the Lottery agree to comply with the provisions of Indiana Code 4-1-10 and Indiana Code 4-1-11. If any Social Security number(s) or personal information (as defined in IC § 4-1-11-3) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it may be liable.
- 5.5 Access to Records.** The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract term, and for three (3) years from the date of final payment under this Contract, for inspection by the Lottery or its authorized designees. Copies shall be furnished at no cost to the Lottery if requested.
- 5.6 Information Technology Enterprise Architecture Requirements.** If this Contract involves information technology-related products or services, the Contractor agrees that any such products or services are compatible with the technology standards, including the assistive technology standard, all found at <https://www.in.gov/iot/2394.htm>. The Lottery may terminate this Contract for default if the terms of this paragraph are breached.
- 5.7 Penetration Testing.** The Contractor recognizes that Penetration testing is not authorized until after receipt and validation of the required information provided by the Lottery and signed NDA agreements from any personnel involved in the testing have been received. Any penetration testing conducted at the request of the Lottery will be limited to the source and destination IP addresses and network bandwidth specified in the penetration request form, and the times and other conditions specified in the authorization provided. The vendor will abide by the policies of the Lottery and is responsible to take reasonable precautions to minimize any damages to the Lottery or Lottery customers that are caused by the penetration testing activities.

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COMPLIANCE WITH GOVERNING LAWS

- 6.1 Governing Law.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and all claims or suits arising under this Contract shall be brought and maintained in Marion County, Indiana.
- 6.2 Compliance with Laws.** The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. Contractor agrees to indemnify and hold harmless from any loss, damage or liability, resulting from a violation on the part of Contractor of such applicable laws, rules, regulations, ordinances or orders. Contractor acknowledges that the Contractor is specifically subject to Indiana Code § 4-30 *et seq.* and the provisions of Title 65 of the Indiana Administrative Code.
- 6.3 Nondiscrimination.** Pursuant to Indiana Code § 22-9-1-10, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment to be employed in the performance of this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or any other characteristic protected by law. Breach of this covenant may be regarded as a material breach of this Contract.
- 6.4 Ethical Requirements.** The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State of Indiana as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this contract.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
- 6.5 Drug-Free Workplace Certification.** The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the Lottery within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the Contractor's workplace. The Contractor acknowledges that it may be subject to the provisions of Executive Order 90-5 for the Promotion of a Drug Free Indiana. A determination by the Lottery that the Contractor failed to meet the drug-free workplace requirements constitutes a breach of this contract.
- 6.6 Licensing Standards.** The Contractor and its employees and subcontractors shall

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comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The Lottery shall not be required to pay the Contractor for any services performed when the Contractor or its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If Licensure, certification or accreditation expires or is revoked, or if disciplinary action is taken against the applicable licensure, certification, or accreditation, the Contractor shall notify Lottery immediately and the Lottery, at its option, may immediately terminate this Contract

The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the Lottery. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the Lottery.

- 6.7 Investigation of Contractor.** All persons who will provide direct services to the Lottery under this Contract, including key management and those working inside Lottery offices, must submit to local, state, and, at the discretion of the Lottery, national criminal background clearance. The Lottery will undertake a background investigation on behalf of the Contractor and its employees for a fee of twenty-five dollars (\$25.00) per person. The Contractor shall provide any information, fingerprints, or release forms needed by the Lottery's Division of Security to carry out any investigation that may be required under Indiana Code § 4- 30-6-4.

Other background investigations may be performed after a Contract has been executed. The Contractor has a continuing duty to submit release forms and other information for all new employees or employees of subcontractors working on the Contract prior to any new employees being involved in any work related to the contract.

- 6.8 Contractor Qualified to do Business in Indiana.** Contractor warrants that it is qualified to conduct business in Indiana and will maintain good standing with the Indiana Secretary of State.
- 6.9 State Liabilities and Debt Set-off.** Contractor shall file appropriate tax returns as provided by Indiana law. Contractor certifies that neither it nor its principal(s) is presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State by it or its principal(s) may be withheld and Set-off from payments due to the Contractor under this Contract. Any payments that the Lottery may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest.
- 6.10 Employment Eligibility Verification.** The Contractor affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor shall enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate

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should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien. The Contractor shall require subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor. The Lottery may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the Lottery.

**PART VII
MISCELLANEOUS TERMS AND CONDITIONS**

- 7.1 Incorporated by Reference.** The RFP, the Answers to Vendor's Questions, the Proposal, and all Exhibits and Attachments to this Contract, if any, are hereby incorporated by reference into this Contract and any reference to this Contract herein shall be deemed also to refer to such incorporated document unless otherwise indicated.
- 7.2 Order of Precedence.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract, (2) attachments or exhibits to this Contract, (3) the Contractor's Proposal, (4) the RFP, and (5) attachments or exhibits to the RFP.
- 7.3 Non-Exclusive Contract.** The parties acknowledge and agree that this Contract is non-exclusive and that the Lottery is free to contract for goods and services of any type, including those covered by this Contract, with any party at any time.
- 7.4 Indemnification.** The Contractor agrees to indemnify, defend, and hold harmless the Lottery, its agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract.
- 7.5 Insurance.** The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverage's, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from this Contract:
1. An errors and omissions policy having a limit per occurrence of at least \$1,000,000;
 2. A fidelity bond naming the Lottery as the insured in an amount of at least \$1,000,000;
 3. A comprehensive general liability policy naming the Lottery as an additional insured and having a limit per occurrence of at least \$1,000,000;
 4. A workers' compensation policy for its employees hired and working in the State of Indiana.

The Contractor shall provide proof of such insurance coverage by tendering to the undersigned Lottery representative, a certificate of insurance prior to the

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commencement of this Contract.

The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The Lottery will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the Lottery under this contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the Lottery.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the Lottery to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the undersigned Lottery agency prior to the commencement of this Contract.

- 7.6 Notice to Parties.** Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised:

Notices to the Lottery shall be sent to:

Carrie B. Stroud
Chief of Staff
Hoosier Lottery
1302 North Meridian Street
Indianapolis, IN 46202

Notices to the Contractor shall be sent to:

XXXX

- 7.7 Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

- 7.8 Waiver of Rights.** No right conferred on either party under this Contract shall be

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deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right.

7.9 Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.

7.10 Authority to Bind Contractor. The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and certifies that this Contract is not subject to further acceptance by Contractor when accepted by the Lottery.

7.11 Ownership of Documents and Materials. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the Lottery so that all Materials will be the property of the Lottery. If ownership interest in the Materials cannot be assigned to the Lottery, the Contractor grants the Lottery a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials. Use of the Materials, other than related to contract performance by the Contractor, without the prior written consent of the Lottery, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the Lottery and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the Lottery full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of this Contract.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, Contractor and the Lottery have, through their duly authorized representatives, entered into this Contract. The parties, having read and understand the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

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[If signed Electronically] I agree, and it is my intent, to sign this contract electronically, and that my signing and submitting this contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein.

XXX

State Lottery Commission of Indiana

XXXXXX
Title

Sarah M. Taylor
Executive Director

Date: _____

Date: _____