



STATEMENT OF WORK
BETWEEN
THE CANNABIS CONTROL COMMISSION
AND
METRC LLC.
FOR AN
ELECTRONIC SEED-TO-SALE TRACKING SYSTEM

1. INTRODUCTION

The following document serves as a Statement of Work (SOW) between the Cannabis Control Commission (Commission) and Metrc LLC. (Metrc), for an electronic seed-to-sale tracking system, which includes the licensing of the METRC software, a mechanism for the payment and use of radiofrequency identification tags (RFID tags), and the associated data management, reporting, training, support, and integration (collectively, the Service).

The entire agreement (Agreement) between the parties consists of the following documents in the following order of precedence:

- (1) Commonwealth Standard Terms and Conditions;
- (2) Commonwealth Standard Form Contract;
- (3) the Request for Responses, which includes the Seed-To-Sale and Licensing Procurement Memorandum; Specifications for Seed-to-Sale and Licensing Tracking Systems, a.k.a. Business and Functional Requirements for the Licensing, Tracking, and Sale of Adult-Use Marijuana in Massachusetts as regulated by the Cannabis Control Commission (RFR); and Licensing Tracking Systems Procurement Questions and Responses;

- (4) Metrc's responses to the RFR, which includes, but is not limited to, its response memorandum, presentation materials, and technical primer;
- (5) Commonwealth's Web Accessibility Standards or alternative standards adopted by the Commission;
- (6) Executive Office of Administration and Finance's Acceptable Use Policy or an alternative policy adopted by the Commission;
- (7) Statewide Contract IT Specifications or alternative specifications adopted by the Commission; and
- (8) this SOW and other documents negotiated between the parties as part of the procurement and negotiation process, which include:
 - Metrc's Support and Service Level Agreement (SLA);
 - W9 Form
 - Contractor Authorized Signatory Listing Form
 - Certificate of Non-Collusion (<http://www.mass.gov/ig/publications/guides-advisories-other-publications/modelinvitation-for-bids-section-7.html>)
 - Tax Compliance Certification (<http://www.mass.gov/ig/publications/guides-advisories-otherpublications/model-invitation-for-bids-section-7.html>)
 - Certificate of Tax Compliance in Good Standing
 - Proof of Bond or Certificate of Liability Insurance
 - Electronic Funds Transfer Sign-up Form

2. DEFINITIONS

The terms used in this SOW, unless defined in this SOW or in an amendment made hereto, shall have the meaning ascribed to them in the other documents that constitute the Agreement between the parties.

"Deliverable" means any work product that Metrc delivers for the purposes of fulfilling its obligations to the Commission under the terms of the Agreement, including work product that Metrc must submit to the Commission for the Commission's approval in accordance with the acceptance procedures set forth within the SOW or the Task Order(s) entered into hereunder.

"Task" means a material activity engaged in by Metrc for the purpose of fulfilling its obligations to the Commission under the terms of the Agreement, which may or may not result in the creation of a Deliverable.

"Task Order" means an amendment to this SOW that specifies Tasks, Deliverables, or hourly rate services to be completed by Metrc under the terms of this Agreement.

"Milestone Payment" means a defined payment amount associated with the completion of a particular Deliverable or set of Deliverables.

Cloud offerings include the following:

“**Software-as-a-Service**” (SaaS) means the capability provided to the consumer to use the provider’s applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

3. OVERVIEW, EFFECTIVE DATE AND TERM

Metrc promises to deliver a production-ready, web-based seed-to-sale system to manage the tracking of adult-use marijuana in Massachusetts. This will include fully-configured, fully-tested, SaaS and the associated RFID tags. Metrc also agrees to provide data management, reporting, training and support to the Commission and training and support to all user groups, and integration.

This Agreement’s term (Term) begins on the date on that it is executed by both parties (Effective Date), and terminates on June 30, 2023 (Termination Date).

4. POINTS OF CONTACT & KEY PERSONNEL

4.1 Points of Contact

Metrc and the Commission will each assign points of contact with respect to this SOW. It is anticipated that the contact person(s) will not change during the Term of this Agreement.

In the event that a change is necessary, the party requesting the change will provide two-week written notice. For a change resulting from an emergency, prompt notice is required.

Metrc’s contact person is:

Scott Denholm
Executive Director
Metrc LLC.
2525 Drane Field Road
Suite 8
Lakeland, FL 33811m
863-583-0228
Scott.denholm@franwell.com

The Commission’s contacts are as follows:

TBD
Chief Technology Officer or his or her designee
Cannabis Control Commission

101 Federal Street, 13th Floor
Boston, MA 02110
Phone: (617) 701-8400
Email: [TBD](#)

TBD
Licensing Project Manager
Cannabis Control Commission
101 Federal Street, 13th Floor
Boston, MA 02110
Phone: (617) 701-8400
Email: [TBD](#)

4.2 Key Personnel

Metrc agrees to provide the following personnel for the following amounts of time for the duration of this Agreement:

**TABLE 1
KEY PERSONNEL**

Staff Members	Role	Time Commitment expressed as percentage of full time
Scott Denholm	Product Owner	Full Time Employee, who will devote 35% of his time.
Jesse Narranjo	Tech Lead & Architect – Seed to Sale & Integration	Full Time Employee, who will devote 15% of his time.
Lewis Koski	Project Manager	Full Time Employee, who will devote 35% of his time, and on an as-needed basis.
David Eagleson	Program Account Manager	Full Time Employee, who will devote 35% of his time.

Cherie Denholm	State Support and Training	Full Time Employee, who will devote 10% of his time.
Adam McKinnley	Ongoing Technical Support for API and Inspection Tools	Full Time Employee, who will devote 10% of his time.
Tricia Mills	Support desk for both the state and industry	Full Time Employee, who will devote 10% of his time.

In the event that a change is necessary, Metrc’s Project Manager will provide prompt written notice to the Commission Project Manager of the proposed change, but no later than two-week written notice. A replacement resource will be identified with equal competency and a detailed transition plan will be drafted and executed to avoid any disruption to the project tasks, deliverables, timelines, and costs.

5. SUBSCRIPTION TERMS

5.1 Metrc grants to the Commission a license or right to

- (i) access and use the Service,
- (ii) for SaaS, use underlying software as embodied or used in the service, and
- (iii) view, copy, download (if applicable), and use documentation.

5.2. No terms, including a standard click-through license or website terms of use or privacy policy, shall apply to unless the Commission has expressly agreed to such terms by including them in a signed agreement.

5.3 Deliverables and Tasks for Configuration

This Section describes the Deliverables that Metrc will provide to the Commission and the Tasks that Metrc will complete during the configuration phases one through four of the contract. A Task or Deliverable will be considered “complete” when all the acceptance criteria set forth in this SOW have been met and the Commission has provided written notification of acceptance or the prescribed review period for each Deliverable or Task has expired without written response from the Commission in accordance with Section 6 (Acceptance or Rejection Process). The Task/Deliverable phase numbers are referred to in subsequent sections throughout this SOW.

All written or digital documents and materials shall be delivered in machine-readable format, capable of being completely and accurately processed and read by the Commission and reproduced by computer software on a laser printer. All itemized and/or annotated lists shall be delivered in computer spreadsheets, capable of being imported to Microsoft Excel 2016 or alternative desktop software used by agency.

All meetings shall be held in 101 Federal Street, 13th Floor, Boston, MA 02110 or any future home of the Commission unless agreed to otherwise by the Project Managers. Meetings must be scheduled at least three full business days in advance, with reasonable accommodation of attendees' schedules. All meeting results will be described in a follow-up report generated by Metrc Project Manager and approved by the Commission Project Manager.

For the Fixed Price Tasks and Deliverables of this Agreement, Metrc shall perform Tasks or deliver Deliverables in conformance with the Description and Metrics of Acceptance on or before Milestone Schedule date set forth in Table 2.

**TABLE 2
Deliverables and Tasks**

#	Task	F #	Deliverable(s)	Milestone Schedule date
Phase 1: Planning				
1	Facilitate kick-off meeting	1	Assignments, Set Expectations for CNB Work	3/5/18 or a date to be agreed upon by Metrc and the Commission
2	Develop Project Plan	1	Project Plan	3/9/18
3	Procure Hosting Equipment	1	Successful Ping Test	3/9/18
4	Perform Preliminary Gap Analysis	1	Configuration Plan; Gap Analysis Results Document	3/9/18
5	Define MVP Requirements	1	Updated BFR (may be Metrc's format)	3/23/18
6	Setup & Configuration	1	Configuration Documentation	3/23/18
7	Perform Final Gap Analysis	New	Updated Gap Analysis Results Document	3/30/18
8	Finalize scope for Day 1 Integration (Licensing and Payment Systems)	1	Updated Project Plan, Draft Integration Plan	3/30/18

Phase 2: Prototyping				
9	Create Sandbox Training Site	2	Training Site Available	3/30/18
10	Create Sandbox Testing Site	2	Testing Site Available	3/30/18
11	Continue Configuration	2	Documentation	4/13/18
12	Create Sandbox External Environment	2	ME Site Available	4/13/18
13	Continue Integration Planning	2	Final Integration Plan	4/20/18
Phase 3: Testing				
14	Preliminary Documentation for CNB users	3	User guides, videos, and tip sheets	4/27/18
15	Preliminary Documentation for ME users	3	User guides and scripts for webinars	4/27/18
16	Conduct CNB user training	4	Complete sessions onsite in Boston	4/30/18
17	Conduct CNB User Acceptance Test (UAT)	3	Successfully pass UAT for CNB users; Flag any non-MVP deficiencies	5/4/18
18	Conduct ME User Acceptance Test (UAT)	3	Successfully pass UAT for ME users; Flag any non-MVP deficiencies	5/4/18
19	Integrate with Payment System	New	Successful API test from 3 rd -party provider	5/4/18
20	Integrate with Licensing System	New	Successful API test from ARC	5/4/18
20.5	Integrate with the Massachusetts Department of Revenue	New	Successful API test	5/4/18
21	Test Mobile Inspection Units	New	Successful data presentation and upload	5/4/18
Phase 4: Implementation				
22	Hosting Environment Ready	4	Production Live	5/7/18
	As needed, supply licensees with Tags for the Tracking of Plants and Packages			5/7/18 and ongoing

23	Final Documentation for CNB users	4	User guides, videos, and tip sheets	5/15/18
24	Final Documentation for ME users	4	User guides and scripts for webinars	5/15/18
25	Kick-off ME Training (industry kick-off)	4	Announcement(s); Query Support	5/18/18
Subscription Service and Training and Support				
26	As outlined in the Agreement			ongoing

6. ACCEPTANCE OR REJECTION PROCESS

On an ongoing basis Metrc will submit the required Deliverables specified in this SOW, or any Task Order entered into hereunder, to the Commission's Chief Technology Officer and Project Manager for testing, approval and acceptance. The Commission, through its CTO and project manager or their designees, will review work product for each of the Deliverables and evaluate whether each Deliverable has clearly met in all material respects the criteria established in this Agreement and the relevant Task Order specifications. Once reviewed and favorably evaluated, the Deliverables will be deemed acceptable.

On an ongoing basis or within ten (10) working days of receipt of each Deliverable, the Commission Project Manager will notify Metrc, in writing, of the acceptance or rejection of said Deliverable using the acceptance criteria specified in this Section and associated with the Task or Deliverable specifications in this Agreement. A form signed by the Commission shall indicate acceptance. Metrc shall acknowledge receipt of acceptance forms in writing.

Any rejection will include a written description of the defects of the Deliverable. If the Commission does not respond to the submission of the Deliverable, within five (5) working days of the Commission's receipt of each Deliverable, Metrc shall provide a reminder notice to the Commission Project Manager. If the Commission fails to reject a Deliverable within five (5) business days after the Commission's receipt of the reminder notice, the Task or Deliverable is deemed accepted.

If the Commission rejects a Deliverable, Metrc will, upon receipt of such rejection, act diligently and in good faith to correct the specified defects and deliver an updated version of the Deliverable to the Commonwealth. The Commission will then have an additional 5 (five) business days from receipt of the updated Deliverable to notify Metrc, in writing, of the acceptance or rejection of the updated Deliverable. Any such rejections will include a description of the way in which the updated Deliverable fails to correct the previously reported deficiency.

Following any acceptance of a Deliverable which requires additional work to be entirely compliant with the pertinent specifications, and until the next delivery, Metrc will use reasonable efforts to provide a prompt correction or workaround.

7. PROJECT MANAGEMENT

Metrc and the Commission must notify the other party of any change in the name, address,

phone number, fax number, or email address of their respective Project Manager.

7.1 The Commission Project Manager

The Commission's CTO or Project Manager or their designee shall perform project management on behalf of the Commission for this engagement.

The Commission's Project Manager will:

- 7.1.1 Work closely with Metrc Project Manager to ensure successful completion of the project.
- 7.1.2 Consult with Metrc Project Manager to develop the Project Management Plan.
- 7.1.3 Review weekly status reports and schedule weekly meetings with Metrc, as necessary.
- 7.1.4 Coordinate participation from DPH, Comptroller, DOR, and any other agencies and/or vendors identified by the Commission as required during the engagement.
- 7.1.5 Acquire the Commission project team members as needed.
- 7.1.6 Coordinate the Commission's review of the Deliverables and sign an acceptance form to signify acceptance for each accepted Deliverable.

The Commission's Project Manager reports to the Commission's Chief Technology Officer, who reports to Shawn Collins, the Executive Director, who reports to the Commission. Shawn Collins, the Executive Director will sign this SOW and all amendments hereto on behalf of the Commission.

7.2 Vendor Project Manager

Metrc will employ a hybrid approach of Agile and Waterfall project management methodologies to deploy the Metrc Seed-to-Sale tracking solution for the Commonwealth of Massachusetts. Metrc is well versed in Agile development and has used the Agile approach to customization, development, configuration and deployment activities on all Metrc deployments. We use a more standard, structured PMBOK-based waterfall approach to project management and reporting. This blending of methodologies allows our project to be nimble and responsive to change while ensuring quality work products, comprehensive system documentation, and full traceability of customization and configuration activities.

The Metrc Project Manager, Lewis Koski, shall perform project management on behalf of Metrc for this engagement. Metrc's Project Manager will:

- 7.2.1 Be responsible for administering this Agreement and the managing of the day-to-day operations under this Agreement.
- 7.2.2 Serve as an interface between the Commission Project Manager and all Metrc personnel participating in this engagement.

- 7.2.3 Develop and maintain the Project Management Plan, in consultation with the Commission Project Manager.
- 7.2.4 Facilitate regular communication with the Commission Project Manager, including weekly status reports/updates, and review the project performance against the project plan. Facilitate weekly project status meetings for the duration of the engagement.
- 7.2.5 Update the project plan on a weekly basis and distribute at weekly meetings for the duration of the engagement.
- 7.2.6 Sign acceptance forms to acknowledge their receipt from the Commission.
- 7.2.7 Be responsible for the management and deployment of Metrc personnel.

Metrc's Project Manager reports to Scott Denholm, the Executive Director of Metrc, who reports to Jeff Wells the President of Franwell Inc. Scott Denholm, Executive Director of Metrc, being an authorized signatory named in Metrc's response to RFR, will sign this SOW and all amendments thereto on behalf of Metrc.

7.3 Issue Resolution

The Project Managers from each organization bear the primary responsibility for ensuring issue resolution. If they mutually agree that they are unable to resolve an issue, they are responsible for escalating the issue to the Commission's Chief Technology Officer, TBD, Shawn Collins, the Commission's Executive Director, and Scott Denholm, Executive Director.

8. AMENDMENTS TO THE SCOPE OF WORK

This Agreement may be amended prior to the end of the Term. The Project Manager who would like to request a change in scope for this engagement or any other terms contained within the Agreement, will provide the suggested amendment in writing to the other party's Project Manager. The Project Managers will jointly determine whether the change impacts any terms contained within the Agreement. The parties may mutually agree to the change through a written amendment to this SOW.

For any amendment entered into under this Agreement where Metrc will be providing services on a Time and Materials basis, the parties shall apply the Time and Materials terms as described in Section 11.3 of this SOW to the relevant Task Order.

9. SUPPORT AND TRAINING

9.1 Metrc must provide technical support via online helpdesk and toll-free phone number, at minimum during Business Hours (Monday through Friday from 10:00 a.m. to 9:00 p.m. Eastern Time), and 24x7x365 if required by Commission and requested prior to contract execution.

9.2 Metrc must make training available online to users. Training must be accessible, per the Commonwealth Web Accessibility Standards or alternative standards adopted by the Commission.

9.3 All support and training shall be provided at no additional cost to Commission, except for customized support and training expressly requested by Commission.

10. SERVICE LEVELS

When the Service is in use, Metrc will comply with its SLA, which incorporates, at minimum, the following terms:

Uptime; scheduled maintenance

10.1 SLA must include

(1) specified guaranteed annual or monthly system uptime percentage, at minimum 99.99%; and

(2) definition of uptime and how it is calculated.

10.2 For purposes of calculating uptime percentage, scheduled maintenance may be excluded up to ten (10) hours per month, but unscheduled maintenance and any scheduled maintenance in excess of ten (10) hours must be included as downtime

10.3 Scheduled maintenance must occur: with at least two (2) business days' advance notice; at agreed-upon times when a minimum number of users will be using the system; and in no event during Business Hours.

Defects; other SLA metrics

10.4 SLA must include:

(1) response and resolution times for defects;

(2) at least three levels of defect classifications (severe, medium, low); and

(3) any other applicable performance metrics (e.g., latency, transaction time) based on industry standards.

10.5 While Metrc may initially classify defects, Commission determines final classification of defects.

Remedies

10.6 SLA must include remedies for failure to meet guaranteed uptime percentage, response and resolution times, and other metrics, which may include fee reductions, credits, and extensions in service period at no cost. Such remedies shall be issued by Metrc with no action required from Commission.

10.7 Repeated or consistent failures to meet SLA metrics result in (1) a refund of all fees paid by Commission for the period in which the failure occurred; (2) Metrc will provide a root cause analysis and corrective action plan at Commission's request; and (3) a right for Commission to terminate without penalty and without waiver of any rights upon written notice to Metrc.

Reports

10.8 Metrc will provide Commission with a written report (which may be electronic) of performance metrics, including uptime percentage and record of service support requests, classifications, and response and resolution times, at least quarterly or as requested by Commission. Commission may independently audit the report at Commission's expense and Metrc's cooperation.

10.9 Representatives of Metrc and Commission shall meet as often as may be reasonably requested by either party to review the performance of the Service and to discuss technical plans, financial matters, system performance, service levels, and any other matters related to this Agreement.

10.10 Metrc will provide to Commission regular status reports during unscheduled downtime, at least twice per day or upon request.

10.11 Metrc will provide Commission with root cause analysis within thirty (30) days of unscheduled downtime at no additional cost.

Changes to SLA

10.12 Metrc may not change the SLA in any manner that adversely affects Commission or degrades the service levels applicable to Commission, without Commission's written approval.

11. PAYMENTS FOR TASK AND DELIVERABLES & TIME AND MATERIALS PERSONNEL

All payments under this Agreement shall be made in accordance with the Commonwealth's bill paying policy.

11.1 Payments for Tasks and Deliverables

Metrc agrees to invoice the Commonwealth for the Deliverables or work completed per the requirements set forth in this SOW and the relevant Task Order. The Commission will make payments to Metrc only after receiving an accurate invoice for Tasks and Deliverables completed and accepted pursuant to Section 6 of this SOW. Payments for specific Tasks and Deliverables shall be made in accordance with Tables 3, 4 and 5 below.

TABLE 3
Fixed Price Deliverables and Tasks

DELIVERABLE	MILESTONE SCHEDULE DATE	MILESTONE PAYMENT OR COST
Configuration of the Metrc Software as described in Table 2	5/18/18	\$0
Subscription At Specified Servicing Level Agreement	FY2018	\$0
Subscription At Specified Servicing Level Agreement	FY2019	\$ 65,000 to be paid only after system is deployed and on a quarterly basis.
Subscription At Specified Servicing Level Agreement	FY2020	\$ 65,000 to be paid quarterly.
Subscription At Specified Servicing Level Agreement	FY2021	\$ 65,000 to be paid quarterly.
Subscription At Specified Servicing Level Agreement	FY2022	\$65,000 to be paid quarterly.
TOTAL		\$260,000

**TABLE 4
Variable Price Deliverables and Tasks**

DELIVERABLE	MILESTONE SCHEDULE DATE	MILESTONE PAYMENT OR COST
Program fee	5/18/2018 and ongoing	\$40.00/ licensee
TOTAL		TBD

Metrc and the Commission agree to conduct annually a review of the monthly licensing fees that comprise the self-funded model. This review shall include the consideration of mutually agreed-upon adjustments to the monthly license fees.

An ongoing basis, Metrc will only require a cooperative licensee to pay one licensing fee if the cooperative designates one system administrator.

In the event that the Commission exercises an option to renew the contract, the parties will negotiate contract costs that do not exceed 3% of the costs in the fiscal year immediately prior to the renewal date.

11.2 Other Costs

Metrc will maintain an adequate supply of tracking tags. It will provide and charge licensees for these tags. The Commission will not expend any administrative resources or incur any costs associated with these tags.

**TABLE 5
Variable Price Deliverables and Tasks**

DELIVERABLE	MILESTONE SCHEDULE DATE	MILESTONE PAYMENT OR COST
Tracking Tags	5/18/2018 and ongoing	\$0.45/plant tag \$0.25/package tag
TOTAL		TBD

11.3 Additional Time and Material Costs

11.3.1 Resources

In the event that additional Time and Materials work is requested by the Commission in addition to the work contemplated in this SOW, Metrc agrees to provide the following Named Resources, whose resume(s) will be provided to the Commission prior to the start of any Time and Materials work hereunder, on a Time and Materials basis. All Time and Materials work will be as described in a written Task Order executed by the Commission and Metrc:

TABLE 6
Time and Materials Resources

Named Resource	Title	Hourly Rate
Jesse Naranjo	Director of Software Engineering	\$200.00
Luis Koski	Project Manager / Change Management	\$169.27
Peter Funcheon	Technical Support / Help Desk / Hardware-Software Specialist	\$107.36
Adam McKinley	Consultant / System Architect / System Programmer	\$217.62

11.3.2 Payment Terms for Time and Materials Payments

For the Time and Materials Services provided in any Task Order entered hereunder, Metrc shall complete the work described in the relevant Task Order and as scheduled through weekly planning meetings. Metrc will submit weekly reports to the Commission Project Manager detailing the hours actually worked by the Named Resource performing Time and Materials work and described herein or in the relevant Task Order. The weekly reporting must show actual resource hours worked against assigned tasks. Metrc will also report weekly to the Commission Project Manager its expected work effort the forthcoming week, showing the Named Resource's expected level of effort. Prior review and authorization by the

Commission Project Manager is required to authorize any work by the Named Resource.

Metrc shall provide a bi-weekly invoice to the Commission Project Manager for the actual hours worked per week of the Named Resource identified in Table 3. No invoice will exceed 37.5 hours per week per resource, and the total payments under this SOW or the relevant Task Order will not exceed the authorized hours or the total authorized amount as identified in the relevant Task Order. The Commission Project Manager will review and approve these invoices based on satisfactory work performance by the Named Resource. The Commission Project Manager may terminate use of the Named Resource by providing ten (10) days written notice to Metrc Project Manager. If termination is "For Cause", or for a violation of a term of this Agreement, the Commission may terminate use of the Named Resource effective immediately by providing written notice to Metrc Project Manager.

12. UPDATES AND UPGRADES

12.1 Metrc will make updates and upgrades available to Commission at no additional cost when Metrc makes such updates and upgrades generally available to its users. If possible, Metrc will invite in the Commission to participate in the design and testing processes.

12.2 No update, upgrade or other change to the Service may decrease the Service's functionality, adversely affect Commission's use of or access to the Service, or increase the cost of the Service to Commission.

12.3 Metrc will notify Commission at least sixty (60) days in advance prior to any major update or upgrade. If requested by the Commission, Metrc will provide additional training.

12.4 Metrc will notify Commission at least five (5) business days in advance prior to any minor update or upgrade, including hotfixes and installation of service packs, except in the case of an emergency such as a security breach.

13. COMMISSION DATA

13.1 Commission retains full right and title to data provided by Commission and any data derived therefrom, including metadata (collectively, the "Commission Data").

13.2 Metrc shall not collect, access, or use user-specific Commission Data except as strictly necessary to provide Service to Commission. No information regarding Commission's use of the Service may be disclosed, provided, rented or sold to any third party for any reason unless

required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall extend beyond the term of the Agreement in perpetuity.

13.3. Metrc shall not use any information collected in connection with the Agreement, including the Commission Data, for any purpose other than fulfilling its obligations under the Agreement.

13.4 At no time may any data or processes which either belong to Commission, or are intended for Commission's exclusive use, be copied, disclosed, or retained by Metrc for subsequent use in any transaction that does not include Commission.

13.5 Commission Data must remain at all times within the continental United States. Metrc must disclose to Commission the identity of any third-party host of Commission Data prior to the signing of this Agreement.

13.6 Commission may export the Commission Data at any time during the term of the Agreement or for up to three (3) months after the term (so long as the Commission Data remains in Metrc's possession) in an agreed-upon file format and medium at no cost to the Commission.

13.7 Three (3) months after the termination or expiration of the Agreement or upon Commission's earlier written request, and in any event after Commission has had an opportunity to export and recover the Commission Data, Metrc shall at its own expense destroy and erase from all systems it directly or indirectly uses or controls all tangible or intangible forms of the Commission Data and Commission's Confidential Information, in whole or in part, and all copies thereof except such records as are required by law. To the extent that any applicable law prevents Metrc from destroying or erasing Commission Data as described in the preceding sentence, Metrc shall retain, in its then current state, all such Commission Data then within its right of control or possession in accordance with the confidentiality, security and other requirements of this Agreement, and perform its obligations under this section as soon as such law no longer prevents it from doing so. Metrc shall, upon request, send a written certification to Commission certifying that it has destroyed the Commission Data and Confidential Information in compliance with this section.

14. DATA PRIVACY AND SECURITY

14.1 Metrc must comply with all applicable laws related to data privacy and security.

14.2 Metrc shall not access Commission user accounts, or Commission Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of this Agreement, or at Commission's written request.

14.3 Metrc may not share Commission Data with its parent company, other affiliate, or any other third party without Commission's express written consent.

14.4 Metrc will be required to use Commission Data that includes personal data under Mass. Gen. Laws c. 66A and personal information under Mass. Gen. Laws c. 93H, and to work on systems that contain such data in order to complete its specified Tasks. Metrc will implement the maximum feasible safeguards reasonably needed to: (1) ensure the security, confidentiality, and

integrity of electronic personal data and personal information; and (2) prevent unauthorized access to electronic personal data and personal information from any public or private network.

14.4.1 Metrc shall comply with all applicable laws regarding sensitive or personal information that will be stored or used in the Service. Metrc will execute any additional contractual documentation if required under any law, rule or regulation for the access, storage, processing, and use of sensitive or personal information (e.g., HIPAA, FERPA, IRS Pub. 1075).

14.5 Metrc shall provide a secure environment for Commission Data, and any hardware and software, including servers, network and data components provided by Metrc as part of its performance under this Agreement, in order to protect, and prevent unauthorized access to and use or modification of, the Service and Commission Data. Metrc will implement commercially reasonable safeguards necessary to prevent unauthorized access to Commission Data and physical access to any Commonwealth information technology resources.

14.6 Metrc will encrypt personal and non-public Commission Data in transit and at rest and implement any further commercially reasonable safeguards to prevent interception and manipulation of Commission Data

14.7 Commission Data must be partitioned from other data in such a manner that access to it will not be impacted or forfeited due to e-discovery, search and seizure or other actions by third parties obtaining or attempting to obtain Metrc's records, information or data for reasons or activities that are not directly related to Commission's business.

14.8 In the event of any breach of the Service's security that adversely affects Commission Data or Metrc's obligations with respect thereto, or any evidence that leads Metrc to reasonably believe that such a breach is imminent, Metrc shall immediately (and in no event more than twenty-four hours after discovering such breach) notify Commission. Metrc shall identify the affected Commission Data and inform Commission of the actions it is taking or will take to reduce the risk of further loss to Commission. Metrc shall provide Commission the opportunity to participate in the investigation of the breach and to exercise control over reporting the unauthorized disclosure, to the extent permitted by law.

14.9 In the event that personally identifiable information is compromised, Metrc shall be responsible for providing breach notification to data owners in coordination with Commission and the Commonwealth as required by M.G.L. c. 93H or other applicable law or Commonwealth policy.

14.10 Metrc shall indemnify, defend, and hold Commission harmless from and against any and all fines, criminal or civil penalties, judgments, damages and assessments, including reasonable expenses suffered by, accrued against, charged to or recoverable from the Commonwealth, on account of the failure of Metrc to perform its obligations pursuant to this Section.

15. EQUIPMENT, WORK SPACE, OFFICE SUPPLIES

Metrc will submit a list of employees who will need access to the building and to state systems before execution of this SOW. Any Metrc employees who have access to the Commission's

information technology resources must comply with Administration and Finance's "Acceptable Use Policy" or an alternative policy adopted by the Commission.

16. RELATED PROJECT KNOWLEDGE

In addition to the Statewide Contract IT Specifications or alternative specifications adopted by the Commission and all other terms of RFR, Metrc shall, prior to commencing any other work under this SOW, become familiar with the documents identified by the Commission's CTO and Project Manager.

17. WARRANTY

At minimum, Metrc must warrant that:

17.1 Metrc has acquired any and all rights, grants, assignments, conveyances, licenses, permissions and authorizations necessary for Metrc to provide the Service to Commission;

17.2 The Service will perform materially as described in the Agreement;

17.3 Metrc will provide to Commission commercially reasonable continuous and uninterrupted access to the Service, and will not interfere with Commission's access to and use of the Service during the term of the Agreement;

17.4 The Service is compatible with and will operate successfully with any environment (including web browser and operating system) specified by Metrc in its documentation;

17.5 The Service will be performed in accordance with industry standards, provided however that if a conflicting specific standard is provided in this Agreement or the documentation provided by Metrc, such specific standard will prevail;

17.6 Metrc will maintain adequate and qualified staff and subcontractors to perform its obligations under this Agreement with due care and diligence and in accordance with applicable professional standards;

17.7 Metrc will host the SaaS Solution on servers and support the SaaS Solution with Help Desk personnel located within the continental United States; and

17.8 Metrc and its employees, subcontractors, partners and third-party providers have taken all necessary and reasonable measures to ensure that all software provided under this Agreement shall be free of Trojan horses, back doors, known security vulnerabilities, malicious code, degradation, or breach of privacy or security.

18. ACCESSIBILITY

For SaaS and PaaS, Metrc must comply with the Commonwealth's established standards for accessibility as described in a separate attachment. If such attachment is not provided, Metrc must

request the accessibility terms from Commission. The accessibility terms provide, among other things, that Metrc must

- (1) give Commission a VPAT or other results of accessibility testing prior to contract execution;
- (2) provide Commission with access to the Service so that Commission can conduct accessibility testing, and cooperate with Commission or third-party accessibility testing of the Service; and
- (3) make available, both prior to and during the course of the engagement, Metrc personnel to discuss accessibility and compliance with the Commonwealth's accessibility standards or alternative standards adopted by the Commission.

19. SUBCONTRACTORS

19.1 Before and during the term of this Agreement, Metrc must notify Commission prior to any subcontractor providing any services, directly or indirectly, to Commission under this Agreement that materially affect the Service being provided to Commission, including: hosting; data storage; security and data integrity; payment; and disaster recovery. Commission must approve all such subcontractors identified after the effective date of the Agreement.

19.2 Metrc is responsible for its subcontractors' compliance with the Agreement, and shall be fully liable for the actions and omissions of subcontractors as if such actions or omissions were performed by Metrc.

20. DISASTER RECOVERY

20.1 Metrc agrees to maintain and follow a disaster recovery plan designed to maintain Commission access to the Service, and to prevent the unintended destruction or loss of Commission Data. The disaster recovery plan shall provide for and be followed by Metrc such that in no event shall the Service be unavailable to Commission for a period in excess of twenty-four (24) hours.

20.2 If Commission designates the Service as mission-critical, as determined by Commission in its sole discretion:

- (1) Metrc shall review and test the disaster recovery plan regularly, at minimum twice annually;
- (2) Metrc shall back up Commission Data no less than twice daily in an off-site "hardened" facility located within the continental United States; and

- (3) in the event of Service failure, Metrc shall be able to restore the Service, including Commission Data, with loss of no more than twelve (12) hours of Commission Data and transactions prior to failure.

21. RECORDS AND AUDIT

21.1 Records.

Metrc shall maintain accurate, reasonably detailed records pertaining to:

- (i) The substantiation of claims for payment under this Agreement, and
- (ii) Service Levels, including service availability and downtime.

21.2 Records Retention.

Metrc shall keep such records for a minimum retention period of seven (7) years from the date of creation, and will preserve all such records for five (5) years after termination of this Agreement. No applicable records may be discarded or destroyed during the course of any litigation, claim, negotiation, audit or other inquiry involving this Agreement.

21.3 Audit.

The Commission or its designated agent shall have the right, upon reasonable notice to Metrc, to audit, review and copy, or contract with a third party to audit, any and all records collected by Metrc pursuant to item 21.1 above, as well as any other Metrc records that may reasonably relate to Commission's use of the Service, no more than twice per calendar year. Such records will be made available to Commission at no cost in a format that can be downloaded or otherwise duplicated.

22. TRANSITION ASSISTANCE

22.1 Metrc shall maintain system documentation, relevant technical materials, and Commission Data in a form that is suitable for a potential successor to migrate the data to another solution. 22.2 Metrc shall reasonably cooperate with the Commission and its designee in connection with all services to be delivered under this Agreement, including without limitation any successor provider to whom Commission Data is to be transferred in connection with termination. Metrc shall assist Commission in exporting and extracting the Commission Data, in a format usable without the use of the Service and as agreed to by Commission. All the data and documents hosted by Metrc for the Commission are owned by the Commission. As such, Metrc is fully committed to supporting any necessary transitions or migrations in the event of an exit event. Metrc will provide the Commission the complete dump of all the data and documents, and will support the Commission with the migration effort. Metrc agrees to answer any Commission questions that are relevant to ensuring a successful transfer of the data to a different system or solution. Metrc will provide support for the transfer at no cost to the Commission.

22.3 If Commission determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Metrc and Commission shall jointly create a written Transition Plan Document identifying transition services to be provided and

including an SOW if applicable. Both parties shall comply with the Transition Plan Document both prior to and after termination as needed.

22.4 Any transition services requested by Commission involving additional knowledge transfer and support may be subject to a separate transition SOW on a time and materials basis either for a fixed fee or at rates to be mutually agreed upon by the parties.

23. BUSINESS CONTINUITY PROVISION

In the event that Metrc ceases business operations and there is no acquiring entity that will manage the platform, Metrc shall provide the Commission with source code and process manuals to allow the Commission to take over the management of the service for their own internal business use only, upon the payment of applicable license Fees and for the term set forth in this Agreement. Metrc shall provide a list of all third-party contracts that are used in conjunction with the service at the time it provides the applicable source code. The Commission shall procure the necessary vendor agreements for all third-party software or platforms that are not the property of Metrc.

24. BANKRUPTCY

All rights and licenses granted under or pursuant to this Agreement by Metrc to the Commission and the Commonwealth are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code, licenses to rights to "intellectual property" as defined in the United States Bankruptcy Code. The Parties agree that the Commission and the Commonwealth, as licensees of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the United States Bankruptcy Code, upon payment of applicable license Fees, and for the term specified in the Agreement. The Parties further agree that, in the event of the commencement of bankruptcy proceedings by or against Metrc under the United States Bankruptcy Code, the Commission and the Commonwealth shall be entitled to retain all of its rights under this Agreement, and Metrc shall promptly provide all Commission Data that it currently holds, stores, or processes to the Commission in an agreed-upon format.

The undersigned hereby represent that they are duly authorized to execute this SOW on behalf of their respective organizations.

The Cannabis Control Commission

Metrc, LLC.

Shawn Collins, Executive Director

**Scott Denholm
Executive Director of Metrc LLC**

Date

Date

DRAFT FOR DISCUSSION