



# State of Minnesota Contract

MSL Purchase Order No.:

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This Contract is between the State of Minnesota, acting through its Executive Director of the Minnesota State Lottery ("State") and [Contractor] whose designated business address is [Contractor's business address] ("Contractor"). State and Contractor may be referred to jointly as "Parties."

## Recitals

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1. State issued a solicitation identified as State Fair Tent Rental-Assembly-Storage\_RFB on 5-28-21 for the rental of tent and floor including assembly, disassembly and additional storage ("Solicitation");
2. Contractor provided a response to the Solicitation indicating its interest in and ability to provide the goods or services requested in the Solicitation; and
3. Subsequent to an evaluation in accordance with the terms of the Solicitation, the Parties desire to enter into a contract.

Accordingly, the Parties agree as follows:

## Contract

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### 1. Term of Contract

1.1 Effective date. June 7, 2021, or the date the State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later. The Contractor must not begin work under this Contract until this Contract is fully executed and the Contractor has been notified by the State's Authorized Representative to begin the work.

1.2 Expiration date. September 30, 2021, or until all obligations have been satisfactorily fulfilled, whichever occurs first. The contract may be extended for up to an additional 1 year, in increments as determined by the State, through a duly executed amendment.

### 2. Contractor's Duties

The Contractor shall perform all duties described in this Contract to the satisfaction of the State.

### 3. Representations and Warranties

3.1 Under Minn. Stat. §§ 15.061 and 16C.03, subd. 3, and other applicable law the State is empowered to engage such assistance as deemed necessary.

3.2 Contractor warrants that it is duly qualified and shall perform its obligations under this Contract in accordance with the commercially reasonable standards of care, skill, and diligence in Contractor's industry,

trade, or profession, and in accordance with the specifications set forth in this Contract, to the satisfaction of the State.

3.3 Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms.

#### 4. Time

The Contractor must comply with all the time requirements described in this Contract. In the performance of this Contract, time is of the essence.

#### 5. Compensation and Conditions of Payment

5.1 Compensation. The State will pay for performance by the Contractor under this Contract in accordance with the breakdown of costs as set forth in Exhibit D which is attached and incorporated into this Contract.

5.2 Conditions of Payment. All duties performed by the Contractor under this Contract must be performed to the State's satisfaction and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

#### 6. Authorized Representative

6.1 State's Authorized Representative. The State's Authorized Representative is Vicki Holets, Marketing Manager, 2645 Long Lake Rd, Roseville, MN 55113, 651-635-8274, vicki.holets@mnlottery.com, or his/her successor or delegate, and has the responsibility to monitor the Contractor's performance and the authority to accept the services delivered or goods received under this Contract. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

6.2 Contractor's Authorized Representative. The Contractor's Authorized Representative is [name, title] at the following business address and telephone number: [insert business address and telephone number], or his/her successor. If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the State.

#### 7. Exhibits

The following Exhibits are attached and incorporated into this Contract. In the event of a conflict between the terms of this Contract and its Exhibits, or between Exhibits, the order of precedence is first the Contract, and then in the following order:

- Exhibit A: Contract Terms
- Exhibit B: Insurance Terms
- Exhibit C: Specifications, Duties, and Scope of Work
- Exhibit D: Price and Payment Schedule
- Exhibit E: Image of Tent Set Up

**1. State Encumbrance Verification**

*Not applicable per MSL statute 349A.10 subd 1; subd 3*

**3. State Agency – Minnesota State Lottery**  
***With delegated authority***

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**2. Contractor**

***The Contractor certifies that the appropriate person(s) have executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.***

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

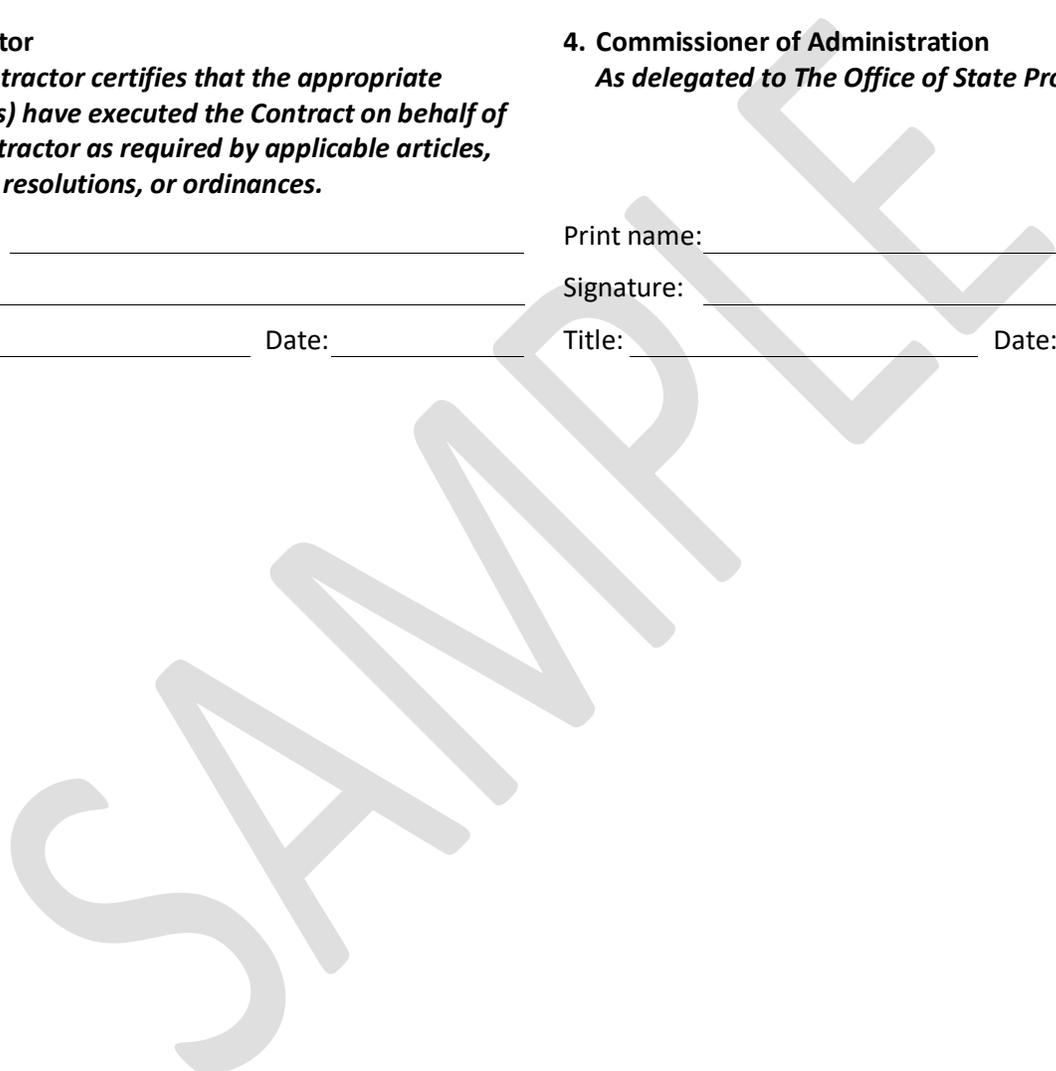
**4. Commissioner of Administration**

***As delegated to The Office of State Procurement***

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_



## Exhibit A: Contract Terms

### 1. Prompt Payment and Invoicing.

1.1 Prompt Payment. The State will pay the Contractor pursuant to Minn. Stat. § 16A.124, which requires payment within 30 days following receipt of an undisputed invoice, or merchandise or service, whichever is later. Terms requesting payment in less than 30 days will be changed to read “Net 30 days.” Notwithstanding the foregoing, the State may pay the Contractor in advance for purchases as allowed pursuant to Minn. Stat. §16A.065.

The payment for each order will only be made for goods received or services actually performed that have been accepted by the ordering entity, and meet all terms, conditions, and specifications of the Contract and the ordering document.

1.2 Invoicing. At a minimum the invoice must meet the requirements found on Exhibit D which provides a list of minimum invoice requirements.

### 2. Assignment, Amendments, Waiver, and Contract Complete.

2.1 Assignment. The Contractor may neither assign nor transfer any rights or obligations under this Contract without the prior consent of the State and a fully executed assignment agreement, executed and approved by the authorized parties or their successors.

2.2 Amendments. Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the authorized parties or their successors.

2.3 Waiver. If the State fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.

2.4 Contract Complete. This Contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

### 3. Termination.

3.1 Termination for Convenience. The State or Commissioner of Administration may cancel this Contract at any time, with or without cause, upon 30 days’ written notice to the Contractor. Upon termination for convenience, the Contractor will be entitled to payment, determined on a pro rata basis, for services or goods satisfactorily performed or delivered.

3.2 Termination for Breach. If the Contractor fails to perform according to the contract terms and conditions, the State is authorized to immediately cancel the Contract or purchase order, or any portion of it, and may obtain replacement goods or services and charge the difference of costs to the defaulting Contractor. In the event of default, the State reserves the right to pursue any other remedy available by law. A Contractor may be removed from the vendors list, suspended or debarred from receiving a Contract for failure to comply with terms and conditions of the Contract, or for failure to pay the State for the cost incurred on the defaulted Contract.

3.3 Termination for Insufficient Funding. The State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services addressed within this Contract. Termination must be by written notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis,

for services satisfactorily performed to the extent that dedicated funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding. This notice will be provided within a reasonable time of the State's receiving notice.

#### **4. Force Majeure.**

Neither party shall be responsible to the other or considered in default of its obligations within this Contract to the extent that performance of any such obligations is prevented or delayed by acts of God, war, riot, disruption of government, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party relying on this provision to excuse performance must provide the other party prompt written notice of the inability to perform and take all necessary steps to bring about performance as soon as practicable.

#### **5. Indemnification.**

5.1 In the performance of this Contract, the Indemnifying Party must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the State, to the extent caused by Indemnifying Party's:

- Intentional, willful, or negligent acts or omissions; or
- Actions that give rise to strict liability; or
- Breach of contract or warranty.

The Indemnifying Party is defined to include the Contractor, Contractor's reseller, any third party that has a business relationship with the Contractor, or Contractor's agents or employees, and to the fullest extent permitted by law. The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Indemnifying Party may have for the State's failure to fulfill its obligation under this Contract.

5.2 Nothing within this Contract, whether express or implied, shall be deemed to create an obligation on the part of the State to indemnify, defend, hold harmless or release the Indemnifying Party. This shall extend to all agreements related to the subject matter of this Contract, and to all terms subsequently added, without regard to order of precedence.

#### **6. Governing Law, Jurisdiction, and Venue.**

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

#### **7. Contract Use by State Agencies.**

To the extent applicable, the Contract does not prohibit state agencies from using their delegated purchasing authority to procure similar goods and services from other sources.

#### **8. Warranty.**

The Contractor warrants to the ordering entity that materials and equipment furnished under the Contract will be free from defects not inherent in the quality required or permitted, and that the work will conform to the requirements of the contract. Work not conforming to these requirements, including substitutions not properly approved and authorized in writing may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If requested, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment used.

All installation materials and labor shall be guaranteed for a period of one (1) year following the date of final acceptance. During the first year following acceptance, the Contractor shall, upon notification by the ordering entity of any malfunctions, make necessary repairs, including labor, travel, and materials, at the Contractor's expense.

#### **9. Delivery.**

Contractor is obligated to deliver within the quoted lead times. If delivery is not made within that time frame, the State reserves the right to deem the Contractor in default.

State Fair Event Dates: August 22, 2021 through September 6, 2021

Approximate Timeline of Delivery – slight adjustments could be made and will be finalized upon award.

Floor Delivery and Installation – will be week of August 9, 2021

Wall Delivery and Installation – prior to August 22, 2021

Tear down and removal must be completed within 3 days of the end date of the State Fair event.

#### **10. Risk of Loss.**

The State is relieved of all risks of loss or damage to the goods and equipment during periods of transportation, installation by the Contractor, or while in the possession of the Contractor or its agent.

#### **11. Purchase Orders and Purchasing Cards.**

The parties agree that there is no minimum order requirements or charges to process an individual purchase order unless otherwise stated in the Contract. The Purchase Order number must appear on all documents (e.g., invoices, packing slips, etc.).

#### **12. Items Offered as New.**

All products, materials, supplies, replacement parts, and equipment offered and furnished must be new, of current manufacturer production, and must have been formally announced by the manufacturer as being commercially available, unless otherwise stated in this Contract.

#### **13. Product Changes During the Contract.**

All equipment offered should be available during the initial term of the contract. The Contractor must notify the State's Authorized Representative immediately if the manufacturer discontinues or replaces a contracted model number. A replacement model number must meet the contract specifications. The State is under no obligation to accept a replacement model. Any change to a contracted model number must be confirmed in writing by the State through a written amendment. The State reserves the right to request documentation for any requested change under this section to evaluate how the specifications of the replacement product deviates from the specifications of the replaced product.

#### **14. Subcontracting and Subcontract Payment.**

14.1 Subcontracting Allowed. A subcontractor is a person or company that has been awarded a portion of the Contract by Contractor. Only subcontractors that have been approved by the Contract Administrator can be used for this Contract.

After the effective date of the Contract, the Contractor shall not, without prior written approval of the Contract Administrator, subcontract for the performance of any of the Contractor's obligations that were not already approved for subcontracting when the Contract was awarded. During this Contract, if an approved subcontractor is determined to be performing unsatisfactorily by the Contract Administrator, the Contractor will receive written notification that the subcontractor can no longer be used for this Contract.

The provisions of the Contract shall apply with equal force and effect to all approved subcontractors engaged by the Contractor. Notwithstanding approval by the State, no subcontract shall serve to terminate or in any way affect the primary legal responsibility of the Contractor for timely and satisfactory performances of the obligations contemplated by the Contract.

14.2 Subcontractor Payment. Contractor must pay any subcontractor in accordance with Minn. Stat. § 16A.1245.

#### **15. Data Disclosure.**

Under Minn. Stat. § 270C.65, subd. 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and Minnesota tax identification number, already provided to the State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

#### **16. Government Data Practices.**

The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (or, if the State contracting party is part of the Judicial Branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minn. Stat. Ch. 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this clause, the Contractor must immediately notify and consult with the State's Authorized Representative as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

#### **17. Intellectual Property Rights.**

17.1 Definitions. For the purpose of this Section, the following words and phrases have the assigned definitions:

17.1.1 "Documents" are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of this Contract.

17.1.2 "Pre-Existing Intellectual Property" means intellectual property developed prior to or outside the scope of this Contract, and any derivatives of that intellectual property.

17.1.3 "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this Contract. "Works" includes Documents.

17.2 Ownership. The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this Contract. The Documents shall be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of this Contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the

Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

**17.3 Pre-existing Intellectual Property.** Each Party shall retain ownership of its respective Pre-Existing Intellectual Property. The Contractor grants the State a perpetual, irrevocable, non-exclusive, royalty free license for Contractor's Pre-Existing Intellectual Property that are incorporated in the products, materials, equipment, deliverables, or services that are purchased through the Contract.

#### **17.4 Obligations.**

**17.4.1 Notification.** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of this Contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the State's Authorized Representative with complete information and/or disclosure thereon.

**17.4.2 Representation.** The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities.

**17.4.3 Indemnification.** Notwithstanding any other indemnification obligations addressed within this Contract, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing works or documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

#### **18. Copyright.**

The Contractor shall save and hold harmless the State of Minnesota, its officers, agents, servants and employees, from liability of any kind or nature, arising from the use of any copyrighted or noncopyrighted compositions, secret process, patented or nonpatented invention, article or appliance furnished or used in the performance of the Contract.

#### **19. Assignment of Antitrust Rights.**

Upon the request of the State of Minnesota, Contractor will irrevocably assign to State any state or federal antitrust claim or cause of action that the Contractor now has or which may accrue to the Contractor in the future, in connection with any goods, services, or combination provided by Contractor under the terms of this Contract.

#### **20. Contractor's Documents.**

Any licensing and maintenance agreement, or any order-specific agreement or document, including any pre-installation, linked or "click through" agreement that is allowed by, referenced within or incorporated within the Contract whenever the Contract is used for a State procurement, whether directly by the Contractor or through a Contractor's agent, subcontractor or reseller, is agreed to only to the extent the terms within any such agreement or document do not conflict with the Contract or applicable Minnesota or Federal law, and only to the extent that the terms do not modify, diminish or derogate the terms of the Contract or create an additional financial obligation to the State. Any such

agreement or document must not be construed to deprive the State of its sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions or limitations of liability applicable to this Contract or afforded to the State by Minnesota law. A State employee's decision to choose "accept" or an equivalent option associated with a "click-through" agreement does not constitute the State's concurrence or acceptance of terms, if such terms are in conflict with this section.

**21. State Audits.**

Under Minn. Stat. § 16C.05, subd. 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by the State, the State Auditor, or Legislative Auditor, as appropriate, for a minimum of six years from the expiration or termination of this Contract.

**22. Publicity and Endorsement.**

22.1 Publicity. Any publicity regarding the subject matter of this Contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, information posted on corporate or other websites, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

22.2 Endorsement. The Contractor must not claim that the State endorses its products or services.

**23. Debarment by State, its Departments, Commissions, Agencies, or Political Subdivisions.**

Contractor certifies that neither it nor its principals is presently debarred or suspended by the Federal government, the State, or any of the State's departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the Contract award was based. Contractor shall provide immediate written notice to the State's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

**24. Contingency Fees Prohibited.**

Pursuant to Minn. Stat. § 10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

**25. Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).**

If the value of this Contract, including all extensions, is \$50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

**26. Non-discrimination (in accordance with Minn. Stat. § 181.59).**

The Contractor will comply with the provisions of Minn. Stat. § 181.59.

**27. E-Verify Certification (in accordance with Minn. Stat. § 16C.075).**

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor

Certification Form available at <http://www.mmd.admin.state.mn.us/doc/VerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

## **28. Professional/Technical (P/T) Services Ancillary to Goods or General Services.**

For state agencies, Professional/Technical (P/T) Services must be related to the goods or services purchased from this Contract and is limited to \$50,000 per project. Based on the size, scope and complexity of a project, the Contract Administrator may approve dollar limits exceeding \$50,000 per project. This may require a separate work order contract defining the PT scope of work.

Ten percent (10%) of the cost of each P/T deliverable will be withheld by the State. The retainage will be held by the State until the P/T deliverable has been reviewed by the head of the agency entering into the Contract and the head of the agency has certified that the Contractor has satisfactorily fulfilled the terms of the Contract.

## **29. Hazardous Substances.**

To the extent that the goods to be supplied to the State by the Contractor contain or may create hazardous substances, harmful physical agents, or infectious agents, as set forth in applicable State and federal laws and regulations, the Contractor must provide the State with Material Safety Data Sheets regarding those substances. A copy must be provided upon request. Goods and containers supplied to the State must be labeled in compliance with state and federal laws, rules, and regulations.

These terms apply to goods supplied under this contract:

29.1 Products Containing Triclosan Banned. The Contractor must comply with Minn. Stat. § 145.945.

29.2 Products Containing Certain Types of Polybrominated Diphenyl Ether Banned. The Contractor must comply with Minn. Stat. § 325E.385-325E.388).

29.3 Coal Tar Sealant Use and Sale Prohibited. The Contractor must comply with Minn. Stat. § 116.202.

29.4 Products Containing Mercury. The Contractor must comply with Minn. Stat. 116.92.

## **30. Uniforms.**

Contractors and their subcontractors shall be properly uniformed prior to entering any facility. The Contractor's or their subcontractor's company name must be identifiable on the uniform.

## **31. Nonvisual Access Standards.**

Pursuant to Minn. Stat. § 16C.145, the Contractor must comply with the following nonvisual technology access standards to the extent required by law:

- That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;
- That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;
- That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and
- That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired; and
- Executive branch state agencies subject to Section 16E.03, subdivision 9, are not required to include nonvisual technology access standards developed under this Section in contracts for the procurement of information technology.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

**32. Survival of Terms.**

The following clauses survive the expiration or cancellation of this Contract: Indemnification; State Audits; Government Data Practices; Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure. Any other Contract term that expressly states or by its nature shall survive, shall survive.

## **Exhibit B: Insurance Requirements**

### **1. Notice to Contractor.**

1.1 The Contractor is required to submit Certificates of Insurance acceptable to the State as evidence of insurance coverage requirements prior to commencing work under this Contract.

1.2 Contractor shall not commence work under the contract until they have obtained all the insurance described below and the State has approved such insurance. Contractor shall maintain such insurance in force and effect throughout the term of this Contract, unless otherwise specified in this Contract

1.3 The failure of the Contractor to provide a Certificate of Insurance, for the policies required under this Contract or renewals thereof, or failure of the insurance company to notify the State of the cancellation of policies required under this Contract shall not constitute a waiver by the State to the Contractor to provide such insurance.

1.4 The State reserves the right to immediately terminate this Contract if the Contractor is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against the Contractor. All insurance policies must be open to inspection by the State, and copies of policies must be submitted to the State's Authorized Representative upon written request.

1.5 If the Contractor uses another entity, including but not limited to a dealer, reseller, or distributor (collectively referred to as "Contractor's reseller") to provide goods or services under this contract, the following terms apply:

1.5.1 Because the Contractor's reseller(s) are independently owned and operated, and maintain their own insurance, the Contractor's reseller's insurance coverage must be evidenced by its own Certificate of Insurance. The Contractor's reseller's Certificate of Insurance must meet all the insurance requirements and limits set forth in the Contract.

1.5.2 The Contractor shall collect, review, approve, and maintain the applicable Certificates of Insurance, including but not limited to General Liability, Auto Liability, Umbrella, Workers' Compensation, and Garagekeepers or Property of Others, for all Contractor's resellers that will be providing goods or services under this contract. The Contractor acknowledges compliance with this provision. The Contractor must provide copies of the dealers' insurance documentation to the State upon request.

1.5.3 If a claim is made against a Contractor's reseller, and the Contractor's reseller's insurance coverage did or does not cover the claim, the Contractor is responsible for the claim because the contract is with the Contractor. The Contractor must pay any uninsured claims out-of-pocket. The State may enforce the indemnity clause in the contract.

### **2. Notice to Insurer.**

2.1 The Contractor's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.

2.2 Insurance certificate holder should be addressed as follows:

State of Minnesota - Lottery  
2645 Long Lake Rd  
Roseville, MN 55113

**3. Additional Insurance Conditions. The following apply to the Contractor, or the Contractor's subcontractor:**

- 3.1 Contractor's policy(ies) shall be primary insurance to any other valid and collectible insurance available to the State with respect to any claim arising out of Contractor's performance under this Contract.
- 3.2 If Contractor receives a cancellation notice from an insurance carrier affording coverage herein, Contractor agrees to notify the State within five (5) business days with a copy of the cancellation notice, unless Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be cancelled without at least thirty (30) days advance written notice to the State;
- 3.3 Contractor is responsible for payment of Contract related insurance premiums and deductibles;
- 3.4 If Contractor is self-insured, a Certificate of Self-Insurance must be attached;
- 3.5 Contractor's policy(ies) shall include legal defense fees in addition to its policy limits with the exception of professional liability.
- 3.6 Contractor's insurance companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better, and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best.
- 3.7 An Umbrella or Excess Liability insurance policy may be used to supplement the Contractor's policy limits to satisfy the full policy limits required by the Contract.

**4. Coverages. Contractor is required to maintain and furnish satisfactory evidence of the following insurance policies:**

**4.1 Commercial General Liability Insurance.** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Contractor or by a subcontractor or by anyone directly or indirectly employed by the Contractor under the contract. Insurance minimum limits are as follows:

- \$2,000,000 – per occurrence
- \$2,000,000 – annual aggregate
- \$2,000,000 – annual aggregate – applying to Products/Completed Operations

The following coverages shall be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal and Advertising Injury
- Blanket Contractual Liability
- Products and Completed Operations Liability
- Other; if applicable, please list \_\_\_\_\_
- **State of Minnesota - Lottery named as an Additional Insured**, to the extent permitted by law

**4.2 Commercial Automobile Liability Insurance.** Contractor is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under

this contract, and in case any work is subcontracted the contractor will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance minimum limits are as follows:

\$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included: Owned, Hired, and Non-owned Automobile.

Evidence of Subcontractor insurance shall be filed with the Contractor.

**4.3 Workers' Compensation Insurance.** Statutory Compensation Coverage. Except as provided below, Contractor must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Contractor will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:

\$100,000 – Bodily Injury by Disease per employee

\$500,000 – Bodily Injury by Disease aggregate

\$100,000 – Bodily Injury by Accident

If Minn. Stat. § 176.041 exempts Contractor from Workers' Compensation insurance or if the Contractor has no employees in the State, Contractor must provide a written statement, signed by an authorized representative, indicating the qualifying exemption that excludes Contractor from the Minnesota Workers' Compensation requirements.

If during the course of the contract the Contractor becomes eligible for Workers' Compensation, the Contractor must comply with the Workers' Compensation Insurance requirements herein and provide the State with a certificate of insurance.

**4.4 Property of Others Insurance (or equivalent).** The Contractor shall maintain a Property insurance policy covering "All Risk" of direct physical loss or damage, or equivalent, including the perils of theft, flood, transit, earthquake, and pollution clean-up expense for property owned by the state that is in the Contractor's care, custody, and control. Any deductible shall be the sole responsibility of the Contractor. Insurance **minimum** limits are as follows: The Contractor is solely responsible for the coverage equal to that of the actual cash value of state-owned property in the Contractor's care, custody, and control at any given point in time.

### Exhibit C: Specifications, Duties, and Scope of Work

The MN Lottery participates in the MN State Fair event, we have a location at the Fairgrounds to accommodate the event activities. In this space we need to have a tent and subsequent materials indicated in this solicitation. Goal of this solicitation is to award a contract/purchase order to a vendor for providing the rental of a Tent & Floor Rental, Installation (Assembly/Disassembly) of products as well as Annual Storage for the lottery own materials. Delivery is for the vendor location to the Minnesota State Fairgrounds and pick up from the Minnesota State Fairgrounds delivering back to vendor location.

- Rental components
  - Tent
  - Floor
  - Tracking system,
  - Lighting,
  - Fans,
  - Extension cords (banner frame)
- Includes:
  - Transport to/from fairgrounds,
  - Assembly/disassembly;
- Minnesota State Lottery (MSL)-owned plywood wall components and t-shirt bins to include:
  - Transport to/from fairgrounds,
  - Assembly/disassembly, and
  - Annual storage throughout contract period
- Other items:
  - Install & uninstall MSL-provided signs, banners & logo stickers.

#### Section 1: Rental Components

Components	Descriptions and Specifications	Lottery Notes
Tent & tent side walls	Losberger Model P7 or approved equal - 12M x 6M (approx. 40' x 20') structure-style white tent in very good condition, clean and not discolored. (12) white 10'H x 3M W (approx. 10"W) side walls, with Velcro or zipper closures on sliding tracks.	Tent will be placed over 5'W x 8'L x 7'10"H U-Haul delivered Pod/portable storage unit. Vendor will also install large MSL-provided logo stickers on tent peak panels on front and back of 40' sides.
Tracking system	Keder Tracking System Model P7 or approved equal.	For 20' tent sides.
Tent floor	36' x 18' Signature Stage Decks flooring.	U-Haul delivered Pod/portable storage unit will be placed on flooring in storage area.
Additional Floor	8' x 4' Signature State Decks flooring.	For Lottery spin wheel or similar activation piece.
Lighting, fans & extension cords	(7) lights 150W (par 38).	Install in tent: 5 lights in front, 2 lights in back.
	(5) fans - 12" clamp-on.	Install in tent in designated locations.
	Up to 200' of extension cords.	
Tent banner frames	(2) 20'W x 12'H tent pipe frames with support pole in middle, to be placed on each 20' tent side.	Vendor will fabricate pipe frames with 2" metal pipe and install frames and hang MSL-provided banners on each.

## Section 2: Installation & Disassembly

Need By	Descriptions and Specifications	Lottery Notes
Approx. two (2) weeks (10 to 14 days) before start of State Fair	Transport and install tent flooring.	Flooring must be installed before U-Haul Pod is delivered. Placement is on uneven ground and will require extra shims.
Approx. six (6) to 10 days before start of State Fair	<p>Transport and install tent, MSL-owned walls, tent banner frames, t-shirt bins lighting, extension cords and fans. Install MSL- provided logo stickers on tent peak panels front and back, banners &amp; signs.</p> <p>MSL-owned wall installation: 14) wall panels will be used to install:</p> <ul style="list-style-type: none"> <li>- 8'W x 8'H east wall;</li> <li>- 16'W x 8'H west wall - panel with doorway will be placed eight feet from rear of tent;</li> <li>- 36'W x 8'H center wall that includes a 4' gap in the center. Gap to be braced at top by a 2'x4' for stability.</li> </ul> <p>T-Shirt Bins – (2) @ approx.. 3x2x8 - plywood</p> <p>Wall panels must be secured to floor. Center wall structure must support a minimum of five (5) 50 lb. signs (approx. total weight of signs = 250 lbs.). Wall supports on floor in storage area cannot extend more than 30" to accommodate stacked boxes.</p>	<p>Configuration of panels will be determined by MSL each year (Panels may be configured for internal tent walls and/or an outdoor display).</p> <p>Wall panels to be secured with "L" brackets on north side of the wall and screwed into the flooring.</p>
Approx. one (1) to three (3) days after last day of the State Fair	After fair ends, uninstall MSL-provided signs, banners and logo stickers; Disassemble and remove tent and; Disassemble, transport and store MSL-owned walls.	Pod/portable storage unit will be removed by U-Haul after tent removal.
State Fair deadline	Remove flooring and any additional equipment by the "last-day-to-remove" date specified by the State Fair.	

### 5. Section 3: Storage of MSL-owned Plywood Walls

*For period before & after 2021 MN State Fair.*

Components	Descriptions and Specifications	Lottery Notes
Plywood wall panels (MSL-owned)	(16) modular interlocking 4'W x 8'H wall panels that consist of 2" x 4" wood construction with embedded Roto-Lock connectors. Includes one (1) panel with	

## Exhibit D: Pricing

### 1. Contract Pricing.

1.1 In General. Prices listed take into consideration all inherent costs of providing the requested goods and services. The Contractor agrees to pay any and all fees, including, but not limited to: duties, custom fees, permits, brokerage fees, licenses and registrations, government taxes, overhead, profit, parking permits, proper disposal of materials, insurance payments. The State will not pay any additional charges beyond the price(s) listed, unless otherwise provided for by law or expressly allowed by the Contract. Prices listed within Exhibit D are maximum prices. These maximum prices shall remain firm for the initial term of the Contract. The Price List may not include any additional terms or conditions. A unit price and a total for the quantity must be stated for each item quoted. Prices must be quoted in United States currency. Any increase to Contract pricing requires a duly executed amendment to this Contract. Contractor may provide lower pricing at its discretion without requiring a duly executed amendment to the Contract.

1.2 Any non MSL Owned product that is to be rented – pricing must included Rental Fee, Transportation, and Set Up/Tear down, Lines 1 through

### Section 1: Rental Components

Components	Descriptions and Specifications	Lottery Notes	Cost – to included rental/transportation/ setup/take down
Tent & tent side walls	Losberger Model P7 or approved equal - 12M x 6M (approx. 40' x 20') structure-style white tent in very good condition, clean and not discolored. (12) white 10'H x 3M W (approx. 10'W) side walls, with Velcro or zipper closures on sliding tracks.	Tent will be placed over 5'W x 8'L x 7'10"H U-Haul delivered Pod/portable storage unit. Vendor will also install large MSL-provided logo stickers on tent peak panels on front and back of 40' sides.	
Tracking system	Keder Tracking System Model P7 or approved equal.	For 20' tent sides.	
Tent floor	36' x 18' Signature Stage Decks flooring.	U-Haul delivered Pod/portable storage unit will be placed on flooring in storage area.	
Additional Floor	8' x 4' Signature State Decks flooring.	For Lottery spin wheel or similar activation piece.	
Lighting, fans & extension cords	(7) lights 150W (par 38).	Install in tent: 5 lights in front, 2 lights in back.	
	(5) fans - 12" clamp-on.	Install in tent in designated locations.	
	Up to 200' of extension cords.		
Tent banner frames	(2) 20'W x 12'H tent pipe frames with support pole in middle, to be placed on each 20' tent side.	Vendor will fabricate pipe frames with 2" metal pipe and install frames and hang MSL-provided banners on each.	
<b>SECTION 1 TOTAL:</b>			<b>\$</b>

## Section 2: Installation & Disassembly

Need By	Descriptions and Specifications	Lottery Notes	Cost DO NOT Include Transport Costs in this section
Approx. two (2) weeks (10 to 14 days) before start of State Fair	Transport and install tent flooring.	Flooring must be installed before U-Haul Pod is delivered. Placement is on uneven ground and will require extra shims.	
Approx. six (6) to 10 days before start of State Fair	<p>Transport and install tent, MSL-owned walls, tent banner frames, t-shirt bins lighting, extension cords and fans. Install MSL- provided logo stickers on tent peak panels front and back, banners &amp; signs.</p> <p>MSL-owned wall installation: 14) wall panels will be used to install:</p> <ul style="list-style-type: none"> <li>- 8'W x 8'H east wall;</li> <li>- 16'W x 8'H west wall                             <ul style="list-style-type: none"> <li>- panel with doorway will be placed eight feet from rear of tent;</li> </ul> </li> <li>- 36'W x 8'H center wall that includes a 4' gap in the center. Gap to be braced at top by a 2'x4' for stability.</li> </ul> <p>T-Shirt Bins – (2) @ approx.. 3x2x8 - plywood</p>	<p>Configuration of panels will be determined by MSL each year (Panels may be configured for internal tent walls and/or an outdoor display).</p> <p>Wall panels to be secured with "L" brackets on north side of the wall and screwed into the flooring.</p>	
Approx. one (1) to three (3) days after last day of the State Fair	After fair ends, uninstall MSL-provided signs, banners and logo stickers; Disassemble and remove tent and; Disassemble, transport and store MSL-owned walls.	Pod/portable storage unit will be removed by U-Haul after tent removal.	
State Fair deadline	Remove flooring and any additional equipment by the "last-day-to-remove" date specified by the State Fair.		
<b>SECTION 2 TOTAL:</b>			<b>\$</b>

## Section 2: Installation & Disassembly

Service	Descriptions and Specifications	Lottery Notes	COSTS:
<b>STORAGE</b>	MSL-owned Plywood wall panels: (16) modular interlocking 4'W x 8'H wall panels that consist of 2" x 4" wood construction with embedded Roto-Lock connectors. Includes one (1) panel with door.	Annual storage: Approx. timeframe – August 8, 2019, to June 30, 2020.	\$ / Year
<b>TRANSPORT</b>	MSL-owned Plywood wall panels: (16) modular interlocking 4'W x 8'H wall panels that consist of 2" x 4" wood construction with embedded Roto-Lock connectors. Includes one (1) panel with door.	All transporting of these items to/from fairgrounds before and after the 2012 MN State Fair.	\$ / Year
<b>REPAIRS/CLEANING</b>	MSL-owned Plywood wall panels: (16) modular interlocking 4'W x 8'H wall panels that consist of 2" x 4" wood construction with embedded Roto-Lock connectors. Includes one (1) panel with door.  T-Shirt Bins – (2) @ approx.. 3x2x8 - plywood	Time & Materials: Please note hourly rate for repairs and cleaning.	\$ / Hour
<b>ADDITIONAL CHARGES NOT NOTED IN SECTIONS 1 THROUGH 3 – INCLUDING EMERGENCY SERVICES / FAST RESPONSE / TRUCK CHARGES IN THE EVENT OF AN OCCURRENCE WHILE THE STRUCTURE IS SET UP AND/OR IN USE, SHOULD A REPAIR OR ADJUSTMENT BE NEEDED.</b>			\$ Specify:  \$ Specify:  \$ Specify:  \$ Specify:
<b>STABILITY TESTING:</b> <i>It is the vendor's responsibility to assure that the tent, all walls/panels, banner frames and other components are extremely stable and secure for outdoor weather conditions and public safety.</i>			
<b>SECTION 3 TOTAL:</b>			\$

## **2. Installation Services.**

The Contractor must apply a charge as a separate line item for installation or mounting services if such service is requested in writing by the ordering entity. The price for equipment, attachments, or options does not include installation or mounting costs unless otherwise indicated in the Contract or Price Schedule.

## **3. Transportation.**

All prices must be FOB Destination, prepaid and added (with freight allowed as a separate line item), to the ordering entity's receiving dock or warehouse, or as otherwise instructed on the purchase order by the ordering entity. In those situations in which the "deliver-to" address has no receiving dock or agents, the Contractor must be able to deliver to the person specified on the purchase order. The ordering entity may use the Contractor for delivery, may pick up the equipment, or may contract with another entity for delivery.

## **4. Taxes.**

Do not add sales tax to the prices being offered. Final invoice should include all applicable taxes.

## **5. Invoice Requirements.**

Contractor hereby waives the right to enforce any term which contradicts or modifies any term of the solicitation or any Contract that may result, including subsequent amendments to the Contract, or would result in an unencumbered expense if enforced against the state. Contract quote and invoice must contain, at a minimum:

- Customer name
- State Contract number field
- Item/service description
- Item quantity or service hours
- List price
- MSL Purchase Order Number

**Exhibit E – Tent Layout**