

STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 ACQUISITION SERVICES  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

May 23, 2006

CHANGE NOTICE NO. 5  
 TO  
 CONTRACT NO. 071B1001496  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR  <b>J. P. Morgan, Chase Manhattan Bank USA N.A.          3995 S. 700 East, Suite 400          Salt Lake City, UT 84107</b> <b>dan.trbovic@jpmchase.com</b>	TELEPHONE: (219) 865-2737 <b>Dan Trbovic</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-1080 <b>Melissa Castro</b>
Contract Compliance Inspector: David Quigley <b>Procurement Card Program – Statewide</b>	
CONTRACT PERIOD: From: <b>June 1, 2001</b> To: <b>May 30, 2007</b>	
TERMS <b>Net 30 Days</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

Effective immediately this Contract is hereby EXTENDED through May 30, 2007.  
 Also, the new contact person for JP Morgan Chase has been changed to:

Dan Trbovic  
 219-865-2737  
 dan.trbovic@jpmchase.com

**AUTHORITY/REASON:**

Per agency and vendor agreement.

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$50,000,000.00**

**STATE OF MICHIGAN**  
**DEPARTMENT OF MANAGEMENT AND BUDGET**  
**ACQUISITION SERVICES**  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

May 12, 2005

**CHANGE NOTICE NO. 4**  
**TO**  
**CONTRACT NO. 071B1001496**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>J. P. Morgan, Chase Manhattan Bank USA N.A.</b> <b>3995 S. 700 East, Suite 400</b> <b>Salt Lake City, UT 84107</b>	TELEPHONE: (801)281-5800 <b>David Cramer</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1646 <b>Greg Faremouth</b>
Contract Compliance Inspector: David Quigley <p style="text-align: center;"><b>Procurement Card Program – Statewide</b></p>	
CONTRACT PERIOD: From: <b>June 1, 2001</b> To: <b>May 30, 2006</b>	
TERMS <p style="text-align: center;"><b>Net 30 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective immediately, this contract has been amended to reflect changes in the rebate schedule for State of Michigan Procurement Cards. (See attachment)**

**All other specifications, terms and conditions remain the same.**

**AUTHORITY/REASON:**

**Per DMB/Acquisition Services and vendor concurrence.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$50,000,000.00**

**THIRD AMENDMENT TO  
PURCHASING CARD PROGRAM**

THIS FIRST AMENDMENT TO PURCHASING CARD PROGRAM (the "Amendment") is dated as of \_\_\_\_\_, 2005, between Chase Bank USA National Association. ("Chase"), and State of Michigan (the "State").

W I T N E S S E T H:

WHEREAS, Chase and the State entered into that certain Contract No. 071B1001496 dated June 26, 2001 (the "Agreement"); which was amended by that certain First Amendment to Contract No. 071B1001496 dated December 10, 2002, which was amended by that certain Second Amendment dated February 10, 2003 and:

WHEREAS, the parties have agreed to modify the Performance Incentive table;

NOW, THEREFORE, in consideration of the agreements herein contained and subject to the terms and conditions herein set forth, Chase and the State hereby agree as follows:

1. Definitions. Capitalized terms used in this Amendment and defined in the Agreement shall be used herein as so defined, except as otherwise provided herein.

2. Rebate/Performance Incentive. The parties wish to amend Section 6 in Exhibit B of the Agreement, which was previously amended in the Second Amendment. Accordingly, Section 6 in Exhibit B is hereby deleted in its entirety in place thereof shall be a new section which shall read as follows:

DEFINITIONS

"Average Annual Spend per Card" means the result of annual Charge Volume divided by the average number of open Accounts. The average number of open Accounts is calculated as the number of Accounts open at each month-end, averaged over a calendar year.

"Average Fileturn" means the number of days between the transaction posting date and the posting date of payment in full, averaged over the rebate calculation period.

"Average Transaction Size" means Charge Volume divided by the total number of transactions included in the calculation of Charge Volume for any given period.

"Average Large Ticket Transaction Size" means Large Ticket Transaction Volume divided by the total number of transactions included in the calculation of Large Ticket Transaction Volume.

"Charge Volume" means total US dollar charges made on a Bank Commercial Card, net of returns, and excluding Large Ticket Transactions, cash advances, convenience check amounts, and fraudulent charges.

"Credit Losses" means all amounts due to Bank in connection with any Card that Bank has written off as uncollectable, excluding Fraud Losses.

“Fraud Losses” means all amounts due to Bank in connection with any Card that Bank has written off as uncollectable as a result of a card being lost, stolen, or compromised.

“Large Ticket Transaction” means a transaction that the Associations have determined is eligible for a Large Ticket Rate.

“Large Ticket Transaction Volume” means total US dollar Large Ticket Transactions made on a Bank Commercial Card, net of returns and excluding cash advances, convenience check amounts, and fraudulent charges.

“Losses” means all Credit Losses and Fraud Losses.

“Speed of Payment” means the Fileturn minus half the number of calendar days in the billing cycle, as specified in the Settlement Terms.

“Spend per Card” means the Charge Volume divided by the total number of open Accounts for any given period.

### **Volume and Transaction Size Rebates**

For each Contract Year (or, if this Agreement is terminated prior to the end of a Contract Year, the period from the end of the preceding Contract Year to the termination date), Bank will pay the Client a rebate based on Spend Per Card and Average Fileturn tier achieved in the following schedule.

<b>Cumulative Annual Net Spend Per Card</b>			
<b>Cumulative Average Fileturn</b>	<b>\$8,000</b>	<b>\$13,000</b>	<b>\$18,000</b>
	<b>\$12,999</b>	<b>\$17,999</b>	<b>&amp; Over</b>
<b>5 Days or less</b>	1.32%	1.43%	1.47%
<b>6 – 10 Days</b>	1.26%	1.38%	1.40%
<b>11 – 15 Days</b>	1.15%	1.27%	1.32%
<b>16 – 20 Days</b>	1.05%	1.19%	1.23%
<b>21 – 25 Days</b>	0.92%	1.06%	1.10%
<b>26 – 29 Days</b>	0.83%	0.97%	1.01%

### **General Rebate Terms**

Rebates will be calculated annually in arrears. Rebate amounts are subject to reduction by all Losses. If Losses exceed the rebate earned for any calendar year, Bank will invoice the Client for the amount in excess of the rebate, which amount shall be payable within 14 days. Upon termination of the Program, the Losses for the six-month period immediately preceding the termination will be deemed to be equal to the Losses for the prior six-month period. If the Client is participating in more than one program, Bank reserves the right to offset any losses from one program against any rebate earned under any other program.

To qualify for any rebate payment, all of the following conditions apply.

- a. Settlement of any centrally billed account(s) must be by automatic debit or by Client initiated ACH or wire.
- b. Payments must be received by Bank in accordance with the Settlement Terms. Delinquent payments shall be subject to a Finance Charge as specified below.
- c. The Average Transaction Size must be greater than \$100.00 for the calendar year.
- d. The Client must maintain investment grade ratings with S&P and Moody's or a satisfactory Bank credit risk rating (investment grade equivalent) as of December 31 each year.
- e. Account(s) must be current at the time of rebate calculation and payment.

3. Continued Effect. Except to the extent amended hereby, all terms, provisions and conditions of the Agreement shall continue in full force and effect and the Agreement shall remain enforceable and binding in accordance with its terms.

4. Counterparts. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one and the same document, and each party hereto may execute this Amendment by signing any of such counterparts.

5. Successors and Assigns. This Amendment shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Chase and the State have caused this Amendment to be executed by their respective authorized officers as of the date first written above.

**CHASE:**

**Chase Bank USA National Association**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**STATE:**

**State of Michigan**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 ACQUISITION SERVICES  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

December 17, 2003

CHANGE NOTICE NO. 3  
 OF  
 CONTRACT NO. 071B1001496  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF VENDOR  <b>J. P. Morgan, Chase Manhattan Bank USA N.A.</b> <b>3995 S. 700 East, Suite 400</b> <b>Salt Lake City, UT 84107</b>	TELEPHONE: (801)281-5800 <b>David Cramer</b>
	VENDOR NUMBER/MAIL CODE
	BUYER (517) 241-1646 <b>Greg Faremouth</b>
Contract Administrator: David Quigley <b>Procurement Card Program – Statewide</b>	
CONTRACT PERIOD: From: <b>June 1, 2001</b> To: <b>May 30, 2006</b>	
TERMS <b>Net 30 Days</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

The following Vendor Rebate percentage agreement has been incorporated into this contract effective immediately. (See attachment)

**AUTHORITY/REASON:**

Per agency's request from contract administrator (Ken Mitchell) and vendor.

**ESTIMATED CONTRACT VALUE REMAINS: \$50,000,000.00**

**SECOND AMENDMENT TO  
PURCHASING CARD PROGRAM**

THIS SECOND AMENDMENT TO PURCHASING CARD PROGRAM (the "Amendment") is dated as of \_\_\_\_\_, 2003, between Chase Manhattan Bank, USA N.A. ("Contractor"), and State of Michigan (the "State").

WITNESSETH:

WHEREAS, Contractor and the State entered into that certain Contract No. 071B1001496 dated June 26, 2001 (the "Agreement"), which Agreement was amended by that certain First Amendment to Contract No. 071B1001496 dated as of December 10, 2002 and;

WHEREAS, the parties wish to modify the Performance Incentive Table;

NOW, THEREFORE, in consideration of the agreements herein contained and subject to the terms and conditions herein set forth, Contractor and the Company hereby agree as follows:

1. Definitions. Capitalized terms used in this Amendment and defined in the Agreement shall be used herein as so defined, except as otherwise provided herein.

2. Rebate/Performance Incentive. The parties wish to amend Section 6 (a) and Section 6 (b) 1 in Exhibit B of the Agreement. This new Performance Incentive Table will be effective as of August 1, 2003. Accordingly, Sections 6(a) and 6(b)1 in Exhibit B of the Agreement is hereby deleted in its entirety and in place thereof shall be a new Section 6 (a) which shall read as follows:

(a) Calculation of Incentive. For each Contract Year (or, if this Agreement is terminated prior to the end of a Contract Year, the period from the end of the preceding Contract Year to the termination date), Chase shall pay to the Company an incentive calculated as a percentage of the Net Spend for such period, in accordance with the following table and terms (the "Incentive").

<b>Purchasing Volume ONLY</b> Cumulative Average File Turn	Cumulative Average Annual Net Spend per Card		
	\$8,000	\$13,000	\$18,000
	to \$12,999	to \$17,999	& Over
<b>5 Days or less</b>	1.22%	1.36%	1.40%
<b>6 - 10 Days</b>	1.16%	1.30%	1.33%
<b>11 - 15 Days</b>	1.05%	1.19%	1.22%
<b>16 - 20 Days</b>	0.98%	1.12%	1.16%
<b>21 - 25 Days</b>	0.85%	0.99%	1.03%
<b>26 - 29 Days</b>	0.77%	0.91%	0.95%

The Incentive is subject to reduction by all Losses. If Losses in one year exceed the amount of any or all Incentives earned, Chase may carry forward the amount of such Loss to offset against future Incentives or invoice the Company for the balance owing, which shall be payable within 14 days ("Carryforward Losses"). The Incentive shall be determined by deducting the Losses incurred by Chase on the Company's Accounts during the twelve-month Incentive period and any outstanding Carryforward Losses from the gross Incentive amount for such period. Upon termination of this Agreement, the Losses for the preceding six-month period ending on the termination date (the "**Last Six-Month Period**") will be deemed, for purposes of calculating the Incentive, to be equal to the Losses for the six-month period immediately preceding the Last Six-Month Period plus any outstanding Carryforward Losses. The Incentive shall be calculated only on qualified Net Spend sales volume. If the Company is participating in more than one Chase Card Program, Chase reserves the right to offset any Losses from one Program

against any Incentive earned under any other Program. If more than five percent of the total Net Spend is attributed to large ticket or non-standard interchange rates, Chase will determine the Incentive payable for the portion of the Net Spend that includes large ticket or non-standard interchanges rates.

Incentive payouts will be based on "Cumulative Average Annual Spend per Card" and "Cumulative Average Fileturn". Cumulative Average Annual Spend per Card is defined as the total Net Spend, over the life of the program, divided by the total number of days, over the life of the program, multiplied by 365, then divided by the average number of open cards over the life of the program. Cumulative Average Fileturn is defined as the average number of days between the Transaction posting date and the payment posting date of the full amount due, averaged over the life of the program. In all cases, the Incentive is calculated annually, adjusted retroactively over the life of the program, and is payable within 60 days after the end of each Contract Year. In the event that the due date for any Incentive payment falls on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day.

In the event this Agreement is terminated prior to the end of a Contract Year, the actual Net Spend for the elapsed portion of such Contract Year shall be annualized solely for the purpose of determining, in accordance with the foregoing table, the percentage to be applied to such actual Net Spend.

*The previous Incentive will be calculated with up to 5% of large ticket Net Spend. If the large ticket Net Spend exceeds 5% of total volume, the following table will adjust the previous Incentive table. This adjusted incentive will only apply to large ticket volume above the 5% threshold.*

Large Ticket Average Tran Size	Large Ticket Volume Percent of Total Volume								
	6% - 10%	11% - 15%	16% - 20%	21% - 25%	26% - 30%	31% - 35%	36% - 40%	41% - 45%	46% - 50%
\$5,000 or Less	0.00%	-0.11%	-0.17%	-0.20%	-0.23%	-0.25%	-0.26%	-0.27%	-0.28%
\$5,001 to \$6,000	-0.12%	-0.24%	-0.30%	-0.34%	-0.36%	-0.38%	-0.39%	-0.40%	-0.41%
\$6,001 to \$7,000	-0.21%	-0.33%	-0.40%	-0.43%	-0.46%	-0.47%	-0.49%	-0.50%	-0.50%
\$7,001 to \$8,000	-0.28%	-0.41%	-0.47%	-0.50%	-0.53%	-0.54%	-0.56%	-0.57%	-0.58%
\$8,001 to \$9,000	-0.34%	-0.46%	-0.52%	-0.56%	-0.58%	-0.60%	-0.61%	-0.62%	-0.63%
\$9,001 to \$10,000	-0.38%	-0.51%	-0.57%	-0.60%	-0.63%	-0.64%	-0.66%	-0.67%	-0.67%
\$10,001 to \$25,000	-0.62%	-0.74%	-0.80%	-0.84%	-0.87%	-0.88%	-0.90%	-0.91%	-0.91%
\$25,001 to \$50,000	-0.70%	-0.82%	-0.88%	-0.92%	-0.95%	-0.96%	-0.98%	-0.99%	-0.99%
\$50,001 to \$100,000	-0.74%	-0.86%	-0.92%	-0.96%	-0.98%	-1.00%	-1.02%	-1.03%	-1.03%
Over 100,000	-0.78%	-0.90%	-0.96%	-1.00%	-1.02%	-1.04%	-1.05%	-1.06%	-1.07%

5. Continued Effect. Except to the extent amended hereby, all terms, provisions and conditions of the Agreement shall continue in full force and effect and the Agreement shall remain enforceable and binding in accordance with its terms.

6. Counterparts. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one and the same document, and each party hereto may execute this Amendment by signing any of such counterparts.

7. Successors and Assigns. This Amendment shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Contractor and the Company have caused this Amendment to be executed by their respective authorized officers as of the date first written above.

**CONTRACTOR:**

**Chase Manhattan Bank, USA N.A.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

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

**COMPANY:**

**State of Michigan**

By: \_\_\_\_\_

Name: \_\_\_\_\_

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

## State of Michigan

Company: *63779+, no 64084, 64097*

### Dollar Comparison using 7/31/03 Rebate Calculation Data:

	<u>Proposed</u>	<u>Current</u>	<u>Improvement</u>
Total Net Spend	\$ 45,539,622	\$45,539,622	
Projected Rebate Qualification Level	<u>1.05%</u>	<u>0.95%</u>	0.10%
Total Projected Rebate	<u>\$ 478,166</u>	<u>\$ 432,626</u>	<u>\$45,540</u>

### Large Ticket Example:

#### Scenario Assumptions

Total Spend	\$ 50,000,000
Non-Large Spend	<u>46,000,000</u>
Large Ticket Spend	<u>\$ 4,000,000</u>
Large Ticket Spend as % of Total Spend	8.0%
Average Large Ticket Transaction Size	\$ 6,000

#### Rebate Calculation

Non-Large Spend	\$ 46,000,000
Rebate Qualification Level	<u>1.05%</u>

Non-Large Rebate	<u><u>\$ 483,000</u></u>
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Non-Large Rebate Qualification Level	1.05%
Large Ticket Adjustment	<u>-0.12%</u>

Large Ticket Rebate Qualification Level	<u><u>0.93%</u></u>
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Non-Large Spend	\$ 4,000,000
Rebate Qualification Level	<u>0.93%</u>

Non-Large Rebate	<u><u>\$ 37,200</u></u>
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Non-Large Spend Rebate	\$ 483,000	
Large Ticket Rebate	<u>37,200</u>	
Non-Large Rebate	<u><u>\$ 520,200</u></u>	
Net Rebate Qualification Level	<u><u>1.04%</u></u>	

STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 ACQUISITION SERVICES  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

December 10, 2002

**CHANGE NOTICE NO. 2**  
**OF**  
**CONTRACT NO. 071B1001496**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>J. P. Morgan, Chase Manhattan Bank USA N.A.</b> <b>3995 S. 700 East, Suite 400</b> <b>Salt Lake City, UT 84107</b>	TELEPHONE: (801)281-5800 <b>David Cramer</b>
	VENDOR NUMBER/MAIL CODE
	BUYER (517) 241-1646 <b>Greg Faremouth</b>
Contract Administrator: David Quigley <p style="text-align: center;"><b>Procurement Card Program – Statewide</b></p>	
CONTRACT PERIOD: From: <b>June 1, 2001</b> To: <b>May 30, 2006</b>	
TERMS <p style="text-align: center;"><b>Net 30 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**The State has requested and the vendor has agreed, that the agreement be amended to add travel and entertainment cards to the contact. (See attachment)**

**AUTHORITY/REASON:**

**Per agency's request from contract administrator (Ken Mitchell) and vendor.**

**ESTIMATED CONTRACT VALUE REMAINS: \$50,000,000.00**

**FIRST AMENDMENT TO  
PURCHASING CARD PROGRAM**

THIS FIRST AMENDMENT TO PURCHASING CARD PROGRAM AGREEMENT (the "Amendment") is dated as of December 10, 2002, between Chase Manhattan Bank, USA N.A. ("Contractor"), and State of Michigan (the "State").

W I T N E S S E T H:

WHEREAS, Contractor and the State entered into that certain Contract No. 071B1001496 dated June 26, 2001, between Contractor and the State (hereinafter the "Agreement"); and

WHEREAS, the State has requested that the Agreement be amended to add travel and entertainment cards to the Program described in the Agreement; and

WHEREAS, the parties have therefore agreed to modify the Agreement as provided herein;

NOW, THEREFORE, in consideration of the agreements herein contained and subject to the terms and conditions herein set forth, Contractor and the State hereby agree as follows:

1. Definition of Terms.

(a) Capitalized terms used in this Amendment and defined in the Agreement shall be used herein as so defined, except as otherwise provided herein.

(b) The definition of "Account", as used in the Agreement, is hereby modified to mean a Central Travel account, Purchasing Card and Travel and Entertainment accounts established pursuant to the Agreement; and the definition of "Card", as used in the Agreement, is hereby modified to mean both Purchasing and Travel and Entertainment Cards issued pursuant to the Agreement.

(c) The following definitions are hereby added to the Definition of Terms section of the Agreement:

**'Ordinary Course Transactions'** means all charges to an Account or Card that are made for the business purposes of the State or otherwise benefit the State directly or indirectly.

**'Other Transactions'** means all Transactions which are not Ordinary Course Transactions."

2. Travel and Entertainment Cards. A new paragraph I-FFF is hereby added to Section 1 of the Agreement, to read as follows:

**"I-FFF TRAVEL AND ENTERTAINMENT CARDS.** In addition to the issuance of Cards and establishment of Accounts as described in paragraph I-OO hereof, Contractor shall issue Travel and Entertainment Cards and establish corresponding Accounts to be used by designated employees of the State. The Travel and Entertainment Cards and Accounts shall be subject to the terms set forth in this paragraph I-FFF and shall also be subject to the other terms of this Agreement to the extent such terms do not conflict with this Section I-FFF.

(a) Cardholders may use the Travel and Entertainment Cards to purchase, in the normal course of business, travel and entertainment and related goods and services for the benefit of the State. The amount of each Transaction will be posted to the appropriate Account according to Visa and MasterCard procedures and the procedures outlined in this Agreement.

(b) Each Cardholder shall be liable for all indebtedness related to Travel and Entertainment Card Transactions with respect to his or her Card, as provided in the relevant Cardholder Agreement. All amounts due under each Travel and Entertainment Card and related Account shall be billed to the relevant Cardholder and shall be payable in full upon receipt by the Cardholder. The Cardholder shall remit payment to Contractor under the terms described herein and in the Cardholder Agreement. The State shall reimburse each Cardholder for the full amount

due when the employee has submitted the travel voucher request consistent with the State of Michigan Standard Travel Reimbursement Guidelines for all Transactions of such Cardholder, prior to the time such amount becomes due and payable by the Cardholder to Contractor. If the State satisfies such obligation, it shall have no liability to Contractor for Transactions charged to such Cardholder's travel and entertainment Accounts. If the State fails to satisfy such obligation, however, it shall pay to Contractor, in accordance with the terms of Section I-UU of this Agreement, the amount of all Ordinary Course Transactions for which the Cardholder has not been fully reimbursed, together with (i) the related fees described in Section 3 of Exhibit A, and (ii) any and all costs (including attorneys' fees) incurred in enforcing the obligations of the State hereunder. The State hereby irrevocably, absolutely and unconditionally guarantees to Contractor the prompt payment and performance when due of all indebtedness, obligations and liabilities (including, without limitation, related fees) from time to time outstanding with respect to each Travel and Entertainment Account, for Travel and Entertainment Card Transactions that constitute Ordinary Course Transactions; provided, that the State shall not be liable for any indebtedness related to Travel and Entertainment Transactions that constitute Other Transactions, Unauthorized Transactions or Ordinary Course Transactions previously reimbursed by the State to the Cardholder.

(c) The State's obligations under Section I-FFF(b) above shall be enforceable irrespective of the validity, legality or enforceability of the Cardholders' obligations and shall not in any way be affected by or conditional upon (i) any action taken under the Cardholder Agreements or the exercise of any right or power thereby conferred, (ii) the bankruptcy or similar proceedings involving or affecting a Cardholder, the State or others, (iii) any modification, alteration, or amendment of, or addition to, any Cardholder Agreement whether with or without the State's knowledge or consent, or (iv) any other action, inaction or circumstance whatsoever (with or without notice to or knowledge of or consent by the State) that may in any manner vary the risks of the State or might otherwise constitute a legal or equitable discharge of any surety or guarantor.

(d) The State hereby waives (i) all guarantor and suretyship defenses to the State's liability hereunder, and (ii) all presentments, demands for performance or payment, protests, notices of protest, nonperformance, dishonor, default and non-payment, notices of the existence, creation or occurrence of new or additional obligations by the Cardholders, and all other notices or formalities, except as expressly set forth herein or to which the State may otherwise be entitled.

(e) With respect to Travel and Entertainment Card Account balances subject to the State's guaranty, in the event that any amount owing by a Cardholder remains unpaid for 61 days after the date of the first invoice on which such amount appears and Contractor believes that the State may be liable for such amount pursuant to this Agreement, Contractor may invoice the State for such amount. Upon receipt of the invoice, the State shall immediately pay to Contractor the full amount thereof for which it is liable pursuant to this Agreement. If the State determines that the invoice contains charges for which it is not liable, the State must submit documentary evidence in support thereof, in form satisfactory to Contractor, as well as submit any documentation and take any actions required by Visa or MasterCard in connection with its corporate liability waiver program, in the event such coverage is available.

(f) Cardholders may use Travel and Entertainment Cards to obtain cash advances for business or commercial purposes. The amount of each cash advance Transaction will be posted to the appropriate Account according to MasterCard and Visa procedures and the procedures outlined in this Agreement. Contractor shall provide access to cash through participating Automated Teller Machine ('ATM') networks and Visa and MasterCard member offices.

Cardholders who are so authorized may obtain cash by activating an ATM with a Card or by presenting the Card at a Visa or MasterCard member office. Contractor may establish predetermined cash advance limits for each Cardholder as agreed by Contractor and the State. Contractor may refuse cash advance access to any Cardholder in its sole discretion. The cash advance feature may be disabled by any Authorized Signer upon written notice to Contractor.”

3. Fees. Section 3 of Exhibit A to the Agreement shall be amended to reflect the annual administration fee and late fees applicable to Travel and Entertainment Cards. In addition, Section 3 shall be amended to reflect the fees applicable to cash advances. Accordingly, Section 3.a and 3.b of Exhibit A are hereby deleted in their entirety and in place thereof shall be new Sections 3.a and 3.b and a new Section 3.1 shall be added, which shall read as follows:

“a. Annual Administration Fee

Purchasing Cards: \$ 0.00 per Card per year or \$0.00 per Card per month.

Travel and Entertainment Cards: \$0.00 per Card per year or \$0.00 per Card per month.

b. Late Payment Fee:

Purchasing Card Accounts

Grace Period after Statement Billing Date: 14 calendar days.

Late Fee at 15 calendar days: 1.0% of unpaid balance

Late Fee at 60 calendar days and each 30 calendar days thereafter: 2.5% of unpaid balance

T&E Card (Cardholder bill/Cardholder pay)

Grace period after statement billing date: 25 calendar days

\$10.00 late fee at 30 calendar days

2.5% late fee at 60 calendar days and every 30 calendar days thereafter

1. Cash advance Fee: Per Transaction:

2.5% of cash advance amount; minimum \$2.50 per Transaction, maximum \$30 per Transaction.”

4. Pricing Assumptions. A new Section 7 shall be added to Exhibit A of the Agreement to include the Pricing Assumptions for Travel and Entertainment Cards. Accordingly, a new Section 7 shall be added to Exhibit A, which shall read as follows:

“7. **Pricing Assumptions:**

State's good faith estimates (“Pricing Assumptions”) of Net Spend (as defined in this Exhibit) and number of Accounts to be requested, Travel and Entertainment Cards are as follows:

For T&E Cards:

Contract Year	Net Spend	Number of Cards
Year 1	\$220,000	100
Year 2	\$220,000	100
Year 3	\$220,000	100

Average purchase Transaction amount: \$180

Average File Turn: 16-29 calendar days if State bill/State pay; 35-40 calendar days if Cardholder bill/Cardholder pay

Variances: The fees described in this Exhibit A are calculated based upon the information listed above. To the extent that for any annual period any actual amount or value varies from a Pricing Assumption by an amount which Contractor in its sole discretion deems to be material, Contractor reserves the right to ratably adjust the fees specified in this Exhibit A for the remaining term of the Agreement to compensate for such variance.”

5. Performance Incentive. The Annual Net Spend for the Travel and Entertainment Cards shall not be considered for the calculation of any Incentives to be paid to the State.

6. Continued Effect. Except to the extent amended hereby, all terms, provisions and conditions of the Agreement shall continue in full force and effect and the Agreement shall remain enforceable and binding in accordance with its terms.

7. Counterparts. This Amendment may be executed in any number of counterparts, all of which when taken together shall constitute one and the same document, and each party hereto may execute this Amendment by signing any of such counterparts.

8. Successors and Assigns. This Amendment shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Contractor and the State have caused this Amendment to be executed by their respective authorized officers as of the date first written above.

**CONTRACTOR:**

**Chase Manhattan Bank, USA N.A.**

By: \_\_\_\_\_

Name: Dana Grevenow

Title: Vice President of Finance

**STATE:**

**State of Michigan**

By: \_\_\_\_\_

Name: \_\_\_\_\_

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

STATE OF MICHIGAN  
DEPARTMENT OF MANAGEMENT AND BUDGET  
ACQUISITION SERVICES  
P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

March 12, 2002

CHANGE NOTICE NO. 1  
OF  
CONTRACT NO. 071B1001496  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF VENDOR  <b>J. P. Morgan, Chase Manhattan Bank USA N.A. 3995 S. 700 East, Suite 400 Salt Lake City, UT 84107</b>	TELEPHONE: (801)281-5800 <b>David Cramer</b>
	VENDOR NUMBER/MAIL CODE
	BUYER (517) 241-1646 <b>Greg Faremouth</b>
Contract Administrator: David Quigley <b>Procurement Card Program – Statewide</b>	
CONTRACT PERIOD: From: <b>June 1, 2001</b> To: <b>May 30, 2006</b>	
TERMS <b>Net 30 Days</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Contract administrator is now David Quigley.**

**AUTHORITY/REASON:**

**Per agency's request from Natalie Spaniolo.**

STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 OFFICE OF PURCHASING  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

July 5, 2001

**NOTICE  
 OF  
 CONTRACT NO. 071B1001496  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>J. P. Morgan, Chase Manhattan Bank USA N.A.          3995 S. 700 East, Suite 400          Salt Lake City, UT 84107</b>	TELEPHONE: (801)281-5800 <b>David Cramer</b>
	VENDOR NUMBER/MAIL CODE
	BUYER (517) 241-1646 <b>Greg Faremouth</b>
Contract Administrator: Terri Powers, (517)241-2715 <p style="text-align: center;"><b>Procurement Card Program – Statewide</b></p>	
CONTRACT PERIOD: From: <b>June 1, 2001</b> To: <b>May 30, 2006</b>	
TERMS <p style="text-align: center;"><b>Net 30 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

The terms and conditions, of this Contract are those of **ITB #071I1000140**, this Contract Agreement , Exhibits A, B and C **represent the entire agreement between the parties.**

Estimated Contract Value: **\$50,000,000.00**

STATE OF MICHIGAN  
 DEPARTMENT OF MANAGEMENT AND BUDGET  
 OFFICE OF PURCHASING  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

**CONTRACT NO. 071B1001496**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <p style="text-align: center;"><b>J. P. Morgan, Chase Manhattan Bank USA N.A.</b>  <b>3995 S. 700 East, Suite 400</b>  <b>Salt Lake City, UT 84107</b></p>	TELEPHONE: (801)281-5800 <b>David Cramer</b> VENDOR NUMBER/MAIL CODE BUYER (517) 241-1646 <b>Greg Faremouth</b>
Contract Administrator: Terri Powers, (517)241-2715 <p style="text-align: center;"><b>Procurement Card Program – Statewide</b></p>	
CONTRACT PERIOD: From: <b>June 1, 2001</b> To: <b>May 30, 2006</b>	
TERMS <p style="text-align: center;"><b>Net 30 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <p><b>The terms and conditions, of this Contract are those of <a href="#">ITB #071I1000140</a>, this Contract Agreement , Exhibits A, B and C <a href="#">represent the entire agreement between the parties.</a></b></p> <p><b>Estimated Contract Value: \$50,000,000.00</b></p>	

This Contract Agreement is awarded on the basis of our inquiry bearing the [ITB No. 071I1000140](#).

<b>FOR THE VENDOR:</b>	<b>FOR THE STATE:</b>
Firm Name	Signature
Authorized Agent Signature	<b>David F. Ancell</b>
Authorized Agent (Print or Type)	Name
Date	<b>State Purchasing Director</b>
	Title
	Date



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- A SCHEDULE OF FEES, REBATES AND PROGRAM SPECIFICATIONS**
- B PERFORMANCE STANDARDS**
- C CONTRACTOR’S PROPOSAL**



**DEFINITION OF TERMS**

<b>TERMS</b>	<b>DEFINITIONS</b>
<b>ACCOUNT</b>	Means the Visa or Mastercard account of a cardholder and/or the state maintained with contractor.
<b>BILLING CYCLE</b>	Means a monthly period that ends on the same day each calendar month, unless such day is not a business day, in which case, the last day of such period shall be the business day immediately before or after such day.
<b>BUSINESS DAY</b>	Means a day, other than a Saturday or a Sunday, on which commercial banks generally are open for business in Salt Lake City, Utah, and New York, New York.
<b>CANCELLATION</b>	Ending all rights and obligations of the State and contractor, except for any rights and obligations that are due and owing.
<b>CARD</b>	Means a Visa or Mastercard commercial card issued by Contractor pursuant to this Contract.
<b>CARDHOLDER</b>	Means an individual in whose name a card is issued or any other employee, officer or director of, or other individual designated by, the State as being expressly authorized to use a card or account.
<b>CARDHOLDER AGREEMENT</b>	Agreement entered into by the State and cardholder(s) giving cardholder(s) the authority to use account(s) for business purposes only.
<b>CONTRACT</b>	Means this agreement, including all exhibits attached hereto, entered into by the State of Michigan and the contractor.
<b>CONTRACTOR</b>	Means J.P. Morgan, Chase Manhattan Bank USA N.A.
<b>DMB</b>	Michigan Department of Management And Budget
<b>EXPIRATION</b>	Except where specifically provided for in the contract, the ending and termination of the contractual duties and obligations of the parties to the contract pursuant to a mutually agreed upon date.



**DEFINITION OF TERMS (con't.)**

<b>TERMS</b>	<b>DEFINITIONS</b>
<b>PROGRAM ADMINISTRATOR</b>	Person(s) designated by the Contract Administrator to have authority to open and maintain accounts, and administrate access to cardholder data through contractor's systems.
<b>STATE</b>	The State of Michigan  For purposes of indemnification as set forth in Section I-J, State means the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents.
<b>TRANSACTION</b>	Means a purchase, or any other account activity, that results in a debit to an account.



**SECTION I  
CONTRACTUAL SERVICES TERMS AND CONDITIONS**

**I-A PURPOSE**

The purpose of this Contract is to obtain the services of the Contractor to provide purchasing card capabilities to the Cards and Accounts so that Cardholders may purchase, in the normal course of business, goods and services for the benefit of the State.

This Contract award will result in a rebate to the State based on the factors set forth in Exhibit A.

**I-B TERM OF CONTRACT**

The activities in this Contract cover the period June 1, 2001 to May 30, **2006**. This Contract shall have initial term (the “**Initial Term**”) of five years commencing on June 1, 2001 and may at the option of the State and agreement by the Contractor be renewed for successive one-year terms (each a “**Renewal Term**”) if the State provides at least 90 days’ written notice prior to the end of the Initial Term or any Renewal Term. The State fiscal year is October 1st through September 30th. The Contractor should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. In the case of any legislation or discontinuance of Contract the State is obligated to pay for any past purchases it has made. Not with standing the provision, the State agrees to pay all Obligations as set forth below in Section I-UU.

**I-C ENTIRE AGREEMENT**

This Contract, including all attachments, shall represent the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject

**I-D ISSUING OFFICE**

This Contract is issued by the State of Michigan, Department of Management and Budget (DMB), Office of Purchasing, hereafter known as the Office of Purchasing, for the State of Michigan. Where actions are a combination of those of the Office of Purchasing and any State agency, the authority will be known as the State.

**The Office of Purchasing is the sole point of contact in the State with regard to all procurement and contractual matters relating to the services described herein.** The Office of Purchasing is the only office authorized to change, modify, amend, alter, clarify, etc., the prices, specifications, terms, and conditions of this Contract. All communications concerning changes, modifications, amendments, alterations or clarifications to this Contract must be addressed to:



**Greg Faremouth, Buyer**  
 Technical & Professional Services Division  
 DMB, Office of Purchasing  
 2nd Floor, Mason Building  
 P.O. Box 30026  
 Lansing, MI 48909  
 Ph: (517) 241-1646  
 FAX (517) 335-0046  
 e-mail: faremouthg@state.mi.us

**I-E CONTRACT ADMINISTRATOR**

Upon receipt at the Office of Purchasing of the properly executed Contract, it is anticipated that the Director of Purchasing will direct that the person named below or any other person so designated be authorized to administer the Contract on a day-to-day basis during the term of the Contract. However, administration of this Contract implies no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions, and specifications of this Contract. The Contract Administrator for this project is:

**Terri Powers**  
 Customer Services Division  
 DMB, Office of Purchasing  
 2nd Floor, Mason Building  
 P.O. Box 30026  
 Lansing, MI 48909  
 Ph: (517) 241-2715  
 FAX (517) 335-0046  
 e-mail: powerst1@state.mi.us

**I-F COST LIABILITY**

The State of Michigan assumes no responsibility or liability for costs incurred by the Contractor prior to the signing of this Contract. Total liability of the State is limited to the terms and conditions of this Contract.

**I-G CONTRACTOR RESPONSIBILITIES**

The Contractor will be required to assume responsibility for all contractual activities offered in this Contract whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including but not limited to payment of any and all costs resulting from this Contract. If any part of the work is to be subcontracted, this Contract should include a list of subcontractors, including firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning subcontractor's organizational abilities. The State reserves the right to approve subcontractors for this project and to require the Contractor to replace subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the subcontractor to all provisions of this Contract.



**I-H NEWS RELEASES**

News releases pertaining to this document or the services, study, data, or project to which it relates will not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the program are to be released without prior approval of the State and then only to persons designated.

**I-I DISCLOSURE**

All information in this Contract is subject to the provisions of the Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, *et seq.*

**I-J ACCOUNTING RECORDS**

The Contractor will be required to maintain all pertinent financial and accounting records and evidence pertaining to this Contract in accordance with generally accepted principles of accounting and other procedures reasonably requested by the State of Michigan. Financial and accounting records as it relates to this Contract shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three (3) years from the expiration date and final payment on this Contract or extension thereof.

**I-K INDEMNIFICATION**

For Purposes of Indemnification as set forth in this section, State means the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents.

1. General Indemnification

The Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, penalties, fines, damages, and claims (including taxes), and all related costs, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any claim, demand, action, citation or legal proceeding against the State arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, which is caused by the negligence in connection with the performance of services by Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone whose acts any of them may be liable provided that the State has knowledge of such claims. This indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused by the conduct of the State.

2. Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.



**I-L LIMITATION OF LIABILITY**

Neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not be applicable for claims arising out of gross negligence, willful misconduct, or Contractor’s indemnification responsibilities to the State as set forth in Section I-K with respect to third party claims, action and proceeding brought against the State.

**I-M NON INFRINGEMENT/COMPLIANCE WITH LAWS**

The Contractor warrants that in performing the services called for by this Contract it will not violate any applicable law, rule, or regulation, any contracts with third parties, or any intellectual rights of any third party, including but not limited to, any United States patent, trademark, copyright, or trade secret.

**I-N WARRANTIES AND REPRESENTATIONS**

1. The Contractor warrants that all services required to be provided under this Contract shall be furnished in a professional and workmanlike manner, by the Contractor, its subcontractors and its or their employees, having the skill commensurate with the requirements of this Contract.
  
2. The Contractor warrants that it or its subcontractor is the lawful owner or licensee of any software programs or other material used by the either in the performance of services called for in this Contract, and has all the rights necessary to convey to the State the unencumbered ownership or licensed use of any and all materials or deliverables required to be provided by the terms of this Contract.

**I-O CONTRACTOR’S PERSONNEL**

The State reserves the right to recommend reassignment of personnel deemed unsatisfactory by the State.

**I-P CONFIDENTIALITY OF DATA AND INFORMATION**

All information furnished by either party in connection with this Contract, the Program, or the Transactions contemplated hereby shall be kept confidential (and shall be used by the other party only in connection with this Contract), except to the extent that such information (a) is already known when received, (b) thereafter becomes obtainable from other sources, (c) is required to be disclosed in any document filed with the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, or any other agency of any government, or (d) is required by law to be disclosed, provided that notice of such disclosure has been given (when legally permissible) by the party proposing to make such disclosure, which notice, when practicable, shall be given sufficiently in advance of the proposed disclosure to permit the other party to take legal action to prevent the disclosure. Upon termination of this Contract and a written request to the other party, each party shall promptly cause all copies of documents or extracts thereof containing any such information and data which has been provided by or which relates to the other party to be returned to such other party; provided, that each party may retain



in its files copies of such materials as it shall deem necessary solely for archival purposes. Notwithstanding the above and upon requests made to the State under the Freedom of Information Act, the State may provide copies to other parties of this Contract and the Contractor's proposal that was submitted to the State without written notice to the Contractor.

**I-Q REMEDIES FOR BREACH OF CONFIDENTIALITY**

Both parties acknowledge that a breach of its confidentiality obligations as set forth in Section I-P of this Contract, shall be considered a material breach of this Contract. Furthermore both parties acknowledge that in the event of such a breach the party shall be irreparably harmed. Accordingly, if a court should find that a party has breached or attempted to breach any such obligations, such party will not oppose the entry of an appropriate order restraining it from any further breaches or attempted or threatened breaches. This remedy shall be in addition to and not in limitation of any other remedy or damages provided by law.

**I-R CONTRACTOR'S LIABILITY INSURANCE**

The Contractor shall purchase and maintain such insurance as will protect him/her from claims set forth below which may arise out of or result from the Contractor's operations under the Contract (Purchase Order), whether such operations be by himself/herself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' disability compensation, disability benefit and other similar employee benefit act. A non-resident Contractor shall have insurance for benefits payable under Michigan's Workers' Disability Compensation Law for any employee resident of and hired in Michigan; and as respects any other employee protected by workers' disability compensation laws of any other State the Contractor shall have insurance or participate in a mandatory State fund to cover the benefits payable to any such employee.
- (2) Claims for damages because of bodily injury, occupational sickness or disease, or death of his/her employees \$1,000,000.00
- (3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than his/her employees, subject to limits of liability of not less than \$1,000,000.00 each occurrence for non-automobile hazards and as required by law for automobile hazards.
- (4) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom, subject to a limit of liability of not less than \$5,000,000.00 each occurrence for non-automobile hazards and as required by law for automobile hazards.
- (5) Insurance for Subparagraphs (3) and (4) non-automobile hazards on a combined single limit of liability basis shall not be less than \$5,000,000.00 each occurrence and, \$1,000,000.00 for fire damage annual aggregate.



The insurance shall be written for not less than any limits of liability herein specified or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under the Indemnification clause of the Contract (Purchase Order).

**BEFORE STARTING WORK THE CONTRACTOR'S INSURANCE AGENCY MUST FURNISH TO THE DIRECTOR OF THE OFFICE OF PURCHASING, ORIGINAL CERTIFICATE(S) OF INSURANCE VERIFYING LIABILITY COVERAGE. THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** These Certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least fifteen days prior written notice bearing the Contract Number or Purchase Order Number has been given to the Director of Purchasing.

**I-S DEFAULT**

As used in this Contract, the term "Default" shall mean: (i) failure of the State to remit payment to the Contractor in accordance with the terms hereof; (ii) the failure of either party to comply with any other material term of this Contract, provided such failure is not remedied within 15 days of the defaulting party's receipt of written notice from the other party specifying the breach; (iii) the filing by or against either party of any petition in bankruptcy, insolvency, receivership, or reorganization or pursuant to any other debtor relief law or the entry of any order appointing a receiver, custodian, trustee, liquidator, or any other person with similar authority with respect to the assets of either party; (iv) the insolvency, dissolution, reorganization, assignment for the benefit of creditors or any other material adverse change in the financial condition of either party; (v) the entry of any adverse judgment, order, or award against the either party that has a material adverse impact on the financial condition of the State or the Contractor, or any event having a material adverse financial impact on the State or Contractor, or a detrimental effect on the State's or Contractor's ability to perform the Obligations under this Contract, including, without limitation, the taking of any action by the State or the Contractor to consolidate or merge or sell any substantial part of its assets; (vi) fraudulent or other unauthorized use of Cards or Accounts or credit losses with respect thereto exceeding the Contractor's operating tolerances.

**I-T REMEDIES; TERMINATION, AND DAMAGES**

1. Upon written notice to the other party, either party may terminate this Contract as of the date specified in the notice of termination upon the Default of the other party. Except where a remedy is expressly provided herein, termination of this Contract will be a party's sole remedy for Default; provided, that no termination or expiration of this Contract shall release or discharge the State from the payment of any amount otherwise payable under this Contract.



2. Upon a Default by the State, the Contractor may, in its sole discretion, suspend all services and obligations hereunder or may shorten the Billing Cycle in lieu of termination of this Contract until such time as the Contractor determines to its satisfaction that such Default has been cured. By suspending its services and obligations, the Contractor shall not be deemed to have waived any right which it may have, whether as a result of the Default or otherwise, to terminate this Contract.
  
3. A defaulting party shall be liable for any actual damages caused by its breach, but neither party will be liable under any provision of this Contract for any punitive or exemplary damages, or for any special, indirect or consequential damages (including, without limitation, costs incurred in developing and implementing the Program, lost revenues, lost profits, or lost prospective economic advantages) arising from or in connection with any performance or failure to perform under this Contract, even if such party knew or should have known of the existence of such damages, and each party hereby releases and waives any claims against the other party for such damages.
  
4. The Contractor, in addition to any rights available to it under applicable law, shall have the right to immediately accelerate and demand payment of the total balance if it deems itself insecure and to set off against any Liabilities, all monies owed by the Contractor in any capacity to any of them, whether or not due, and the Contractor shall be deemed to have exercised such right to set off and to have made a charge against any such money immediately upon the occurrence of any of the foregoing events of default (or if the Contractor deems itself insecure) even though such charge is made or entered on the books of the Contractor subsequent to those events.
  
5. The Contractor's liability to State hereunder shall be limited to direct damages arising from the Contractor's gross negligence or willful misconduct. Regardless of the form of action, in no event shall the Contractor be liable for any indirect, consequential, punitive, exemplary or special damages, even if it is advised as to the possibility of such damages. Except for liability which State may otherwise incur under this Contract, State's liability to the Contractor hereunder shall be limited to direct damages arising from State's negligence or willful misconduct. Regardless of the form of the action, in no event shall State be liable for any indirect, consequential or special damages, even if State is advised as to the possibility of such damages.
  
6. Either party may terminate this Contract at any time upon 90 days' prior written notice to the other party. In the event the State terminates this Contract at any time during the Initial Term, for other than a default by the Contractor as defined in Section I-S, the State shall refund to the Contractor a portion of the signing bonus and any amounts that have not been recovered by the Contractor from the \$200,000 draw against future Incentive payments (the "Early Termination Fee"). The portion of the signing bonus will be determined by multiplying (i) \$833.34 by (ii) the number of months remaining in the Initial Term.



7. The State may cancel this Contract in the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability. Where upon all the Contractor's obligations under this Contract shall immediately terminate and provided further that the State shall not be relieved of its payment and obligations under this Contract. Not with standing this provision, the State agrees to pay all Obligations as set forth below in Section I-UU.

**I-U EXCUSABLE FAILURE**

If either party is rendered unable, wholly or in part, by a force outside the control of such party (including, but not limited to, an act of God, war, fire, flood, explosion, act of governmental authority, strike, civil disturbance or breakdown of telephone, computer or automated mailing equipment) to carry out its obligations under this Contract (other than a payment obligation), or Contractor is notified by a state or federal regulatory body or by Visa or MasterCard that any aspect of the Program or this Contract does not comply with any applicable law, regulation, rule, policy, or order applicable to Contractor, the affected party shall give the other party prompt written notice to that effect. Thereafter, the affected obligations of the party giving the notice shall be suspended and the failure to perform such obligations shall not be deemed a breach of or Default under this Contract so long as the affected party is unable to so perform for such reason. A party excused from performance pursuant to this Section shall exercise all reasonable efforts to continue to perform its obligations hereunder and shall thereafter continue with reasonable due diligence and good faith to remedy its inability to so perform.

**I-V ASSIGNMENT**

This Contract shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns; provided, that the State may not assign this Contract or any interest, payment, or rights hereunder so long as its assignee qualifies under the credit criteria of Contractor. The State must consent to an assignment to another entity in writing, which shall not be unreasonable withheld so long as there is not a substantive change in support personnel or services resulting directly from the proposed assignment.

**I-W DELEGATION**

The Contractor shall not delegate any substantive duties or obligations under this Contract to a subcontractor other than a subcontractor named in the bid unless the State Purchasing Director has given written consent to the delegation.



**I-X NON-DISCRIMINATION CLAUSE**

In the performance of this Contract the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual’s ability to perform the duties of the particular job or position. The Contractor further agrees that every subcontract entered into for the performance of this Contract will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2101, *et seq*, and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, *et seq*, and any breach thereof may be regarded as a material breach of this Contract.

**I-Y MODIFICATION OF SERVICE**

The Director of Purchasing reserves the right to request a modification of this service during the course of this Contract. Such modification may include adding or deleting tasks which this service shall encompass and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the requested changes are subject to acceptance by the State. Changes may be increases or decreases.

**I-Z REVISIONS, CONSENTS, AND APPROVALS**

This Contract may not be revised, modified, amended, extended, or augmented, except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

**I-AA NO WAIVER OF DEFAULT**

The failure of a party to insist upon strict adherence to any term of this Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of this Contract.

**I-BB SEVERABILITY**

Each provision of this Contract shall be deemed to be severable from all other provisions of this Contract and, if one or more of the provisions of this Contract shall be declared invalid, the remaining provisions of this Contract shall remain in full force and effect.

**I-CC HEADINGS**

Captions and headings used in this Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.



**I-DD RELATIONSHIP OF THE PARTIES**

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

**I-EE NOTICES**

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

For the Contractor: *David Cramer*  
*J.P. Morgan, Chase Manhattan Bank USA N.A.*  
*3995 S. 700 East, Suite 400*  
*Salt Lake City, UT 84107*  
*(801) 281-5800*

For the State: *Greg Faremouth*  
*State of Michigan, DMB*  
*Office of Purchasing*  
*530 W. Allegan*  
*Lansing, MI 48933*  
*(517) 241-1646*

Either party may change its address where notices are to be sent giving written notice in accordance with this section.

**I-FF UNFAIR LABOR PRACTICES**

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board.

A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.



**I-GG SURVIVOR**

Any provisions of this Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of this Contract for any reason. Sections I-K, I-L, I-J, and I-P, shall survive the termination or expiration of this Contract.

**I-HH GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of the State of Michigan concerning all State documents, proposals, contracts and agreements; provided that Delaware Law and not Michigan law, relating to banking, lending, credit cards and credit card programs shall apply to the transactions contemplated by this Contract.

**I-II YEAR 2000 SOFTWARE COMPLIANCE**

The Contractor warrants that services provided under this Contract including but not limited to the production of all reports, shall be provided in an accurate and timely manner without interruption, failure or error due the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, including leap year calculations. The Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom.

**I-JJ CONTRACT DISTRIBUTION**

The Office of Purchasing shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by the Office of Purchasing.

**I-KK TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of its Initial term or the end of any renewal term, or is canceled prior to its expiration, for any reason, the Contractor will provide reasonable transition assistance requested by the State to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by this Contract for Contract performance. If the State cancels this Contract for cause, then the State will be entitled to off set the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said cancellation.



**I-LL PROGRAM PARTICIPATION**

Subject to the terms of this Contract, Contractor shall issue Cards to, and/or establish Accounts for, the State with such capabilities as are described in this Contract.

The State and Cardholders shall use the Cards and Accounts for business or commercial purposes only and not for personal, family, or household purposes. The State shall instruct all Cardholders to use the Cards and Accounts strictly for business or commercial purposes.

**I-MM EMBOSSING; LICENSE TO USE MARKS**

Contractor shall prepare Cards bearing the Cardholder’s name, and, if elected, the State's name, trademark, or logo (the "**Marks**"), in a form supplied by the State and conforming to Contractor and Visa/MasterCard guidelines. If the State elects to have its Marks embossed on the Cards or provides them to Contractor for other uses, the State hereby grants Contractor a non-exclusive limited license to apply the Marks to the Cards solely for use in connection with the Program and for no other purpose.

**I-NN CARD DELIVERY**

Contractor may deliver Cards and/or related materials to the State or directly to the relevant Cardholders. Upon its receipt of any Card, the State shall promptly deliver such Card to the Cardholder named thereon together with any related materials supplied by Contractor. From time to time during the term of this Contract, Contractor may recommend and/or implement security procedures regarding the custody and handling of Cards. The State agrees to comply with such security procedures upon 60 days written notice of the security procedures to the Contract Administrator.

**I-OO ISSUANCE, RENEWAL, REPLACEMENT AND CANCELLATION OF CARDS**

1. Promptly following its execution of this Contract, the State will provide to Contractor a written or electronically transmitted request (a "**Card Request**") which shall include the names and corporate addresses of those Cardholders for which the State wishes Contractor to issue a Card or establish an Account. The State may, from time to time, submit additional Card Requests authorizing the issuance of new Cards or the establishment of new Accounts.
  
2. Each Card Request must be executed by a person (an "**Authorized Signer**") for whom Contractor has an effective Authority Certification. An "**Authority Certification**" shall mean a certificate of an authorized officer or representative of the State certifying to the identity of the then-incumbent officers, partners, members or other representatives of the State who are authorized to execute Card Requests and certifying the authenticity of a specimen signature of each Authorized Signer listed in such Authority Certification. The Authority Certification most recently received by Contractor shall supersede any prior Authority Certification unless specifically stated to the contrary in writing.



3. Where emergency issuance of a Card is requested, Contractor may fulfill such request at an additional charge as set forth on **Exhibit A**. The billing for such charge shall occur in the next billing statement for the relevant Account. Unless Contractor receives contrary written instructions from the State, and subject to Contractor's rights hereunder, Contractor shall replace each expiring Card with a replacement Card at least 30 days prior to the Card's expiration date.
  
4. Each Cardholder shall be required to sign the Card issued to such Cardholder and shall be subject to the terms of the Cardholder Agreement.
  
5. The State shall promptly make a request that a Card or Account be canceled, or that the authority of any Cardholder to use a particular Card or Account be terminated, as the case may be, if
  - (a) the State or a Cardholder knows of or suspects the loss, theft or possible unauthorized use of a Card or Account. In such event, the State shall not be liable for any Transactions occurring on the Card or Account after the effective time of such request. In addition, the State shall not be liable for any Transactions, resulting from Card theft or other fraudulent use by non-Cardholders, occurring on the Card or Account prior to the effective time of such request if the suspected loss, theft or unauthorized use when known was promptly reported to Contractor, unless such theft or fraudulent use occurs as a result of the State's lack of reasonable security precautions and controls surrounding the Cards or such use results in a direct or indirect benefit to the State or any Cardholder;
  
  - (b) the State wishes to cancel a Card or Account or terminate the authority of any Cardholder to use a particular Card or Account. In such event, the State shall not be liable for any Transactions occurring on the Card or Account (or Transactions made by such Cardholder, as the case may be) after the effective time of such request; or
  
  - (c) The Cardholder's employment or other relationship with the State is terminated. In such case, the State agrees to provide such documentation and take such actions as Contractor may request in connection with a corporate liability waiver claim with Visa, MasterCard or any insurer relating to such terminated Cardholder. Contractor will make available to the State any corporate liability waiver coverage extended by Visa or MasterCard. If the effective time of the State's request is not within two Business Days after such termination, or if the State fails to provide the documentation or take the actions requested by Contractor as a result of such termination, the State shall be liable for all Transactions with respect to such Cardholder's Card and Account occurring prior to the effective time of the State's request but shall not be liable for any Transactions occurring on the Card or Account after such time.



- (d) Each request made shall be made by telephone (at 1-800-270-7760 or such other number as Contractor may provide by written notice to the Contract Administrator), fax, electronic mail, or PaymentNet™ and shall specify (i) the relevant Cardholder's name, Account number and corporate business address, and (ii) such other information as the State shall deem appropriate or Contractor shall reasonably request. The State's request shall be deemed effective when Contractor receives such request and makes the corresponding changes in its processing system (which changes shall be made promptly, taking into account the mode of transmission and time of receipt).

**I-PP TRANSACTION DATA, SECURITY PROCEDURES AND ACCOUNT MAINTENANCE**

1. Contractor shall make Card and Account transaction data available to the State through Contractor's PaymentNet™ internet-based reporting system. Through PaymentNet™, Contractor shall provide the State with password-protected daily access to Card and Account transaction data and other reports at no additional charge to the State. Such reporting shall be provided in accordance with such manuals, training materials and other information as Contractor shall provide from time to time. Contractor protects information regarding its customers in accordance with strict internal security standards and confidentiality policies and applicable law. Contractor employees are fully accountable for adhering to those standards, policies and laws. No information is sold to third parties.
2. For the use of PaymentNet,™ the State agrees to be bound by and to adhere to the following security procedures, terms, and conditions (the "Security Procedures"), which Contractor may revise from time to time upon notice to the State:
  - (a) PaymentNet™ may be accessed solely through the use of a user identification code and password (collectively, the "Access Code"). Contractor shall assign an initial Access Code to an the Contract Administrator:-
  - (b) The Contract Administrator shall assign Access Codes to Users designated by the State as authorized to (1) access and use the Service; (2) create and disseminate Access Codes to individuals who are authorized to use PaymentNet™ (such individuals are referred to as "Authorized Users") and (3) designate Program Administrators within the State. The State shall be responsible for ensuring that each Program Administrator creates and disseminates Access Codes in accordance with using commercially reasonable practices.
  - (c) The State shall safeguard all Access Codes and be responsible for all use of Access Codes issued by the Program Administrator. Contractor may conclusively presume that all business conducted using an Access Code emanates from a Program Administrator or Authorized User and is conducted in the State's name. Any unauthorized use of an Access Code (except for unauthorized use by a Contractor employee) gained through the negligence of the State in safeguarding this information, shall be solely the responsibility of the State.



- (d) The State may from time to time, and in accordance with guidelines established by Contractor, perform certain account maintenance functions, including, without limitation, adjustment of Account Credit Limits and blocking of Visa and MasterCard Merchant Category Codes (“MCCs”). The State, on behalf of itself and its owners, directors, officers, employees, agents, and representatives (collectively, the “State Group”), hereby releases and agrees to hold harmless Contractor, its affiliates, and their respective directors, officers, employees, agents, and representatives (collectively, the “Chase Group”) to the extent allowed by Michigan law and without waiving any sovereign immunity, from and against any loss, claim, damages, liability, cost, expense, action or cause of action whatsoever that any of them now have or may hereafter have against any member of the Chase Group, or to which any member of the Chase Group may become subject, arising out of or relating to any maintenance activity performed by any member of the State Group or any other person using a State password.

**I-QQ PURCHASES**

Cardholders may use Cards and Accounts to purchase, in the normal course of business, goods and services in accordance with the MCCs selected and/or blocked at the State’s request. The parties acknowledge, however, that authorizations and declinations are necessarily based on the accuracy of the Transaction data transmitted to Contractor. Under no circumstances shall Contractor be liable to the Cardholder or the State (nor shall the Cardholder or the State be relieved of its obligation to pay the amounts charged or advanced) in the event any such Transactions are permitted on the basis of inaccurate or misleading data or other factors beyond the reasonable control of Contractor.

**I-RR USE OF CARDS**

Each Transaction is subject to the terms and conditions of this Contract. Contractor shall have no obligation or responsibility to the State or to any Cardholder in the event that any merchant, entity or person refuses to honor a Card or Account. A Card or Account may be used only by the Cardholder to whom it is issued or who is authorized to use it, as the case may be, and may not be transferred to another Cardholder or any other person or entity.

Without limiting any other rights of Contractor hereunder or under applicable law, Contractor may refuse to authorize any Transaction in the event that: (a) any balance owed in respect of the Account to which such Transaction relates or any balance owed by the State on any Account, is past due; (b) the amount of the Transaction plus the outstanding balance (including Transactions authorized but not yet posted) of all Accounts would exceed the Aggregate Credit Limit; (c) the amount of the Transaction plus the outstanding balance (including Transactions authorized but not yet posted) of the relevant Account would exceed the Account Credit Limit for such Account; or (d) any other reason exists for declining a Transaction as set forth herein, in the Cardholder Agreement or the operating regulations of Visa or MasterCard or under applicable law.



**I-SS OBLIGATIONS OF THE STATE**

The State shall:

- (a) not exceed or permit Cardholders to exceed the Aggregate Credit Limit or any Account Credit Limit; and
- (b) make all reasonable attempts to ensure that each Cardholder complies with the terms of the Cardholder Agreement.

**I-TT EXPENSE REPORTING; DISCLOSURE OF ACCOUNT INFORMATION**

At its discretion, the State may instruct Contractor to furnish specific Transaction data to third parties that provide expense reporting products or services to the State. Solely for the purpose of facilitating the State’s expense reporting objectives, Contractor shall transmit to such third parties the Transaction data identified in such instructions.

**I-UU PROMISE TO PAY**

1. Regardless of any established credit limits, the State agrees to pay and perform when due all of its Obligations. As used herein, the term “Obligations” means all obligations of the State under this Agreement, including without limitation:
  - a The indebtedness, obligations and liabilities arising under such Accounts, including, without limitation, all charges, fees and other amounts payable under or in connection with each such Account; and
  - b any and all costs (including attorneys’ fees) incurred in enforcing the obligations of the Cardholder and the State hereunder.
2. All amounts due under the Cards and Accounts shall be billed directly to the State via periodic statements and shall be payable in full upon receipt by the State. Such statements may, at Contractor’s option, be sent by mail or made available electronically via PaymentNet™, the Internet, or other means. The State shall remit payment to Contractor under the terms described herein.
3. All payments hereunder shall be made in U.S. dollars and by electronic funds transfer (or such other payment arrangement as is mutually agreed upon by the State and Contractor). All charges will be posted to Accounts in U.S. dollars. Transactions in foreign currencies will be converted to U.S. Dollars at the exchange rate determined by MasterCard (or its affiliates) or Visa (or its affiliates), using their then current currency conversion procedures and charges. Such Transactions will be subject to any applicable fees described in **Exhibit A**. The currency conversion rate used on the conversion date may differ from the rate in effect on the date a Card or Account is used.



4. If the State determines that the invoice contains charges for which it is not liable, the State must submit documentary evidence in support thereof, in form satisfactory to Contractor, as well as submit any documentation and take any actions required by Visa or MasterCard in connection with its corporate liability waiver program, in the event such coverage is available.

**I-VV DISPUTED AMOUNTS**

1. The State and its Cardholders shall use their best efforts to resolve all business-to-business purchase disputes directly with the relevant merchants, including, without limitation, any disputes relating to purchase price discrepancies or quality, warranty, or performance issues.
2. The State or Cardholder may dispute an amount reflected on a billing statement (unless the Transaction resulted from the use of a Card on which no Cardholder’s name is embossed, in which event the State or Cardholder may not dispute such amount) if (i) the amount does not reflect the actual amount of the Transaction; (ii) the Transaction did not result from the use of the relevant Card or Account; or (iii) the amount being disputed is a fee that is not properly accrued under this Contract. The State or Cardholder shall notify Contractor in writing of its intention to dispute an amount within 60 days following the date of the billing statement on which the disputed Transaction or fee first appears. Contractor shall promptly investigate the dispute. Pending such investigation, a conditional credit in the amount of the dispute will be applied to the Account. If Contractor determines that the amount is properly payable, the State or Cardholder, as the case may be, will remit such amount to Contractor on the State’s (or the Cardholder’s, as the case may be) receipt of its next billing statement. Fees (including interest, finance charges, or late fees) may accrue with respect to the disputed amount pending resolution of the dispute only if it is determined that the amount is properly payable.

**I-WW CHARGEBACKS**

In the event that any Transaction is posted to an Account involving fraud, unauthorized use, or any other circumstance under which the merchant may be held liable under applicable Visa or MasterCard rules, the State or Cardholder shall so notify Contractor in writing. Contractor shall attempt to charge the Transaction back to the merchant in accordance with Visa or MasterCard procedures; provided, however, if the Transaction resulted from the use of a Card on which no Cardholder’s name is embossed, no chargeback will be granted for such Transaction. Any accepted chargeback will be credited to the State’s or Cardholder’s next billing statement. The State will be relieved of liability for the Transaction if the chargeback is rejected in accordance with Visa or MasterCard rules and Section I-RR of this Contract.

**I-XX FEES**

The State agrees to pay to Contractor all applicable fees described in **Exhibit A**. Such fees will be included in the billing statement for the Billing Cycle in which the fees accrue. Fees not listed in **Exhibit A**, but agreed by the State, may be invoiced separately and each such invoice shall be payable upon receipt.



**I-YY REPRESENTATIONS AND WARRANTIES**

Each party represents and warrants that this Contract constitutes the legal, valid, binding and enforceable agreement of such party and that its execution and performance of this Contract (a) do not constitute a breach of any agreement of such party with any third party, or of any duty arising in law or equity, (b) do not violate any law, rule or regulation applicable to it, (c) are within its corporate powers, and (d) have been authorized by all necessary corporate action of such party.

**I-ZZ FINANCIAL STATEMENTS; NOTICE OF BOND RATING CHANGE**

Upon request by the Contractor, the State agrees to furnish Contractor copies of its financial statements as soon as available, but not later than 120 days following the end of each fiscal year of the State. All such financial statements shall include an income statement for the applicable fiscal year and a balance sheet, shall have been prepared in accordance with generally accepted accounting principles, consistently applied, and shall be in accordance with the books and records of the State. The State shall provide, in a timely manner, such other current financial information concerning the State as Contractor may request.

**I-AAA NAME AND TRADEMARK**

Except as otherwise provided herein, neither party shall use the name or logo of the other party without such party's written consent.

**I-BBB VISA AND MASTERCARD FEE ADJUSTMENTS**

In the event that there is a change deemed by Contractor to be material in the way Contractor is compensated by Visa or MasterCard, Contractor may seek to re-negotiate the financial terms of this Contract. The State shall have no obligation to renegotiate such terms; provided, that if the parties cannot agree on an adjustment of such terms, then Contractor at its option may (a) allow this Contract to remain in effect without any such adjustment, or (b) terminate this Contract upon (180 day) written notice to the State.

**I-CCC PERFORMANCE STANDARDS**

Contractor will perform services in accordance with the performance standards listed in **Exhibit B, Performance Standards**.

**I-DDD CONTRACTOR'S PROPOSAL**

**Exhibit C, Contractor's Proposal**, contains excerpts from the Contractor's response to the State's Request for Proposal for the Purchasing Card Program. Contractor will make available to the State systems and services as described in this Exhibit. In the events of any conflicts between this **Exhibit C** and other terms or conditions within the Contract, all other parts of this Contract will take precedence over **Exhibit C**.



**I-EEE EXTENDED PURCHASING PROGRAM**

On behalf of the State, Contractor will extend offers to government and municipal entities to contract with the Contractor to participate in a Purchasing Card Program. The terms of each offer will be determined on a case-by-case basis according to the entity's selection of products and estimated volume factors. Before extending each offer, the Contractor and the State will negotiate the application of a rebate, if any, and/or to determine if the entity's volume will be included in the calculation of the rebate to the State described in **Exhibit A**.



**EXHIBIT A**  
**SCHEDULE OF FEES, REBATES AND PROGRAM SPECIFICATIONS**

**1. Definitions:**

“Average Annual Net Spend Per Card” means result of the Net Spend for a Contract Year divided by the Average Number of Cards.

“Average File Turn” means the average number of days between the Transaction posting date and the payment posting date of the full amount due, for Accounts.

“Average Number of Cards” means the sum of the number of open Accounts at the end of each month during a Contract Year divided by 12 (twelve).

“Average Transaction Size” means result of the gross amount of Transactions posted during a Contract Year divided by the number of Transactions posted in the same Contract Year.

“Contract Year” means a 12-month period beginning on the date hereof or an anniversary of such date.

“Net Spend” means the aggregate amount of individual Transactions posted to Accounts, net of the aggregate amount of all refunds to Accounts (such as credits for returned merchandise or disputed billing items), and shall not include (i) those amounts representing annual fees, finance charges and other fees or charges posted to Accounts (such as late fees, returned check fees, cash advance fees, collection costs, administrative fees and reporting fees) and (ii) the amount of all cash advance Transactions and fees.

**2. Billing and Payment:**

Billing and payment of all charges made using the Purchasing Card Program are subject to the following:

- a. Billing Cycle/Payment Frequency: Monthly
- b. Payment Method Options for payments made by State: Check, EDI, Wire Transfer, ACH Debit or Credit

**3. Fees:**

- a. Annual Administration Fee:  
Purchasing Cards: \$ 0 per Card per year or \$      per Card per month.
- b. Late Payment Fee:  
Purchasing Card grace period after statement billing date: 14 days  
1.0% late fee at 15 days  
2.5% late fee at 45 days and every 30 days thereafter



- c. Currency Conversion: 1% of gross purchased amount
- d. Copy Retrieval Fee, Per Request: \$10.00 each
- e. Returned Item (Insufficient Funds) Fee: \$15.00 per occurrence
- f. Emergency Card Replacement Fee: \$25.00 if effected through Contractor. If effected through MasterCard or Visa, the State shall pay any fees charged by MasterCard and Visa for emergency card replacement.
- g. Complete State Card Design and Production: \$ 0 setup and \$ 0 per Card.  
State logo on Cards: \$500 production fee.
- h. Development of custom mappers: \$100 per hour; minimum charge \$400; \$2,000 maximum charge.
- i. Development of customized reports: \$100 per hour; minimum charge \$400; \$2,000 maximum charge.
- j. PaymentNet set up fee: \$0 ; or PaymentWeb set up fee: no charge.
- k. File Transfer Protocol (FTP) - choose from the following: \_\_\_Daily (\$500/month); \_\_\_Weekly (\$250/month); \_\_\_Bi-Weekly (\$125/month); \_\_\_Monthly (\$75/month).

**4. Issue Term of Cards:**

Each Card shall be issued for a period of three years.

**5. Brand and Reporting Software Choice:**

Mastercard

**6. Rebate/Performance Incentive:**

**a. Rebate :**

Contractor has prepared the following rebates and incentives based on the State’s annual anticipated expenditures on a Purchasing Card Program. Both a one-time up-front signing bonus, and an earned back signing bonus has been prepared for the State. A rebate structure has been prepared for the State based on Average File Turn, Average Annual Net Spend Per Card and Average Transaction Size according to the tables below.



State of Michigan Purchasing Card Rebate	Average Annual Net Spend Per Card		
	Average File Turn	\$8,000 – \$12,999	\$13,000 – \$17,999
5 Days or Less	1.25%	1.40%	1.50%
6 – 10 Days	1.10%	1.25%	1.35%
11 – 15 Days	0.95%	1.15%	1.20%
16 – 20 Days	0.85%	1.00%	1.10%
21 – 25 Days	0.70%	0.85%	0.95%
26 – 29 Days	0.60%	0.75%	0.85%

- Fraud losses will not be deducted from the rebate. If fraud losses exceed \$15,000.00 during the Initial Term, Contractor reserves the right to re-negotiate this provision
- The Rebate grid above assumes no more than 5% of the annual Net Spend will be Transactions that earn Large Ticket Interchange. If the State exceeds this percentage, Contractor reserves the right to re-negotiate the rebate for Large Ticket Interchange Transactions.

**b. Performance Incentive.**

- (1) **Calculation of Incentive.** For each Contract Year (or, if this Agreement is terminated prior to the end of a Contract Year, the period from the end of the preceding Contract Year to the termination date), Contractor shall pay to the State an incentive calculated as a percentage of the Net Spend for such period, in accordance with the following table and terms (the “Incentive”).

The Rebate percentages set forth above are based on an Average Transaction Size of \$182. If the Average Transaction Size is below \$182, the percentages will be reduced according to the following:

Average Transaction Size	\$181	\$167	\$153	\$143	\$133	\$124	\$116	\$110	\$104	\$99
Amount of Reduction to Percentage	.005%	.010%	.015%	.020%	.025%	.030%	.035%	.040%	.045%	.050%

The Incentive is calculated for each Contract Year and is payable within 60 days after the end of each Contract Year. In the event that the due date for any Incentive payment falls on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day.



In the event this Contract is terminated prior to the end of a Contract Year, the actual Net Spend for the elapsed portion of such Contract Year shall be annualized solely for the purpose of determining, in accordance with the foregoing tables, the percentage to be applied to such actual Net Spend.

(2) VariANCES. The Incentive is offered based on the following assumptions:

- Annual Net Spend - \$50 Million
- Number of Accounts - 6,000
- Average Transaction Size - \$182.00

To the extent that for any annual period these assumption vary by an amount which Contractor in its sole discretion deems to be material, Contractor reserves the right to ratably adjust the Incentive upon written notice to the State for the remaining term of the Contract to compensate for such variance.

(3) Bonus. Contractor shall pay to the State an initial \$50,000 signing bonus upon completion of implementation of the Program.

(4) Draws Against Incentive.

- (i) Contractor shall pay to the State a draw of \$200,000 against future Incentive payments, plus the signing bonus. Such amount shall be payable after completion of the implementation of the Program.
- (ii) For each Contract Year, Contractor will calculate how much rebate the State has earned based on the calculations shown in this **Exhibit A**. For the first Contract Year, all Incentive payments have been pre-paid and the State must earn back \$200,000 of Incentive before receiving payment. For any amount earned less than \$200,000 for the year, Contractor will carry forward the unearned portion to future years. For any amount earned greater than \$200,000, Contractor will pay the State the difference.



**EXHIBIT B**

**PERFORMANCE STANDARDS**

1. Provide an initial implementation work plan to the Contract Administrator for review and approval by April 10, 2001.

Implementation work plans and schedules will be prepared by the Program Consultant and reviewed with the Contract Administrator.

2. Provide monthly/quarterly reporting for: 1) Extended Purchasing Program member listing and volume; 2) customer service assessment; and 3) performance updates outlining the work accomplished during the reporting period, work to be accomplished during the subsequent reporting period, problems, real or anticipated which should be brought to the attention of the Contract Administrator.

Most reports are available through PaymentNet along with data query capabilities. This product is provided at no charge to encourage clients to create and access their own reports based on their requirements and timelines. All other reports will be documented and agreed upon with the Contract Administrator and the Program Consultant. Concerning the Extended Purchasing Program, for any custom development reports, there would be a separate charge.

3. Resolve disputes within 60 days upon receipt or notify cardholder of status if the issue cannot be immediately resolved.

Contractor is required to handle disputes in accordance with the Visa and/or MasterCard regulations. Cardholders must report billing no later than 30 days after we sent the first statement in which the error or problem appeared. The merchant has 60 to 120 days (depending on the transaction type) to resolve the dispute. Contractor is in compliance with the association regulations.

4. Transaction disputes will be credited to the cardholder's account within 5 business days of receipt.

Cardholders disputing transactions will receive a temporary suspension of the transaction amount against the amount due immediately upon notification by phone. Fax and mail notifications are handled within 24 hours of receipt of notification.

5. Respond to customer service issues immediately or within 24 hours from the initial call if the issue cannot be immediately solved.

Contractor offers several levels of service from cardholder servicing to program administrator servicing. Cardholder phone calls are handled immediately; mail correspondence is handled within 24 hours of receipt of the mail. Program Administrators will have a designated Account Manager who will respond to calls



immediately, should the Account Manager not be available, the Program Administrator may transfer to the Priority Service Group for immediate assistance. Issues that cannot be resolved immediately will be communicated to the Program Administrator with an estimated time for resolution.

- 6. Perform maintenance to accounts within 24 hours, or within 24 hours of the initial request, provide the requester with an estimated time of completion if the task is large-scale.

Maintenance can be performed in a number of ways. The Program Administrator may complete maintenance changes through PaymentNet.com, our on-line, real-time cardholder maintenance system. Maintenance changes requested through the Account Manager will be processed within 24 hours of receipt of the request. Large-scale requests will be scopes and sized with an estimated time for completion provided to the Program Administrator.

- 7. Maintenance requests performed by Paymentech at 98% accuracy rating.

Maintenance requests performed by Contractor will be completed at 98% accuracy when the documents provided are clean and legible.

- 8. New accounts and maintenance to accounts will be accessible to view on-line to State by 7am Eastern Time each day for accounts that opened and maintenance that was performed the previous day.

All new accounts and maintenance changes completed through PaymentNet.com or through the Account Management Group will be accessible through PaymentNet by 7 am Eastern Time the following day, as long as the changes were completed prior to 5:00 p.m. Mountain Time.

- 9. New account cards issued at no charge. Receipt of cards at the State of Michigan within 5 business days from receipt of application at Paymentech.

New cards are issued at no charge and will be delivered within 5 business days from receipt of application as long as the applications are receipts in a clean and legible manner.

- 10. Lost/stolen cards replaced at no charge. Receipt of cards at the State of Michigan within 5 business days from notification to Paymentech.

Lost/stolen replacement cards are delivered within 5 business days of notification.

- 11. Emergency replacement within 24 hours domestically.

Emergency replacement cards handled by Contractor will delivered within 24 hours of receipt of the request as long as the cardholder requests immediate delivery.



12. Charge slip retrieval provided within 48 hours of receipt. Delivery of charge slip retrievals are governed by the Visa/MasterCard rules and regulations in which merchants have up to 30 days to provide a draft copy of the charge slip. Generally, merchants provide copies quickly as they are paid a higher dollar incentive for quicker response, however, the merchant does have up to 30 days to provide this copy. Contractor will provide the copy to the cardholder within 48 hours of our receipt of the copy.

13. Monthly reissue cards received at the State of Michigan by the 15<sup>th</sup> of the month in which the card expires.

Reissues are mailed 2 weeks prior to the end of the month in which the cards are expiring. This is to insure that cards are not reissued on closed/past due or lost/stolen accounts.

14. Requests for custom reports will be evaluated and an estimate of time and cost provided within 5 days.

Custom report time and cost estimates will be provided within 5 business days of the completed, documented and spec'd receipt of the custom request.

15. System available 98% of the time.

It is unclear what system this is referencing, however, PaymentNet is available 24 hours per day. Except for quarterly scheduled down time which will not exceed 4 hours per quarter.

16. Transactions received from Visa/MasterCard each night will be posted to cardholder accounts and be accessible to view on-line to State by 7am Eastern Time the following day.

All transactions received from merchants for processing are processed and posted to the appropriate cardholder accounts by 1:00 a.m.MST Monday through Friday and are available for reviewing the next day by 7am Eastern Time via PaymentNet.

17. Statements will be available to the State within 1 business day of end of cycle.

Statements are available through PaymentNet.ESP 1 business day after the cycle. Paper statements are mailed first class mail within 2 days of the cycle.