



**STATE OF MICHIGAN**  
**ENTERPRISE PROCUREMENT**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number 7  
 to  
 Contract Number 071B0200272

<b>CONTRACTOR</b>	CAMTRONICS COMMUNICATION CO
	PO Box 871057
	Canton, MI 48187
	Mark Wellman
	313-538-1780
	18655mw@camsecure.com
	*****5163

<b>STATE</b>	<b>Program Manager</b>	Marina Kotsifis	MGCB
		517-241-0347	
		kotsifism@Michigan.gov	
	<b>Contract Administrator</b>	Steve Rigg	DTMB
		(517) 284-7043	
		riggs@michigan.gov	

CONTRACT SUMMARY				
SECURITY SYSTEM MAINTENANCE				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
August 1, 2010	July 31, 2015	2 - 1 Year	July 31, 2017	
PAYMENT TERMS		DELIVERY TIMEFRAME		
5% 10 N 30 Days		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$695,998.03	\$25,000.00	\$720,998.03		
DESCRIPTION				
Effective January 25, 2017, this contract is hereby increased by \$25,000.00. All other terms, conditions, specifications, and pricing remain the same. Per Agency and Vendor agreement, and DTMB Procurement approval.				



**STATE OF MICHIGAN**  
**ENTERPRISE PROCUREMENT**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number 6  
 to  
 Contract Number 071B0200272

<b>CONTRACTOR</b>	CAMTRONICS COMMUNICATION CO	<b>STATE</b>	Marina Kotsifis	MGCB
	18655 W. 6 Mile Road		517-241-0347	
	Detroit, MI 48219		kotsifism@Michigan.gov	
	Mark Wellman		Jared Ambrosier	DTMB
	313-538-1780		(517) 284-6398	
	18655mw@camsecure.com		ambrosierj@michigan.gov	
*****5163				

CONTRACT SUMMARY				
SECURITY SYSTEM MAINTENANCE				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
August 1, 2010	July 31, 2015	2 - 1 Year	July 31, 2017	
PAYMENT TERMS		DELIVERY TIMEFRAME		
5% 10 N 30 Days		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		July 31, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$670,998.03	\$25,000.00	\$695,998.03		
DESCRIPTION				
Effective September 12, 2016, this Contract is increased by \$25,000.00 for MGCB use. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.				

**STATE OF MICHIGAN**  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET  
 PROCUREMENT

525 W. ALLEGAN STREET  
 LANSING, MI 48933

P.O. BOX 30026  
 LANSING, MI 48909

CHANGE NOTICE NO. 5  
 to  
 CONTRACT NO. 071B0200272  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Camtronics Communication Co 18655 W. 6 Mile Road Detroit MI, 48219	Mark Wellman	18655mw@camsecure.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	313-538-1780	*****5163

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MGCB	Marina Kotsifis	517-241-0347	kotsifism@Michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Malu Natarajan	(517) 284-7016	sambiagiom@michigan.gov

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Security System Maintenance				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
August 1, 2010	July 31, 2015	2 - 1 Year	July 31, 2016	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45 days		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 year	<input type="checkbox"/>		July 31, 2017
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
align="center">\$ 588,032.07		\$ 82,965.96	align="center">\$ 670,998.03	

**DESCRIPTION:** Effective July 31, 2016, the second option year available on this contract is hereby exercised and is increased by \$ 82,965.96 for MGCB use. The revised contract expiration date is July 31, 2017. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement and DTMB Procurement approval.

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 525 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 4**  
 to  
**CONTRACT NO. 071B0200272**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Camtronics Communication Co 18655 W. 6 Mile Road Detroit MI, 48219	Mark Wellman	18655mw@camsecure.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	(313) 538-1780	5163

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MGCB	Marina Kotsifis	517-241-0347	kotsifism@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Melissa Sambiagio	(517) 284-7016	sambiagiom@michigan.gov

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Security System Maintenance				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
August 1, 2010	July 31, 2015	2 - 1 Year	July 31, 2016	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45 Days; 5% Net 10 Days		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$ 580,203.96		\$ 7,828.11	\$ 588,032.07	

**DESCRIPTION:** Effective November 17, 2015, this contract is hereby increased by \$7,828.11 to replace equipment that has reached its useful life. All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on November 17, 2015.

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 525 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 3**  
 to  
**CONTRACT NO. 071B0200272**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Camtronics Communication Company 18655 W. Eight Mile Road Detroit MI 48219	Mark Wellman	18655mw@camsecure.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	313-538-1780	5163

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MGCB	Marina Kotsifis	517-241-0347	kotsifism@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Melissa Sambiago	517-284-7016	sambiagiom@michigan.gov

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Security System Maintenance and Repair - MGCB				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
8/1/2010	7/31/2015	2 – one year	7/31/2015	
PAYMENT TERMS		DELIVERY TIMEFRAME		
45 days		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 year	<input type="checkbox"/>		7/31/2016
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$503,203.96		\$77,000.00	\$580,203.96	

**DESCRIPTION:** Effective August 1, 2015, the first option year available on this contract is hereby exercised and is increased by \$77,000.00. The revised contract expiration date is July 31, 2016. Contract and pricing revisions attached, are hereby incorporated into the contract. All other terms, conditions, specifications and pricing remain the same, per contractor and agency agreement, and DTMB Procurement approval.

**CHANGE NOTICE 3**  
**Effective July 31, 2015**  
**Contract No. 071B0200272 – Camtronics**

---

Contract revisions have been agreed to and incorporated into the contract between the State of Michigan and Camtronics Communication Company, effective August 1, 2015. The terms and conditions of this amendment shall supersede any conflict of those in the original contract.

**1. Section 1.021 – In Scope is hereby revised to include the following:**

- a. When the State contacts vendor for a “Critical” service call, Vendor will communicate with MGCB within 1 hour of being contacted, and actively respond within 4 hours. The State will notify Vendor if service is classified as Critical.

**2. Section 1.022 – Work and Deliverables is hereby revised to include the following:**

- a. Vendor will offer “train-the-trainer” training to MGCB upon request.
- b. Vendor will provide a current schedule of all webinar trainings offered.
- c. Vendor will allow DTMB-IT access to the system to run qualys scans for vulnerabilities. DTMB-IT will provide the Vendor reporting of any vulnerabilities that require remediation. Schedule will be provided to Vendor.
- d. Vendor will work with the State to ensure systems are properly secured and segregated from other state systems.
- e. Remote access to systems, by Vendor, will be performed using State approved process.

**3. Section 1.032 – Contact Information is hereby revised to include the following:**

- a. Contact information for communications specific to reporting requirements, system notifications, network issues, etc.:

<b>If to MGCB:</b>		<b>If to Contractor:</b>	<b>If to DTMB-IT:</b>
Bob Simon 517-241-0451 <a href="mailto:simonr@michigan.gov">simonr@michigan.gov</a> After hours: 517-763-1043	Karen Finch 313-456-4205 <a href="mailto:finchk@michigan.gov">finchk@michigan.gov</a> After hours: 313-282-9458	Camtronics 313-538-1780 After hours: Same as above	Tom Kopenhafer 517-241-1426 <a href="mailto:kopenhafert@michigan.gov">kopenhafert@michigan.gov</a> After hours: Contact MGCB

- b. Contractor shall notify DTMB-IT when on-site.
- c. Contractor shall notify MGCB of any and all hardware, equipment, and/or software issues within four (4) hours of discovery.
- d. DTMB-IT should notify vendor and MGCB of all network downtimes/issues

**4. Section 1.041 – Project Plan Management is hereby replaced with the following:**

- a. For any project currently in progress, a detailed project schedule, agreeable to the State, will be developed and finalized within 15 days after execution of change notice. For any proposed project, a detailed project schedule will be developed and approved by the State prior to the commencement of work.
- b. As services are performed, bi-weekly meetings will be held to review the current status of the critical systems (based on the inspection records), detailed project progress, overall system condition, issues, recommendations, etc., ensuring timely delivery and coordination with other trades, if any. These will be led by the Account Representative. Meeting minutes, timelines, etc. will be published as required during the length of the project.
- c. The MGCB representative, will work with the Vendor to oversee construction activities, timelines, and billings associated with the project.

**5. Section 1.042 – Reporting is hereby replaced with the following:**

- a. All required reports shall be submitted to MGCB, via email, in .PDF format, within the contractual timeframe specified.
  - i) Reports and timeframes include but are not limited to:

- (1) Monthly – Preventative maintenance inspections, approved by MGCB on-site staff, and billable time reports
- (2) Bi-weekly – Project progress meetings
- (3) Quarterly – Summary of all services performed for the quarter, including a review of any charges
- (4) Bi-annually – Fully supported report regarding overall condition of the security system.

**6. Attachment A has been revised to include the following:**

a. Monthly pricing has been modified to reflect a 10% reduction, as follows:

Lansing Building (Lottery)	\$1,793.94
Cadillac Building	\$2,434.30
Motor City Casino	\$1,045.84
MGM Grand Casino	\$ 994.85
Greek Town Casino	<u>\$ 644.90</u>

**Total Monthly Price: \$6,913.83**

b. Service Level Agreement Incentives:

- i) Failure to provide response to any/all service locations for critical issues within four hours:
  - (1) 1st instance per month: 10% discount on overall monthly maintenance fee for that month.
  - (2) More than one instance per month: 25% discount on overall monthly maintenance fee for that month.
- ii) Failure to conduct monthly preventive maintenance in its entirety:
  - (1) 25% discount on overall monthly maintenance fee for that month.
- iii) Failure to advise MGCB of any potential failures of the security or entry access systems within four hours of discovery.
  - (1) 25% discount on overall monthly maintenance fee for that month.
- iv) Failure to provide all deliverables as required by the contract in any month:
  - (1) 1<sup>st</sup> instance per month: 10% discount on overall monthly maintenance fee for that month.
  - (2) More than one instance per month: 25% discount on overall monthly maintenance fee for that month.

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 525 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 2**  
 to  
**CONTRACT NO. 071B0200272**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Camtronics Communication Company 18655 W. Eight Mile Road Detroit MI 48219	Mark Wellman	18655mw@camsecure.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	313-538-1780	5163

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	MGCB	Marina Kotsifis	517-241-0347	kotsifism@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Melissa Sambiago	517-284-7016	sambiagiom@michigan.gov

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Security System Maintenance and Repair				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
8/1/2010	7/31/2015	2 – one year	7/31/2015	
PAYMENT TERMS	F.O.B.	SHIPPED TO		
45 Days	N/A	N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				

DESCRIPTION OF CHANGE NOTICE				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		7/31/2015
CURRENT VALUE		VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE	
\$493,308.04		\$9,895.92	\$503,203.96	

**DESCRIPTION:**  
 Effective May 11, 2015, this contract is hereby increased by \$9,895.92 to address video retention requirements, for MGCB's use. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 525 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 1**  
 to  
**CONTRACT NO. 071B0200272**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Camtronics Communication Company 18655 W. 6 Mile Road Detroit MI 48219	Mark Wellman	18655mw@camsecure.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	313-538-1780	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
<b>CONTRACT COMPLIANCE INSPECTOR</b>	MGCB	Marina Kotsifis	517-241-0347	kotsifism@michigan.gov
<b>BUYER</b>	DTMB	Melissa Sambiago	517-284-7016	sambiaGIom@michigan.gov

CONTRACT SUMMARY:				
DESCRIPTION: <b>Security System Maintenance and Repair</b>				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
08/1/2010	7/31/2015	2 – one year	07/31/2015	
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM	
45 Days	N/A	N/A	N/A	
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS:				
N/A				

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		07/31/2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
39,357.64		\$493,308.04		

Effective July 14, 2014, the contract is increased by \$39,357.64, to upgrade the current digital video software and applicable systems, making it Windows 7 compliant. Please note the buyer has been changed to Melissa Sambiago. All other terms, conditions, specifications and pricing remain the same. Per vendor and agency agreement and DTMB Procurement approval.

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

July 27, 2010

**NOTICE**  
**OF**  
**CONTRACT NO. 071B0200272**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR  <b>Camtronics Communication Company</b> <b>18655 W. 6 Mile Road</b> <b>Detroit, MI 48219</b>  Email: 18655mw@camsecure.com	TELEPHONE: Mark J. Wellman <b>(313) 538-1780</b>
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-6535 <b>William C. Walsh, CPPB</b>
Contract Compliance Inspector: <b>Security System Maintenance and Repair – Michigan Gaming Control Board</b>	
CONTRACT PERIOD: <b>5 yrs. + 2 one-year options</b> From: <b>August 1, 2010</b> To: <b>July 31, 2015</b>	
TERMS <b>5% - 10/Net 45</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>State Locations</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

The terms and conditions of this Contract are those of RFP #071I0200124, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: **\$453,950.40**

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

**CONTRACT NO. 071B0200272**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR  <b>Camtronics Communication Company</b> <b>18655 W. 6 Mile Road</b> <b>Detroit, MI 48219</b>  Email: 18655mw@camsecure.com	TELEPHONE: Mark J. Wellman <b>(313) 538-1780</b>  CONTRACTOR NUMBER/MAIL CODE  BUYER/CA (517) 373-6535 <b>William C. Walsh, CPPB</b>
Contract Compliance Inspector: <b>Security System Maintenance and Repair – Michigan Gaming Control Board</b>	
CONTRACT PERIOD: <b>5 yrs. + 2 one-year options</b> From: <b>August 1, 2010</b> To: <b>July 31, 2015</b>	
TERMS <p style="text-align: center;"><b>5% - 10/Net 45</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>State Locations</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: <b>The terms and conditions of this Contract are those of RFP #071I0200124, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</b>  <b>Estimated Contract Value: \$453,950.40</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of Request for Proposal 071I0200124. A Purchase Order Form will be issued only as the requirements of the State Departments are submitted to Purchasing Operations. Orders for delivery may be issued directly by the State Departments through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

**FOR THE CONTRACTOR:**

**Camtronics Communication Company**  
 \_\_\_\_\_  
 Firm Name

\_\_\_\_\_  
 Authorized Agent Signature

\_\_\_\_\_  
 Authorized Agent (Print or Type)

\_\_\_\_\_  
 Date

**FOR THE STATE:**

\_\_\_\_\_  
 Signature  
**William C. Walsh, Buyer Manager**  
 \_\_\_\_\_  
 Name/Title  
**Commodities Division, Purchasing Operations**  
 \_\_\_\_\_  
 Division

\_\_\_\_\_  
 Date



Table of Contents

**DEFINITIONS**..... 15

**Article 1 – Statement of Work (SOW)**..... 17

**1.010 Project Identification**..... 17

        1.11 Project Request..... 17

        1.12 Background ..... 17

**1.020 Scope of Work and Deliverables**..... 17

        1.021 In Scope..... 17

        1.022 Work and Deliverable..... 18

**1.030 Roles and Responsibilities**..... 18

        1.031 Contractor Staff, Roles, and Responsibilities ..... 18

**1.040 Project Plan**..... 18

        1.041 Project Plan Management..... 18

        1.042 Reports..... 19

**1.050 Acceptance**..... 19

        1.051 Criteria..... 19

        1.052 Final Acceptance ..... 19

**1.060 Proposal Pricing**..... 19

        1.061 Proposal Pricing..... 19

        1.062 Price Term ..... 20

        1.063 Tax Excluded from Price..... 20

**1.070 Additional Requirements** ..... 20

        1.071 Additional Terms and Conditions specific to this RFP – Deleted – Not Applicable..... 20

**Article 2, Terms and Conditions**..... 21

**2.000 Contract Structure and Term**..... 21

        2.001 Contract Term..... 21

        2.002 Options to Renew ..... 21

        2.003 Legal Effect ..... 21

        2.004 Attachments & Exhibits ..... 21

        2.005 Ordering..... 21

        2.006 Order of Precedence ..... 21

        2.007 Headings..... 21

        2.008 Form, Function & Utility – Deleted – Not Applicable ..... 21

        2.009 Reformation and Severability ..... 22

        2.010 Consents and Approvals ..... 22

        2.011 No Waiver of Default ..... 22

        2.012 Survival ..... 22

**2.020 Contract Administration**..... 22

        2.021 Issuing Office ..... 22

        2.022 Contract Compliance Inspector ..... 22

        2.023 Project Manager- Deleted – Not Applicable..... 22

        2.024 Change Requests ..... 23

        2.025 Notices..... 23

        2.026 Binding Commitments..... 23

        2.027 Relationship of the Parties..... 23

        2.028 Covenant of Good Faith ..... 23

        2.029 Assignments ..... 24

**2.030 General Provisions**..... 24

        2.031 Media Releases..... 24

        2.032 Contract Distribution ..... 24

        2.033 Permits..... 24

        2.034 Website Incorporation ..... 24

        2.035 Future Bidding Preclusion..... 24

        2.036 Freedom of Information ..... 24

        2.037 Disaster Recovery..... 24

**2.040 Financial Provisions**..... 25



2.041	Fixed Prices for Services/Deliverables .....	25
2.042	Adjustments for Reductions in Scope of Services/Deliverables .....	25
2.043	Services/Deliverables Covered .....	25
2.044	Invoicing and Payment – In General .....	25
2.045	Pro-ration .....	25
2.046	Antitrust Assignment .....	25
2.047	Final Payment .....	26
2.048	Electronic Payment Requirement .....	26
<b>2.050</b>	<b>Taxes</b> .....	26
2.051	Employment Taxes .....	26
2.052	Sales and Use Taxes .....	26
<b>2.060</b>	<b>Contract Management</b> .....	26
2.061	Contractor Personnel Qualifications .....	26
2.062	Contractor Key Personnel (See article 1.031) .....	26
2.063	Re-assignment of Personnel at the State’s Request .....	26
2.064	Contractor Personnel Location .....	27
2.065	Contractor Identification .....	27
2.066	Cooperation with Third Parties .....	27
2.068	Contract Management Responsibilities .....	27
<b>2.070</b>	<b>Subcontracting by Contractor</b> .....	27
2.071	Contractor Full Responsibility .....	27
2.072	State Consent to Delegation .....	27
2.073	SubContractor Bound to Contract .....	27
2.074	Flow Down .....	28
2.075	Competitive Selection .....	28
<b>2.080</b>	<b>State Responsibilities</b> .....	28
2.081	Equipment – Deleted – Not Applicable .....	28
2.082	Facilities .....	28
<b>2.090</b>	<b>Security</b> .....	28
2.091	Background Checks .....	28
2.092	Security Breach Notification .....	28
<b>2.100</b>	<b>Confidentiality</b> .....	29
2.101	Confidentiality .....	29
2.102	Protection and Destruction of Confidential Information .....	29
2.103	Exclusions .....	29
2.104	No Implied Rights .....	29
2.105	Respective Obligations .....	29
<b>2.110</b>	<b>Records and Inspections</b> .....	30
2.111	Inspection of Work Performed .....	30
2.112	Examination of Records .....	30
2.113	Retention of Records .....	30
2.114	Audit Resolution .....	30
2.115	Errors .....	30
<b>2.120</b>	<b>Warranties</b> .....	30
2.121	Warranties and Representations .....	30
2.122	Warranty of Merchantability .....	31
2.123	Warranty of Fitness for a Particular Purpose .....	31
2.124	Warranty of Title .....	31
2.125	Equipment Warranty .....	31
2.126	Equipment to be New .....	32
2.127	Prohibited Products .....	32
2.128	Consequences For Breach .....	32
<b>2.130</b>	<b>Insurance</b> .....	32
2.131	Liability Insurance .....	32
2.132	SubContractor Insurance Coverage .....	34
2.133	Certificates of Insurance and Other Requirements .....	34
<b>2.140</b>	<b>Indemnification</b> .....	34
2.141	General Indemnification .....	34
2.142	Code Indemnification .....	34



2.143	Employee Indemnification .....	34
2.144	Patent/Copyright Infringement Indemnification.....	34
2.145	Continuation of Indemnification Obligations .....	35
2.146	Indemnification Procedures.....	35
<b>2.150</b>	<b>Termination/Cancellation .....</b>	<b>36</b>
2.151	Notice and Right to Cure.....	36
2.152	Termination for Cause.....	36
2.153	Termination for Convenience.....	36
2.154	Termination for Non-Appropriation.....	37
2.155	Termination for Criminal Conviction.....	37
2.156	Termination for Approvals Rescinded.....	37
2.157	Rights and Obligations upon Termination.....	37
2.158	Reservation of Rights .....	38
<b>2.160</b>	<b>Termination by Contractor.....</b>	<b>38</b>
2.161	Termination by Contractor .....	38
<b>2.170</b>	<b>Transition Responsibilities.....</b>	<b>38</b>
2.171	Contractor Transition Responsibilities .....	38
2.172	Contractor Personnel Transition.....	38
2.173	Contractor Information Transition.....	38
2.174	Contractor Software Transition .....	38
2.175	Transition Payments .....	39
2.176	State Transition Responsibilities .....	39
<b>2.180</b>	<b>Stop Work .....</b>	<b>39</b>
2.181	Stop Work Orders.....	39
2.182	Cancellation or Expiration of Stop Work Order.....	39
2.183	Allowance of Contractor Costs.....	39
<b>2.190</b>	<b>Dispute Resolution .....</b>	<b>39</b>
2.191	In General.....	39
2.192	Informal Dispute Resolution .....	40
2.193	Injunctive Relief.....	40
2.194	Continued Performance.....	40
<b>2.200</b>	<b>Federal and State Contract Requirements.....</b>	<b>40</b>
2.201	Nondiscrimination .....	40
2.202	Unfair Labor Practices.....	40
2.203	Workplace Safety and Discriminatory Harassment.....	41
2.204	Prevailing Wage – Deleted – Not Applicable.....	41
<b>2.210</b>	<b>Governing Law.....</b>	<b>41</b>
2.211	Governing Law.....	41
2.212	Compliance with Laws .....	41
2.213	Jurisdiction .....	41
<b>2.220</b>	<b>Limitation of Liability .....</b>	<b>41</b>
2.221	Limitation of Liability .....	41
<b>2.230</b>	<b>Disclosure Responsibilities.....</b>	<b>41</b>
2.231	Disclosure of Litigation.....	41
2.232	Call Center Disclosure – Deleted – Not Applicable.....	42
2.233	Bankruptcy .....	42
<b>2.240</b>	<b>Performance.....</b>	<b>42</b>
2.241	Time of Performance.....	42
2.243	Liquidated Damages - Deleted – Not Applicable.....	43
2.244	Excusable Failure .....	43
<b>2.250</b>	<b>Approval of Deliverables.....</b>	<b>44</b>
2.251	Delivery Responsibilities – Deleted – Not Applicable.....	44
2.252	Delivery of Deliverables – Deleted – Not Applicable.....	44
2.253	Testing – Deleted – Not Applicable .....	44
2.254	Approval of Deliverables, In General – Deleted – Not Applicable.....	44
2.255	Process For Approval of Written Deliverables – Deleted – Not Applicable.....	44
2.256	Process for Approval of Services .....	44
2.257	Process for Approval of Physical Deliverables – Deleted – Not Applicable.....	44
2.258	Final Acceptance .....	44



**2.260 Ownership** ..... 44

2.261 Ownership of Work Product by State – Deleted – Not Applicable ..... 44

2.262 Vesting of Rights – Deleted – Not Applicable ..... 44

2.263 Rights in Data – Deleted – Not Applicable ..... 44

2.264 Ownership of Materials – Deleted – Not Applicable..... 44

**2.270 State Standards** ..... 44

2.271 Existing Technology Standards ..... 44

2.272 Acceptable Use Policy..... 45

**2.280 Extended Purchasing** ..... 45

2.281 MIDEAL – Deleted – Not Applicable..... 45

**2.290 Environmental Provision** ..... 45

2.291 Environmental Provision ..... 45

**2.300 Other Provisions** ..... 46

2.311 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made  
Materials ..... 46

Attachment A – Equipment List/ Pricing Sheet



**DEFINITIONS**

**24x7x365** means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).

**Additional Service** means any Services within the scope of the Contract, but not specifically provided under any Statement of Work.

**Audit Period** means the seven year period following Contractor's provision of any work under the Contract.

**Bidder(s)** are those companies that submit a proposal in response to this RFP.

**Business Day** means any day other than a Saturday, Sunday or State-recognized legal holiday from 8:00am EST through 5:00pm EST unless otherwise stated.

**Blanket Purchase Order** is an alternate term for Contract and is used in the Plan Sponsors' computer system.

**CCI** means Contract Compliance Inspector.

**Days** means calendar days unless otherwise specified.

**Deleted – N/A** means that section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

**Deliverable** means physical goods and/or services required or identified in a Statement of Work.

**DTMB** means the Michigan Department of Technology, Management and Budget.

**Environmentally Preferable Products** means a product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to: those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

**Hazardous Material** means any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

**Incident** means any interruption in any function performed for the benefit of a Plan Sponsor.

**Key Personnel** means any personnel identified in **Section 1.031** as Key Personnel.

**New Work** means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, such that once added will result in the need to provide the Contractor with additional consideration. "New Work" does not include Additional Service.

**Ozone-depleting Substance** means any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

**Post-Consumer Waste** means any product generated by a business or consumer which has served its intended end use; and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.

**Post-Industrial Waste** means industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.

**Recycling** means the series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This



definition excludes the use of these materials as a fuel substitute or for energy production.

**Reuse** means using a product or component of municipal solid waste in its original form more than once.

**RFP** means a Request for Proposal designed to solicit proposals for services.

**Services** means any function performed for the benefit of the State.

**SLA** means Service Level Agreement.

**Source Reduction** means any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.

**State Location** means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.

**SubContractor** means a company selected by the Contractor to perform a portion of the Services, but does not include independent Contractors engaged by Contractor solely in a staff augmentation role.

**Unauthorized Removal** means the Contractor's removal of Key Personnel without the prior written consent of the State.

**Waste Prevention** means source reduction and reuse, but not recycling.

**Pollution Prevention** means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

**Work in Progress** means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

**Work Product** refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by the Contract.



**Article 1 – Statement of Work (SOW)**

**1.010 Project Identification**

**1.11 Project Request**

This Contract is for maintenance and repair services for the Michigan Gaming Control Board's (MGCB) security/access systems and associated equipment and software that are located in the MGCB's Lansing office, Cadillac Place offices, and the three Detroit casino offices.

**1.12 Background**

Public Act 69 of 1997 requires the MGCB to ensure the protection and privacy of records and information obtained in fulfilling the mandate to provide for the licensing, regulation, and control of casino gaming in the 3 Detroit casinos. Also, MGCB is required to ensure the safety and security of all equipment, devices, and information used in MGCB's laboratory. The laboratory is used to test electronic gaming devices to ensure compliance with the applicable requirements of Public Act 69 of 1997 before they are placed on the gaming floor. Obtaining security maintenance and repair services is essential in achieving this legal mandate.

The main office of the Michigan Gaming Control Board is located in Detroit in the Cadillac Place Building, along with the MGCB Laboratory, the MGCB Records Center, and the Michigan State Police Gaming Section. Additionally, the MGCB maintains secured offices in each of the three commercial casinos in Detroit and a satellite office in Lansing, Michigan. All of these areas are secured by the security/access systems.

The MGCB operates 24 hours a day and 365 days a year. The security/access systems must be operational 24x365 to provide protection and access to all systems and information to ensure compliance with the Gaming Control and Revenue Act.

**1.020 Scope of Work and Deliverables**

**1.021 In Scope**

The MGCB has security and entry access systems that are located in the MGCB's Lansing office, Cadillac Place offices, and the three Detroit casino offices. The security and entry access systems for all offices run off central servers located in the Lansing office.

The Contractor must:

- Service the complete security and entry access systems. This includes, but is not limited to: all equipment, systems, software, components, wiring, etc. currently used and any and all items that may be added to the systems(s) in the future. The service is intended to keep the system(s) and all associated components in good working order. Service shall also include preventative maintenance and adjustments based upon the specific needs of the individual components as determined by the vendor.
- Provide four hour response to any/all serviced locations of the MGCB for "critical" service calls. A "critical" service call would be a call for service for a situation in which function(s) of either the access or security systems are not working properly and in the opinion of the MGCB the lack of functionality: (1) limits the ability of the MGCB to control access to a serviced area (2) threatens or limits the ability of the MGCB to ensure the security a serviced area (3) does not allow the MGCB to maintain video surveillance of a serviced area.
- Provide next day response to serviced areas of the MGCB for non-critical service calls.
- Conduct a monthly preventative maintenance inspection of the systems to ensure they are working properly. The inspection must include an examination of the head end equipment rack, all support consoles, all main and remote sub-consoles, Each camera position must be reviewed for proper scene coverage and camera performance. The software, network, and connectivity to each component must be examined and verified as working properly with complete functionality. Necessary adjustments to system components should be made at this time.
- Advise the MGCB of potential failures of any part of the security and entry access systems or any of the components. Additionally, the vendor must advise the MGCB of technological or other improvements that may be used to enhance either of the systems.



**1.022 Work and Deliverable**

Contractor must provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

- Service, repair, or replace ("Service") the equipment, systems, software, components, wiring, or other items that make up the security and entry access systems of the MGCB. The "Service" is intended to keep the system(s) and all associated components in good working order. All functionality of the access and security systems (including but not limited to all equipment, systems software, and components) must operate as designed at all times. All "Service" of systems and/or components must be completed in reasonable timeframes as is common for this industry.
- The Contractor shall have available and utilize experienced technicians and staff to provide "Service" to systems and components in reasonable timeframes as described above. "Service" shall not be delayed nor be inadequate or incomplete due to lack of technicians and staff or lack of experience and knowledge of the staff and technicians.
- The Contractor must provide written summaries for all billable time that explain in reasonable detail the reason the work was performed, the work that was performed, the major tasks, the amount of time spent of each task, the individual costs of any materials used, and any follow-up activities that will need to take place.
- All work on the security and entry access systems of the MGCB other than service calls (as defined above) and the monthly preventative maintenance inspections (as defined above) must be pre-approved by the MGCB before work can begin.
- The Contractor must conduct monthly preventative maintenance inspections of the systems, as described above, to ensure they are working properly. The Contractor must provide a written summary that briefly indicates the inspections that were performed (to hardware, network, and software), any adjustments that were made, any abnormalities that were discovered, and any recommendations for system preventative maintenance or enhancements. At the discretion of the MGCB, the MGCB may have staff accompany the Contractors' staff during any portion of any inspection.
- The Contractor must notify the MGCB of scheduled equipment downtimes. All downtimes shall be reviewed and approved by the Deputy Director of Administration of the MGCB or appropriate designee.

**1.030 Roles and Responsibilities**

**1.031 Contractor Staff, Roles, and Responsibilities**

The Contractor contacts for this Contract are:

- Mark J. Wellman, President/CEO – Account Representative
- Brandon K. Hords – Project Manager
- Sjeree Murphy – Service Coordinator
- Edna Thompson – Office Manager – AR/Billing
- Scott Tosch – Installer
- Roger Armstrong – Service Technician
- Vince Ellavach – Service Technician
- Jeffrey Sieg – Service Technician
- Michael Ramsey – Combo Tech

**1.040 Project Plan**

**1.041 Project Plan Management**

As services are performed, quarterly meetings to discuss overall system condition / recommended upgrades will be held to review the current status of the critical systems (based on the inspection records). These will be lead by the Account Representative who will present what the recommendations are the cost associated with them and the time needed to implement the changes.



Installation services will be lead by the Project Manager, who will oversee the construction activities, timelines, billings and other duties associated with the project to ensure timely delivery and coordination with other trades. Meeting minutes, timelines, etc. will be published as required during the length of the project.

**1.042 Reports**

Written summaries of all services performed will be summarized for the quarter and a review of any charges will be made available.

**1.050 Acceptance**

**1.051 Criteria**

The following criteria will be used by the State to determine Acceptance of the Services or Deliverables provided under this SOW:

1. Prior to the start of the engagement the Contractor will provide Board staff with a detailed “scope of work” document defining the key aspects of the engagement that the Contractor will be required to complete. This document will include a cost estimate.
2. Monthly submission of the Contractor’s time spent on the engagement and the general breakdown of activities.
3. The Contractor must respond, within a mutually agreed upon timeframe, to required changes in the scope of the engagement including modifications to required completion dates or deployment of resources.
4. The Contractor must complete the engagement within the agreed upon timeframes and within the projected monetary budget.

**1.052 Final Acceptance**

Final Acceptance is when the Contractor can provide a proactive security system failure avoidance program that reduces the likelihood and severity of common system failures. In addition, on a bi-annual basis, the Contractor will deliver a concise and fully supported written report regarding the condition of the MGCB’s security systems.

**1.060 Proposal Pricing**

**1.061 Proposal Pricing**

The Michigan Gaming Control Board shall reimburse the Contractor for costs incurred based on the contract price structure and only for services authorized by the MGCB.

All invoices should reflect actual work done and shall include a detailed breakdown of the charges including the following: item worked on, staff name, staff position, staff rate, hours worked, dollar amount total by staff person and an invoice total. Invoices shall be submitted to MGCB on a monthly basis, the 15<sup>th</sup> day of the following month.

Travel reimbursement (if applicable) will made in accordance with State of Michigan travel policies and travel reimbursement rates.

All invoices must be submitted to the following address (failure to do so may result in late payment):

Michigan Gaming Control Board  
Attn: Robert Simon  
101 E. Hillsdale  
PO Box 30786  
Lansing, MI 48909

For authorized Services and Price List, see Attachment A.

Contractor’s out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State’s current travel reimbursement rates. See [www.michigan.gov/DTMB](http://www.michigan.gov/DTMB) for current rates.



**1.062 Price Term**

Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes must be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Purchasing Operations reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Purchasing Operations also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes must be firm for the remainder of the Contract period unless further revised at the end of the next 365-day period. Requests for price changes must be RECEIVED IN WRITING AT LEAST 10 DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the Contract may be cancelled. **The Contractor remains responsible for performing according to the Contract terms at the Contract price for all orders received before price revisions are approved or before the Contract is cancelled.**

**1.063 Tax Excluded from Price**

(a) Sales Tax: For purchases made directly by the State, the State is exempt from State and Local Sales Tax. Prices must not include the taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

(b) Federal Excise Tax: The State may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices must not include the Federal Excise Tax.

**1.064 Holdback – Deleted – Not Applicable**

**1.070 Additional Requirements**

**1.071 Additional Terms and Conditions specific to this RFP – Deleted – Not Applicable**



**Article 2, Terms and Conditions**

**2.000 Contract Structure and Term**

**2.001 Contract Term**

This Contract is for a period of 5 years beginning August 1, 2010 through July 31, 2015. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of this Contract, unless otherwise extended under this Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

**2.002 Options to Renew**

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. This Contract may be renewed for up to two additional one year periods.

**2.003 Legal Effect**

Contractor must show acceptance of this Contract by signing two copies of this Contract and returning them to the Contract Administrator. The Contractor must not proceed with the performance of the work to be done under this Contract, including the purchase of necessary materials, until both parties have signed this Contract to show acceptance of its terms, and the Contractor receives a Contract release/purchase order that authorizes and defines specific performance requirements.

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against this Contract has been issued.

**2.004 Attachments & Exhibits**

All Attachments and Exhibits affixed to any and all Statement(s) of Work, or appended to or referencing this Contract, are incorporated in their entirety and form part of this Contract.

**2.005 Ordering**

The State will issue a written Purchase Order, Blanket Purchase Order, or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown, however, the Contractor must furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities.

**2.006 Order of Precedence**

(a) This Contract, including any Statements of Work and Exhibits, to the extent not contrary to this Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005**.

(b) In the event of any inconsistency between the terms of this Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of this Contract, which may be modified or amended only by a formal Contract amendment.

**2.007 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.

**2.008 Form, Function & Utility – Deleted – Not Applicable**



**2.009 Reformation and Severability**

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

**2.010 Consents and Approvals**

Except as expressly provided otherwise in this Contract, if either party requires the consent or approval of the other party for the taking of any action under this Contract, the consent or approval must be in writing and must not be unreasonably withheld or delayed.

**2.011 No Waiver of Default**

If a party fails to insist upon strict adherence to any term of this Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of this Contract.

**2.012 Survival**

Any provisions of this Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, survive the expiration or termination of this Contract for any reason. Specific references to survival in this Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

**2.020 Contract Administration**

**2.021 Issuing Office**

This Contract is issued by the Department of Technology, Management and Budget, Purchasing Operations and the Michigan Gaming Control Board (collectively, including all other relevant State of Michigan departments and agencies, the "State"). Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. Purchasing Operations **is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of the Contract.** The Contractor Administrator within Purchasing Operations for the Contract is:

William C. Walsh, CPPB  
Purchasing Operations  
Department of Technology, Management and Budget  
Mason Bldg, 2nd Floor  
PO Box 30026  
Lansing, MI 48909  
Email: walshw@michigan.gov  
Phone: (517) 373-6535

**2.022 Contract Compliance Inspector**

After DTMB-Purchasing Operations receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations, in consultation with **MGCB** will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of this Contract as that authority is retained by DTMB Purchasing Operations.** The CCI for the Contract is:

Deputy Director of Administration  
Michigan Gaming Control Board  
101 East Hillsdale Street  
Phone: (517)  
Fax: (517) 241-0510

**2.023 Project Manager- Deleted – Not Applicable**



**2.024 Change Requests**

The State reserves the right to request, from time to time, any changes to the requirements and specifications of this Contract and the work to be performed by the Contractor under this Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

If the Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

Change Requests:

- (a) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").
- (b) No proposed Change may be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Technology, Management and Budget, Purchasing Operations.
- (c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of the Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect this Contract.

**2.025 Notices**

Any notice given to a party under this Contract must be deemed effective, if addressed to the State contact as noted in Section 2.021 and the Contractor's contact as noted on the cover page of the contract, 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 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.

Either party may change its address where notices are to be sent by giving notice according to this Section.

**2.026 Binding Commitments**

Representatives of Contractor must have the authority to make binding commitments on Contractor's behalf within the bounds set forth in this Contract. Contractor may change the representatives from time to time upon written notice.

**2.027 Relationship of the Parties**

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

**2.028 Covenant of Good Faith**

Each party must act reasonably and in good faith. Unless stated otherwise in this Contract, the parties must not unreasonably delay, condition, or withhold the giving of any consent, decision, or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under this Contract.



**2.029 Assignments**

(a) Neither party may assign this Contract, or assign or delegate any of its duties or obligations under this Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign this Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign this Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the requirements of the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on this Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under this Contract that all payments must be made to one entity continues.

(c) If the Contractor intends to assign this Contract or any of the Contractor's rights or duties under this Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

**2.030 General Provisions**

**2.031 Media Releases**

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and Contract or project to which it relates must 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 activities associated with the RFP and Contract are to be released without prior written approval of the State and then only to persons designated.

**2.032 Contract Distribution**

Purchasing Operations retains the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Purchasing Operations.

**2.033 Permits**

Contractor must obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State must pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

**2.034 Website Incorporation**

The State is not bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

**2.035 Future Bidding Preclusion**

Contractor acknowledges that, to the extent this Contract involves the creation, research, investigation or generation of a future RFP, it may be precluded from bidding on the subsequent RFP. The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Contractor, or as a Contractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a competitive advantage on the RFP

**2.036 Freedom of Information**

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq (the "FOIA").

**2.037 Disaster Recovery**

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under the Contract must provide the State with priority service for repair and work around in the event of a natural or man-made disaster.



**2.040 Financial Provisions**

**2.041 Fixed Prices for Services/Deliverables**

Each Statement of Work or Purchase Order issued under this Contract must specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

**2.042 Adjustments for Reductions in Scope of Services/Deliverables**

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties must negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope.

**2.043 Services/Deliverables Covered**

For all Services/Deliverables to be provided by Contractor (and its SubContractors, if any) under this Contract, the State must not be obligated to pay any amounts in addition to the charges specified in this Contract.

**2.044 Invoicing and Payment – In General**

(a) Each Statement of Work issued under this Contract must list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(b) Each Contractor invoice must show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis must show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.

(c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d) All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the CCI and the Contractor.

The specific payment schedule for this Contract will be mutually agreed upon by the State and the Contractor. The schedule must show payment amount and must reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy, statements must be forwarded to the designated representative by the 15th day of the following month.

The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the CCI, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

**2.045 Pro-ration**

To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services must be pro-rated for any partial month.

**2.046 Antitrust Assignment**

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.



**2.047 Final Payment**

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under this Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract must constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

**2.048 Electronic Payment Requirement**

Electronic transfer of funds is required for payments on State contracts. The Contractor must register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in 1984 PA 431, all contracts that the State enters into for the purchase of goods and services must provide that payment will be made by Electronic Fund Transfer (EFT).

**2.050 Taxes**

**2.051 Employment Taxes**

Contractors are expected to collect and pay all applicable federal, state, and local employment taxes.

**2.052 Sales and Use Taxes**

Contractors are required to be registered and to remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. Contractors that lack sufficient presence in Michigan to be required to register and pay tax must do so as a volunteer. This requirement extends to: (1) all members of any controlled group as defined in § 1563(a) of the Internal Revenue Code and applicable regulations of which the company is a member, and (2) all organizations under common control as defined in § 414(c) of the Internal Revenue Code and applicable regulations of which the company is a member that make sales at retail for delivery into the State are registered with the State for the collection and remittance of sales and use taxes. In applying treasury regulations defining "two or more trades or businesses under common control" the term "organization" means sole proprietorship, a partnership (as defined in § 701(a)(2) of the Internal Revenue Code), a trust, an estate, a corporation, or a limited liability company.

**2.060 Contract Management**

**2.061 Contractor Personnel Qualifications**

All persons assigned by Contractor to the performance of Services under this Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved SubContractor) and must be fully qualified to perform the work assigned to them. Contractor must include a similar provision in any subcontract entered into with a SubContractor. For the purposes of the Contract, independent Contractors engaged by Contractor solely in a staff augmentation role must be treated by the State as if they were employees of Contractor for the Contract only; however, the State understands that the relationship between Contractor and SubContractor is an independent Contractor relationship.

**2.062 Contractor Key Personnel (See article 1.031)**

**2.063 Re-assignment of Personnel at the State's Request**

The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.



**2.064 Contractor Personnel Location**

All staff assigned by Contractor to work on this Contract must perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel must, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

**2.065 Contractor Identification**

Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

**2.066 Cooperation with Third Parties**

Contractor must cause its personnel and the personnel of any SubContractors to cooperate with the State and its agents and other Contractors including the State's Quality Assurance personnel. As reasonably requested by the State in writing, the Contractor must provide to the State's agents and other Contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with the Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. The State acknowledges that Contractor's time schedule for the Contract is very specific and must not unnecessarily or unreasonably interfere with, delay, or otherwise impede Contractor's performance under this Contract with the requests for access.

**2.067 Contractor Return of State Equipment/Resources – Deleted – Not Applicable**

**2.068 Contract Management Responsibilities**

The Contractor must assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State considers the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, this Contract must include a list of SubContractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve SubContractors 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 the Contract. Any change in SubContractors must be approved by the State, in writing, prior to such change.

**2.070 Subcontracting by Contractor**

**2.071 Contractor Full Responsibility**

Contractor has full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under the Contract, including payment of any and all charges for Services and Deliverables.

**2.072 State Consent to Delegation**

Contractor must not delegate any duties under this Contract to a SubContractor unless the Department of Technology, Management and Budget, Purchasing Operations has given written consent to such delegation. The State reserves the right of prior written approval of all SubContractors and to require Contractor to replace any SubContractors found, in the reasonable judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement SubContractor(s) for the removed SubContractor must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed SubContractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed SubContractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted for a time agreed upon by the parties.

**2.073 SubContractor Bound to Contract**

In any subcontracts entered into by Contractor for the performance of the Services, Contractor must require the SubContractor, to the extent of the Services to be performed by the SubContractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing,



contained in such contracts before providing them to the State. The management of any SubContractor is the responsibility of Contractor, and Contractor must remain responsible for the performance of its SubContractors to the same extent as if Contractor had not subcontracted such performance. Contractor must make all payments to SubContractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any SubContractor engaged by Contractor to perform any obligation under this Contract will not relieve Contractor of any obligations or performance required under this Contract.

**2.074 Flow Down**

Except where specifically approved in writing by the State on a case-by-case basis, Contractor must flow down the obligations in **Sections 2.031, 2.060, 2.100, 2.110, 2.120, 2.130, 2.200** in all of its agreements with any SubContractors.

**2.075 Competitive Selection**

The Contractor must select SubContractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this Contract.

**2.080 State Responsibilities**

**2.081 Equipment – Deleted – Not Applicable**

**2.082 Facilities**

The State must designate space as long as it is available and as provided in the Statement of Work, to house the Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). The Contractor must have reasonable access to, and, unless agreed otherwise by the parties in writing, must observe and comply with all rules and regulations relating to each of the State Facilities (including hours of operation) used by the Contractor in the course of providing the Services. Contractor must not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for the Contractor's use, or to which the Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

**2.090 Security**

**2.091 Background Checks**

On a case-by-case basis, the State may investigate the Contractor's personnel before they may have access to State facilities and systems. The scope of the background check is at the discretion of the State and the results will be used to determine Contractor personnel eligibility for working within State facilities and systems. The investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/dit>. Furthermore, Contractor personnel must agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. The Contractor must present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff must comply with all Physical Security procedures in place within the facilities where they are working.

**2.092 Security Breach Notification**

If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State, in writing, any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by this Contract within 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

**2.093 PCI Data Security Requirements – Deleted – Not Applicable**



## **2.100 Confidentiality**

### **2.101 Confidentiality**

Contractor and the State each acknowledge that the other possesses, and will continue to possess, confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor must mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary, or with a similar designation. "Confidential Information" of the State must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under the Contract, is marked as confidential, proprietary, or with a similar designation by the State. "Confidential Information" excludes any information (including the Contract) that is publicly available under the Michigan FOIA.

### **2.102 Protection and Destruction of Confidential Information**

The State and Contractor must each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication, or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party must limit disclosure of the other party's Confidential Information to employees and SubContractors who must have access to fulfill the purposes of this Contract. Disclosure to, and use by, a SubContractor is permissible where (A) use of a SubContractor is authorized under the Contract, (B) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the SubContractor's scope of responsibility, and (C) Contractor obligates the SubContractor in a written Contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor and of any SubContractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the SubContractor's obligations under this Section and of the employee's obligation to Contractor or SubContractor, as the case may be, to protect the Confidential Information from unauthorized use or disclosure.

Promptly upon termination or cancellation of this Contract for any reason, Contractor must certify to the State that Contractor has destroyed all State Confidential Information.

### **2.103 Exclusions**

Notwithstanding the foregoing, the provisions of **Section 2.100** will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of **Section 2.100** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

### **2.104 No Implied Rights**

Nothing contained in this Section must be construed as obligating a party to disclose any particular Confidential Information to the other party, or as granting to or conferring on a party, expressly or impliedly, any right or license to the Confidential Information of the other party.

### **2.105 Respective Obligations**

The parties' respective obligations under this Section must survive the termination or expiration of the Contract for any reason.



**2.110 Records and Inspections**

**2.111 Inspection of Work Performed**

The State's authorized representatives must at all reasonable times and with 10 days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 10 Days prior written notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

**2.112 Examination of Records**

For seven years after the Contractor provides any work under this Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with this Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any SubContractor of Contractor performing services in connection with this Contract.

**2.113 Retention of Records**

Contractor must maintain at least until the end of the Audit Period, all pertinent financial and accounting records (including time sheets and payroll records, information pertaining to this Contract, and to the Services, equipment, and commodities provided under this Contract) pertaining to this Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records must be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

**2.114 Audit Resolution**

If necessary, the Contractor and the State will meet to review each audit report promptly after issuance. The Contractor must respond to each audit report in writing within 30 days from receipt of the report, unless a shorter response time is specified in the report. The Contractor and the State must develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in the audit report.

**2.115 Errors**

(a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of this Contract, whichever is earlier.

(b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than 10%, then the Contractor must pay all of the reasonable costs of the audit.

**2.120 Warranties**

**2.121 Warranties and Representations**

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under this Contract.

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.



- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to the Department of Technology, Management and Budget, Purchasing Operations.

**2.122 Warranty of Merchantability**

Goods provided by Contractor under this agreement must be merchantable. All goods provided under this Contract must be of good quality within the description given by the State, must be fit for their ordinary purpose, must be adequately contained and packaged within the description given by the State, must conform to the agreed upon specifications, and must conform to the affirmations of fact made by the Contractor or on the container or label.

**2.123 Warranty of Fitness for a Particular Purpose**

When the Contractor has reason to know or knows any particular purpose for which the goods are required, and the State is relying on the Contractor's skill or judgment to select or furnish suitable goods, there is a warranty that the goods are fit for such purpose.

**2.124 Warranty of Title**

Contractor must, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by Contractor must be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Goods provided by Contractor, under this Contract, must be delivered free of any rightful claim of any third person by of infringement or the like.

**2.125 Equipment Warranty**

To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor must maintain the equipment/system(s) in good operating condition and must undertake all repairs and preventive maintenance according to the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) are in good operating condition and operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of one year commencing upon the first day following Final Acceptance.

Within 30 business days of notification from the State, the Contractor must adjust, repair or replace all equipment that is defective or not performing in compliance with this Contract. The Contractor must assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.



The Contractor must provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract must be performed by Original Equipment Manufacturer (OEM) trained, certified and authorized technicians.

The Contractor is the sole point of contact for warranty service. The Contractor warrants that it will pass through to the State any warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

All warranty work must be performed on the State of Michigan worksite(s).

**2.126 Equipment to be New**

If applicable, all equipment provided under this Contract by Contractor must be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

**2.127 Prohibited Products**

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against this Contract, is considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of this Contract by the State. The brand and product number offered for all items must remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.024**.

**2.128 Consequences For Breach**

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in this section, the breach may be considered as a default in the performance of a material obligation of this Contract.

**2.130 Insurance**

**2.131 Liability Insurance**

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must protect the State from claims which may arise out of or result from the Contractor's performance of Services under the terms of this Contract, whether the Services are performed by the Contractor, or by any SubContractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain under this Contract.

All insurance coverage's provided relative to this Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance must be written for not less than any minimum coverage specified in the Contract or required by law, whichever is greater.

The insurers selected by Contractor must have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if the ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in the Contract must be issued by companies that have been approved to do business in the State. See [www.michigan.gov/deleg](http://www.michigan.gov/deleg).

Where specific limits are shown, they are the minimum acceptable limits. If Contractor's policy contains higher limits, the State must be entitled to coverage to the extent of the higher limits.



The Contractor is required to pay for and provide the type and amount of insurance checked  below:

- 1. Commercial General Liability with the following minimum coverage:
  - \$2,000,000 General Aggregate Limit other than Products/Completed Operations
  - \$2,000,000 Products/Completed Operations Aggregate Limit
  - \$1,000,000 Personal & Advertising Injury Limit
  - \$1,000,000 Each Occurrence Limit

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

- 2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

- 3. Workers' compensation coverage must be provided according to applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision must not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

- 4. Employers liability insurance with the following minimum limits:
  - \$100,000 each accident
  - \$100,000 each employee by disease
  - \$500,000 aggregate disease

- 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its SubContractors, acting alone or in collusion with others, in a minimum amount of \$1,000,000.00 with a maximum deductible of \$50,000.00.

- 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which must apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

- 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: \$3,000,000.00 each occurrence and \$3,000,000.00 annual aggregate.

- 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under the Contract, and the equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State must be endorsed on the policy as a loss payee as its interests appear.



**2.132 SubContractor Insurance Coverage**

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its SubContractors under the Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those SubContractors. Alternatively, Contractor may include any SubContractors under Contractor’s insurance on the coverage required in this Section. SubContractor must fully comply with the insurance coverage required in this Section. Failure of SubContractor to comply with insurance requirements does not limit Contractor’s liability or responsibility.

**2.133 Certificates of Insurance and Other Requirements**

Contractor must furnish to DTMB-Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the “Certificates”). The Certificate must be on the standard “accord” form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverages afforded under the policies **MUST NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED** without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Technology, Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer’s attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

The Contractor must maintain all required insurance coverage throughout the term of this Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three years following the expiration or termination for any reason of the Contract. The minimum limits of coverage specified above are not intended, and must not be construed, to limit any liability or indemnity of Contractor under the Contract to any indemnified party or other persons. Contractor is responsible for all deductibles with regard to the insurance. If the Contractor fails to pay any premium for required insurance as specified in the Contract, or if any insurer cancels or significantly reduces any required insurance as specified in the Contract without the State’s written consent, then the State may, after the State has given the Contractor at least 30 days written notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

**2.140 Indemnification**

**2.141 General Indemnification**

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys’ fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of the Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its SubContractors, or by anyone else for whose acts any of them may be liable.

**2.142 Code Indemnification**

To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor’s breach of the No Surreptitious Code Warranty.

**2.143 Employee Indemnification**

In any claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its SubContractors, the indemnification obligation under this Contract must not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its SubContractors under worker’s disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

**2.144 Patent/Copyright Infringement Indemnification**



To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that the action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its SubContractors, or the operation of the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the option is not reasonably available to the Contractor, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if the option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Contractor has no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract.

**2.145 Continuation of Indemnification Obligations**

The Contractor's duty to indemnify under this Section continues in full force and effect, notwithstanding the expiration or early cancellation of this Contract, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

**2.146 Indemnification Procedures**

The procedures set forth below must apply to all indemnity obligations under this Contract.

(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State



under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State may defend the claim in the manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor must promptly reimburse the State for all the reasonable costs and expenses.

**2.150 Termination/Cancellation**

**2.151 Notice and Right to Cure**

If the Contractor breaches this Contract, and the State, in its sole discretion, determines that the breach is curable, then the State must provide the Contractor with written notice of the breach and a time period (not less than 30 days) to cure the Breach. The notice of breach and opportunity to cure is inapplicable for successive or repeated breaches or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

**2.152 Termination for Cause**

(a) The State may terminate this Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State

(b) If this Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating the Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract.

(c) If the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

(d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

**2.153 Termination for Convenience**

The State may terminate this Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in this Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least 30 days before the date of termination. If the State chooses to terminate the Contract in part, the charges payable under the Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.



**2.154 Termination for Non-Appropriation**

(a) 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 Contract. If funds to enable the State to effect continued payment under the Contract are not appropriated or otherwise made available, the State must terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).

(b) If funding for this Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

(c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

**2.155 Termination for Criminal Conviction**

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense related to a State, public or private Contract or subcontract.

**2.156 Termination for Approvals Rescinded**

The State may terminate this Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State must pay the Contractor for only the work completed to that point under this Contract. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in the written notice.

**2.157 Rights and Obligations upon Termination**

(a) If the State terminates this Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from the Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of this Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under the Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under the Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.



(c) Upon a good faith termination, the State may assume, at its option, any subcontracts and agreements for Services and Deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

**2.158 Reservation of Rights**

Any termination of this Contract or any Statement of Work issued under it by a party must be with full reservation of, and without prejudice to, any rights or remedies otherwise available to the party with respect to any claims arising before or as a result of the termination.

**2.160 Termination by Contractor**

**2.161 Termination by Contractor**

If the State breaches this Contract, and the Contractor in its sole discretion determines that the breach is curable, then the Contractor will provide the State with written notice of the breach and a time period (not less than 30 days) to cure the breach. The Notice of Breach and opportunity to cure is inapplicable for successive and repeated breaches.

The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.190** before it terminates this Contract.

**2.170 Transition Responsibilities**

**2.171 Contractor Transition Responsibilities**

If the State terminates this Contract, for convenience or cause, or if this Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If this Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 30 business days. These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

**2.172 Contractor Personnel Transition**

The Contractor must work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties to effect an orderly transition. The Contractor must allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's SubContractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's SubContractors or vendors. Contractor must notify all of Contractor's subContractors of procedures to be followed during transition.

**2.173 Contractor Information Transition**

The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under this Contract. The Contractor must provide the State with asset management data generated from the inception of this Contract through the date on which the Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor must deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

**2.174 Contractor Software Transition**

The Contractor must reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This must include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses must, upon expiration of this Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.



**2.175 Transition Payments**

If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates agreed upon by the State. The Contractor must prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

**2.176 State Transition Responsibilities**

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

- (a) Reconciling all accounts between the State and the Contractor;
- (b) Completing any pending post-project reviews.

**2.180 Stop Work**

**2.181 Stop Work Orders**

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by this Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.

**2.182 Cancellation or Expiration of Stop Work Order**

The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and this Contract must be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of this Contract; and (b) Contractor asserts its right to an equitable adjustment within 30 calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment must conform to the requirements of **Section 2.024**.

**2.183 Allowance of Contractor Costs**

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.180**.

**2.190 Dispute Resolution**

**2.191 In General**

Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to this Contract or any Statement of Work must be resolved as follows. For all Contractor claims seeking an increase in the amounts payable to Contractor under this Contract, or the time for Contractor's performance, Contractor must submit a letter, together with all data supporting the claims, executed by Contractor's Contract Administrator or the Contract Administrator's designee certifying that (a) the claim is made in good faith, (b) the amount claimed accurately reflects the adjustments in the amounts payable to Contractor or the time for Contractor's performance for which Contractor believes the State is liable and covers all costs of every type to which Contractor is entitled from the occurrence of the claimed event, and (c) the claim and the supporting data are current and complete to Contractor's best knowledge and belief.



**2.192 Informal Dispute Resolution**

- (a) All disputes between the parties must be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DTMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:
  - (i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
  - (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract must be honored in order that each of the parties may be fully advised of the other's position.
  - (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
  - (iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.
- (b) This Section must not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.193**.
- (c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

**2.193 Injunctive Relief**

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.192** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

**2.194 Continued Performance**

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment must not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.150**, as the case may be.

**2.200 Federal and State Contract Requirements**

**2.201 Nondiscrimination**

In the performance of this Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her 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, or physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of this Contract or any purchase order resulting from this Contract must contain a provision requiring non-discrimination in employment, as specified here, binding upon each SubContractor. This covenant is required under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., and any breach of this provision may be regarded as a material breach of this Contract.

**2.202 Unfair Labor Practices**

Under 1980 PA 278, MCL 423.321, et seq., the State must 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 under 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, must not enter into a contract with a SubContractor, manufacturer, or supplier whose name appears in this register. Under Section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of this Contract, the name of Contractor as an employer or the name of the SubContractor, manufacturer or supplier of Contractor appears in the register.



**2.203 Workplace Safety and Discriminatory Harassment**

In performing Services for the State, the Contractor must comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor must comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see <http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html>.

**2.204 Prevailing Wage – Deleted – Not Applicable**

**2.210 Governing Law**

**2.211 Governing Law**

This Contract must in all respects be governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

**2.212 Compliance with Laws**

Contractor must comply with all applicable state, federal and local laws and ordinances in providing the Services/Deliverables.

**2.213 Jurisdiction**

Any dispute arising from this Contract must be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to the jurisdiction on the grounds of lack of personal jurisdiction of the court or the laying of venue of the court or on the basis of forum non conveniens or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

**2.220 Limitation of Liability**

**2.221 Limitation of Liability**

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of the Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

**2.230 Disclosure Responsibilities**

**2.231 Disclosure of Litigation**

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each SubContractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each SubContractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any SubContractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any SubContractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any SubContractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

(b) Assurances. If any Proceeding disclosed to the State under this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:

- (i) the ability of Contractor (or a SubContractor) to continue to perform the Contract according to its terms and conditions, or



- (ii) whether Contractor (or a SubContractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of the Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
  - (a) Contractor and its SubContractors must be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and
  - (b) Contractor and its SubContractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.
- (c) Contractor must make the following notifications in writing:
  - (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DTMB Purchasing Operations.
  - (2) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
  - (3) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to company affiliations occur.

**2.232 Call Center Disclosure – Deleted – Not Applicable**

**2.233 Bankruptcy**

The State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the “Work in Process” and finish the Works in Process by whatever appropriate method the State may deem expedient if:

- (a) the Contractor files for protection under the bankruptcy laws;
- (b) an involuntary petition is filed against the Contractor and not removed within 30 days;
- (c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;
- (d) the Contractor makes a general assignment for the benefit of creditors; or
- (e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under the Contract.

Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

**2.240 Performance**

**2.241 Time of Performance**

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.
- (b) Without limiting the generality of **Section 2.241(a)**, Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.
- (c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

**2.242 Service Level Agreements (SLAs)**

- (a) SLAs will be completed with the following operational considerations:
  - (i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
  - (ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.



(iii) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.

(iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:

1. Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
2. Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) is defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service must not affect any tiered pricing levels.

(c) Root Cause Analysis must be performed on any business critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor must provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.

(d) All decimals must be rounded to two decimal places, with five and greater rounding up and four and less rounding down, unless otherwise specified.

#### **2.243 Liquidated Damages - Deleted – Not Applicable**

#### **2.244 Excusable Failure**

Neither party will be liable for any default, damage, or delay in the performance of its obligations under this Contract to the extent the default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military, or otherwise), power failure, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of a party; provided the non-performing party and its SubContractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

If a party does not perform its contractual obligations for any of the reasons listed above, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. but the party must use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. A party must promptly notify the other party in writing immediately after the excusable failure occurs, and also when it abates or ends.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 10 Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.



The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its SubContractors will not relieve Contractor of its obligations under the Contract except to the extent that a SubContractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the SubContractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

**2.250 Approval of Deliverables**

**2.251 Delivery Responsibilities – Deleted – Not Applicable**

**2.252 Delivery of Deliverables – Deleted – Not Applicable**

**2.253 Testing – Deleted – Not Applicable**

**2.254 Approval of Deliverables, In General – Deleted – Not Applicable**

**2.255 Process For Approval of Written Deliverables – Deleted – Not Applicable**

**2.256 Process for Approval of Services**

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the Contractor a notice of deficiencies, the Contractor must correct the described deficiencies and within 30 Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts must be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State must have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

**2.257 Process for Approval of Physical Deliverables – Deleted – Not Applicable**

**2.258 Final Acceptance**

Unless otherwise stated in the Article 1, Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable must occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.251-2.257**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

**2.260 Ownership**

**2.261 Ownership of Work Product by State – Deleted – Not Applicable**

**2.262 Vesting of Rights – Deleted – Not Applicable**

**2.263 Rights in Data – Deleted – Not Applicable**

**2.264 Ownership of Materials – Deleted – Not Applicable**

**2.270 State Standards**

**2.271 Existing Technology Standards**

The Contractor must adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://www.michigan.gov/dit>.



**2.272 Acceptable Use Policy**

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/ditservice>. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

**2.273 Systems Changes**

Contractor is not responsible for and not authorized to make changes to any State systems without written authorization from the Project Manager. Any changes Contractor makes to State systems with the State's approval must be done according to applicable State procedures, including security, access, and configuration management procedures.

**2.280 Extended Purchasing**

**2.281 MIDEAL – Deleted – Not Applicable**

**2.282 State Employee Purchases – Deleted – Not Applicable**

**2.290 Environmental Provision**

**2.291 Environmental Provision**

Hazardous Materials:

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, and any other material the manufacture, use, treatment, storage, transportation, or disposal of which is regulated by the federal, State, or local laws governing the protection of the public health, natural resources, or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act.

(a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State, and local laws. The State must provide a safe and suitable environment for performance of Contractor's Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor must immediately stop all affected Work, notify the State in writing about the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.242** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).



Michigan has a Consumer Products Rule pertaining to labeling of certain products containing volatile organic compounds. For specific details visit [http://www.michigan.gov/deq/0,1607,7-135-3310\\_4108-173523--,00.html](http://www.michigan.gov/deq/0,1607,7-135-3310_4108-173523--,00.html)

**Refrigeration and Air Conditioning:**

The Contractor must comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to the Contract.

**Environmental Performance:**

Waste Reduction Program: Contractor must establish a program to promote cost-effective waste reduction in all operations and facilities covered by this Contract. The Contractor's programs must comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.).

**2.300 Other Provisions**

**2.311 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials**

Equipment, materials, or supplies, that will be furnished to the State under this Contract must not be produced in whole or in part by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service: exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.



**Attachment A,**  
**Equipment List/ Pricing Sheet**

**Lansing Building (Lottery)**

<b>Description</b>	<b>Price / Each</b>
1 Nextiva Master Server	\$ <u>276.08</u>
1 Nextiva ESM	\$ <u>141.08</u>
1 Nexsan 24TB RAID	\$ <u>168.13</u>
1 Nextiva Master Software	\$ <u>182.08</u>
1 ESM Software	\$ <u>92.60</u>
3 Nextiva Review	\$ <u>18.17</u>
3 Nextiva Review Station	\$ <u>21.13</u>
1 Alarm Server Software with integration	\$ <u>47.60</u>
1 16 Port Network Switch	\$ <u>24.58</u>
1 Nextiva Recorder	\$ <u>48.13</u>
4 19" VGA Monitors	\$ <u>18.22</u>
4 Keyboards	\$ <u>4.50</u>
4 Mouse	\$ <u>4.50</u>
1 System Interface Monitor Software	\$ <u>45.35</u>
1 Access Control Server	\$ <u>48.13</u>
1 Secure Perfect	\$ <u>47.08</u>
1 DMP Software System Link	\$ <u>9.35</u>
1 DMP Software Remote Link	\$ <u>9.35</u>
1 Verint, Ethernet Encoder	\$ <u>12.47</u>
1 Power Supply, 12VDC 3A for Ver 1700 Series Encdrs	\$ <u>9.09</u>
6 Camera S/W License Verint One	\$ <u>9.14</u>
6 Fixed 1/3" Color Camera	\$ <u>23.47</u>
1 M3000PXNplus,	\$ <u>22.34</u>
1 M3000 Rack Mount Kit	\$ _____
1 8Rp Board	\$ <u>20.08</u>
1 Access Control Power Supply	\$ <u>9.26</u>
6 Prox Card Reader	\$ <u>9.31</u>
6 Door Strikes	\$ <u>18.43</u>
6 PIR, Request To Exit, Light Grey Finish	\$ <u>1.94</u>
1 Lock Power Supply	\$ <u>9.43</u>
12 Magnetic Contact Steel Door, Brown	\$ <u>9.03</u>
1 16 Port Network Switch	\$ <u>24.58</u>
1 DMP Panel	\$ <u>19.39</u>
1 DMP Keypad	\$ <u>9.00</u>
1 Multi-Camera Power Supply	\$ <u>9.21</u>

**Monthly Maintenance Fee: \$ 1,993.27**

**Service Call Fee Per Hour: \$ 125.00**



**Cadillac Building**

Description	Price / Each
6 12v 7amp hour battery	\$ 1.88
1 9" monitor	\$ 11.78
29 Prox Card Reader	\$ 9.31
1 AD Quad	\$ 23.21
1 AI 400 Altronix ps	\$ 9.21
1 Alarm Interface	\$ 47.78
2 Alarm SAF rm248	\$ 9.21
1 Altronix ps 12vdc	\$ 9.21
1 APC UPS 750	\$ 20.08
4 Battery backup ps	\$ 20.08
1 BS1016 digital design solutions board	\$ 94.17
4 Camera Power Supplies	\$ 9.21
2 Dell 2716 switch	\$ 24.58
1 Dell poweredge R300	\$ 48.13
1 DMP panel xr500 with keypad	\$ 19.39
1 DMP XR500 panel with keypad	\$ 19.39
29 Door Strikes	\$ 18.43
30 Fixed 1/3" Color Camera	\$ 23.47
1 Kalatel KTD348	\$ 23.19
3 Kalatel KTS-250-16	\$ 11.78
4 Lock Power Supply	\$ 9.43
1 Macfi mpeg audio recorder/player	\$ 26.67
1 Articulate Alarm Notification System	\$ 51.94
4 Micro 5 panels	\$ 22.34
2 Milan rc3112 ethernet to fiber	\$ 19.04
4 Panel Power Supplies	\$ 9.26
1 Pelco Quad	\$ 23.21
29 PIR Exit Request Detectors	\$ 1.94
2 Power one PS 12vdc	\$ 9.09
6 Verint S1708e	\$ 12.47
4 Verint S1708e	\$ 12.47
14 Glass Break Detector	\$ 9.94

**Monthly Maintenance Fee: \$ 2,704.78**

**Service Call Fee Per Hour: \$ 125.00**



**Motor City**

	<b>Description</b>	<b>Price / Each</b>
2	12vdc ps444	\$ 9.21
2	Access Control Panel	\$ 22.34
16	Prox Card Reader	\$ 9.31
1	Altronix	\$ 9.21
1	apc ups 750	\$ 20.08
4	Camera Power Supplies	\$ 9.21
1	Cisco SD205 switch	\$ 24.58
16	Door Strikes	\$ 18.43
1	kts-250-16 vda	\$ 11.78
2	Lock Power Supplies	\$ 9.43
2	Micro 5 panel	\$ 22.34
1	Network Switch	\$ 24.58
1	Omnitron systems fm2284 ethernet to fiber	\$ 19.04
2	Panel Power Supplies	\$ 9.26
16	PIR Exit Request Detectors	\$ 1.94
1	Dell poweredge 860	\$ 48.13
2	power max p3m24-4	\$ 9.43
1	Tera-max patch panel	\$
1	Verint S1704e	\$ 12.47
1	Verint S1712e	\$ 12.47
8	Fixed 1/3" Color Camera	\$ 23.47

**Monthly Maintenance Fee:**     \$ 1,045.84

**Service Call Fee Per Hour:**     \$ 125.00



**MGM Grand**

	<b>Description</b>	<b>Price / Each</b>
10	Fixed 1/3" Color Camera	\$ <u>23.47</u>
1	Cisco systems sd205	\$ <u>24.58</u>
4	Mcro five panel	\$ <u>22.34</u>
1	Verint S1950	\$ <u>12.47</u>
1	Altronix ps	\$ <u>9.21</u>
1	Video Amp KTS-250-16	\$ <u>11.78</u>
1	S1712e	\$ <u>12.47</u>
1	Power max p3m24-4	\$ <u>9.43</u>
1	Dell poweredge 1950	\$ <u>48.13</u>
1	Apc 750 smartups	\$ <u>20.08</u>
14	Prox Card Reader	\$ <u>9.31</u>
4	Panel Power Supplies	\$ <u>9.26</u>
4	Lock Power Supply	\$ <u>9.43</u>
18	Door Strikes	\$ <u>18.43</u>
18	PIR Exit Request Detectors	\$ <u>1.94</u>
1	Network Switch	\$ <u>24.58</u>
4	Camera Power Supplies	\$ <u>9.21</u>

**Monthly Maintenance Fee: \$ 1,105.39**

**Service Call Fee Per Hour: \$ 125.00**



**Greek Town**

Description	Price / Each
1 Altonix ps	\$ 9.21
1 Netgear switch	\$ 24.58
1 Milan rc3112	\$ 19.04
1 Micro five panel	\$ 22.34
1 Omnitron systems fm2284	\$ 19.04
1 Fixed 1/3" Color Camera	\$ 23.47
1 Micro Five Panel	\$ 22.34
1 Altronix ps	\$ 9.21
1 Dell 2716 switch	\$ 24.58
1 Verint S1708	\$ 12.47
1 Dell poweredge r300	\$ 48.13
1 apc ups 750	\$ 20.08
1 power sonic 12vdc ps	\$ 9.26
1 milan rc3112 fiber to Ethernet	\$ 19.04
8 Prox Card Reader	\$ 9.31
1 Access Control Panel	\$ 22.34
1 Panel Power Supplies	\$ 9.26
1 Lock Power Supply	\$ 9.43
8 Door Strikes	\$ 18.43
8 PIR Exit Request Detectors	\$ 1.94
1 Network Switch	\$ 24.58
4 Fixed 1/3" Color Camera	\$ 23.47
4 Camera Power Supplies	\$ 9.21

**Monthly Maintenance Fee: \$ 716.56**

**Service Call Fee Per Hour: \$ 125.00**