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 **2**
to
Contract Number **071B0200349**

CONTRACTOR	
	Mindteck, Inc.
	1828 Good Hope Road
	Enola, PA 17025
	Harminder Singh
	(717) 322-2211
	harminder.singh@mindteck.com
	*******8616

STATE			
	Program Manager	Maria Thomas	DTMB
		517-335-1701	
		thomasm16@michigan.gov	
	Contract Administrator	Terry Mead	DTMB
		(517) 284-7035	
		meadt@michigan.gov	

CONTRACT SUMMARY

DESCRIPTION: MDE CNAP Technical Support

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 15, 2010	September 14, 2015	5 - 1 Year	September 14, 2016

PAYMENT TERMS	DELIVERY TIMEFRAME

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes	☒ No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	1 year	☐		September 14, 2017

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$1,878,848.00	$ 343,192.32	$2,222,040.32

DESCRIPTION: Effective September 14, 2016, this contract is hereby amended and increased by $343,192.32, for contracted resources, which include the existing Project Manager and Programmer Analyst, to support the second option year and to provide additional funds to the existing contract for software maintenance, enhancements, and operational support per attached Statement of Work, for the time-frame 9/15/2016 – 9/14/2017. In addition, we have accepted their request to increase the hourly rate for the Programmer Analyst from $70.00 per hour to $79.63 per hour, and the hourly rate for the Project Manager from $89.50 per hour to $93.35 per hour. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement, DTMB Procurement and the approval of the State Administrative Board on September 13, 2016.

MICHIGAN DEPARTMENT OF TECHNOLOGY,

MANAGEMENT AND BUDGET

IT SERVICES

STATEMENT OF WORK

Project Title: MDE Child Nutrition Application Programs and Food Nutrition Services – Fiscal Reporting Systems (FNS-FRS)	**Period of Coverage:** 9/15/2016 – 9/14/2017
Requesting Department: Education	**Date:** 6/10/2016
Agency Project Manager: Diane Golzynski	**Phone:** (517)335-0565
DTMB Project Manager: Maria Thomas	**Phone:** 517-373-2313

Brief Description of Services to be provided:

BACKGROUND:

The Michigan Department of Education (MDE) Office Of School Support (OSSS) Section is responsible for the administration of federally funded Child Nutrition Programs. The mission of these programs is to provide nutritionally balanced, low-cost or free lunches and snacks to children each school day. The programs operate in Public and Non-public schools, Residential Child Care Institutions, Child Care Centers, Day Care Homes, Summer Camps and Food Distribution agencies throughout Michigan.

OSSS currently utlizes several systems to support the Food Nutrition Programs. These are the Michigan Electronic Grants Program (MEGSPlus), Michigan Nutrition Data System (MiND), Grant Electronic Monitoring System/Michigan Administrative Review System (GEMS/MARS), and other Food Nutrition Services – Fiscal Reporting System (FNS FRS). These systems help administer several Child Nutrition Programs including the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Snack Program, Special Milk Program (SMP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), Summer Camps Special Milk Program (SCSM), Fresh Fruit and Vegetable Program (FFVP), and Food Distribution Programs like The Emergency Food Assistance Program (TEFAP) and Commodity Supplemental Food Program (CSFP). These multi-platform systems support: data gathering, data verification, online data processing and batch data processing, financial management, management information support, fiscal reporting, budgeting and forecasting.

These electronic systems require periodic maintenance and upgrade to support changes in the Federal Regulations mandated by the USDA. These systems are critical as they process over 450 million dollars of Fedaral Funds a year to almost 1,800 recipient agencies who cater to over 12,000 sites/providers. In addition, Michigan has a state mandate requiring that all public schools participate in the in the school lunch program. Failure to keep these critical systems operational would not only jeopardize the state mandate but also would result in our inability to process payments to our recipient agencies which would cause Michigan to be non-compliant with federal regulations.

Michigan Department of Education has been tasked with making all public facing electronic systems as Americans with Disabilities Act (ADA) compliant. The FNS-FRS systems have to undergo modifications to achieve compliance.

As a part of the Adminsitrative Review and Training (ART) Grants, the Office of School Support Services (OSSS-MDE) has planned to allow electronic batch claims input. Additionally, direct transfer of data between the Point of Sales (POS) and FNS-FRS systems has been planned. 5 Child Nutrition Programs have to adapt for these initiatives.

PROJECT OBJECTIVE:

To be in compliance with the federal and state mandates governing the applications processing, claims collection and reimbursement of Child Nutrition Programs grants.

To deliver technological solutions in lieu of fulfilling the merits of receiving a federal grant award.

To build solutions catering to all clients in concordance with the American with Disabilities Act (ADA).

To provide maintenance, enhancements, and operational support to the Food Nutrition Services – Fiscal Reporting Systems within the Michigan Department of Education (MDE).

SCOPE OF WORK:

The contracted resources will function as an integral part of the team working on the business and the technological aspects of managing the Child Nutrition Program. Resources would be involved in development, enhancement, and maintenance of all MDE systems supporting the food and nutrition programs. The expected work will encompass the software development life cycle processes of planning, analysis, design, implementation, and maintenance, as well as the phases and activities associated with these processes:

- Project Management: Adopt best project management practices and embrace SUITE guidelines; Perform system and case studies; resource management; portfolio support.
- Business Analysis: Device business solutions. Collect, analyze and document requirements.
- System Architecting and Code Development: Application and database design, code development, data migration/conversion.
- Monitoring and Control: Unit and system testing, quality assurance and quality control.
- Delivery and Maintenance: Release management and production support

TASKS:

Project Management:

- Provide project management support in building solutions meeting all the requirements, on schedule and under budget.
- Ensure that the project has a sound quality assurance mechanism and the deliverable products pass strict quality control measures.
- Employ DTMB specified Work Flow Management process and Change Management Processes
- Adopt a comprehensive communications plan making the development effort very transparent and easily trackable via daily, weekly and monthly status meetings and reporting.
- Perform integrated risk assessment in device contingency plans for every plausible risk scenario.
- Requirements gathering, analysis, and documentation for assigned projects
- Perform internal technical evaluation in an effort to keep up with changing technological trends.
- Perform periodic security audits and prevent security loopholes in the systems.
- Develop grants proposals, feasibility study reports, project documentation, technical assistance materials and demonstration materials.
- Provide periodic system training to managers and employees.
- Communicate with other state agencies to share information in building solutions supporting child nutrition programs

Application Development:

- Ensure that all work conforms to eMichigan standards
- Design and manage databases for optimal performance which includes periodically updating views, functions, procedures, table indices, packages and table APIs to make them more efficient.
- Adopt secure coding standards, ensure continuous quality control and employ documented deployment procedures driven by DTMB policies and directives.
- Troubleshoot production problems and ensure system availability according to the MDE Service Level agreements; suggest recommendations for process and system improvements.
- Design, develop, validate and implement test plans; acquire test data for applications to determine the accuracy of program logic to produce desired results. Unit and system testing to be performed on work requests, service patches, browser updates, server moves, migration to newer technologies, etc.
- Adhere to the MDE/DTMB authorized security policy and periodically evaluate security threats.
- Follow the DTMB/MDE change control policy ensuring process steps take place with the right authorization and approval, ensuring appropriate separation of duties
- Test database and associated design, assuring compliance with the business rules, which govern the database.
- Assist with the preparation of help documents, training materials and process manuals associated with the assigned projects

- Assist with the preparation of training materials affiliated with assigned projects.

DELIVERABLES:

Deliverables for this project include:

- Project documentation including Statement of work, requirements documents, budget, project schedule, change management plan, risk register, work performance reports, etc.
- Support the development of business requirements, functional requirements, system requirements documents, Testing plans and Deployment support for the 8 Child Nutrition Program Applications in Michigan Electronic Grants System (MEGSplus)
- Manage data exchange for the Governor's dashboard, Education dashboard, project updates in Changepoint.
- Requirements for 5 claims and reimbursements systems, 3 cost collection and payments systems and 2 annual data collection in Michigan Nutrition Data system (MIND).
- Database extract scripts for moving application data from MEGSplus to MIND.
- Application design, prototypes, database design, stored procedures, business logic layers, user-interface for MIND.
- Application design, prototypes, database design, stored procedures, business logic layers, user-interface for GEMS/MARS.
- Application design, prototypes, database design, stored procedures, business logic layers, user-interface for FNS FRS Reports.
- Prototypes for joint application development and testing exercises with the program offices.
- Documentation of all work effort in Team Foundation Server projects and generate routine reports for Program Offices.
- Project documentation of processes and procedures, system schematic, database diagrams, data dictionaries, process flow diagrams for all FNS FRS Systems.
- Audit Response – Federal, State, Internal.
- Data Prep for information exchange with CEPI-EEM, CEPI-MSDS, DHS Licensing, MDE-CMS, and USDA.
- Data requests and Freedom of Information Act (FOIA) support for program offices, federal requestors and other MDE partners.
- 31 - F State Breakfast Match calculation and payments.
- 31 –D State Lunch payments annual approvals and reconciliations.

ACCEPTANCE CRITERIA:

Acceptance is tied to adequate performance of required ongoing maintenance services and upon written acceptance and sign-off by the Agency Project Manager and DTMB Project Manager

Final acceptance is expressly conditioned upon completion of ALL applicable tasks, deliverables.

PROJECT CONTROL AND REPORTS:

- A monthly 4-up report documented via Changepoint for executives on the high level status of the Office of School Support – Nutrition Systems Initiative

- A monthly functional managers and application administrators meeting and project.

- A bi-weekly progress report must be submitted to the Agency and DTMB Project Managers throughout the life of this project. This report may be submitted with the billing invoice. Each bi-weekly progress report must contain the following:

  - Hours: Indicate the number of hours expended during the past two weeks, and the cumulative total to date for the project. Also state whether the remaining hours are sufficient to complete the project.

  - Accomplishments: Indicate what was worked on and what was completed during the current reporting period.

  - Funds: Indicate the amount of funds expended during the current reporting period, and the cumulative total to date for the project.

- A weekly meeting with MDE Functional Managers for project updates and Team Foundation Server updates.

SPECIFIC DEPARTMENT STANDARDS:

Agency standards, if any, in addition to DTMB standards.

PAYMENT SCHEDULE:

Payment will be made on a Time and Materials basis. DTMB will pay CONTRACTOR upon receipt of properly completed invoice(s) which shall be submitted to the billing address on the State issued purchase order not more often than monthly. DTMB Accounts Payable area will coordinate obtaining Agency and DTMB Project Manager approvals. All invoices should reflect actual work completed by payment date, and must be approved by the Agency and DTMB Project Manager prior to payment. The invoices shall describe and document to the State's satisfaction a description of the work performed the progress of the project, and fees. When expenses are invoiced, receipts will need to be provided along with a detailed breakdown of each type of expense.

Payment shall be considered timely if made by the DTMB within forty-five (45) days after receipt of properly completed invoices.

EXPENSES:

The State will NOT pay for any travel expenses, including hotel, mileage, meals, parking, etc.

PROJECT CONTACTS:

The designated Agency Project Manager is:

Diane Golzynski

Michigan Department of Education

Grants Coordination and School Support Services

Hannah Building, 4th Floor

608 W. Allegan St.

Lansing, MI 48909

517-373-3383

GolzynskiD@michigan.gov

The designated DTMB Project Manager is:

Maria Thomas, Manager

DTMB Agency Services - MDE

Education Section

Hannah Building, 1st Floor

608 W. Allegan St.

Lansing, MI 48909

(517)335-1701

ThomasM16@michigan.gov

AGENCY RESPONSIBILITIES:

The State will provide the following resources use on this project: work space, minimal clerical support, desk, telephone, PC workstation, access to printer, and access to copiers and fax machines, software licenses as appropriate to the work.

The State will notify Contractor(s) in writing if a senior resource is not performing at senior level. The Contractor will be responsible for finding a senior level replacement, or will reduce the hourly rate for the person to that of a non-senior resource, at the discretion of the State.

The State's Project Manager(s) duties shall include, but not be limited to:

- Provide State facilities, as needed
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions
- Provide acceptance and sign-off of deliverable/milestone
- Review and sign-off of timesheets and invoices
- Resolve issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Document and archive all important project decisions
- Arrange, schedule and facilitate State staff attendance at all project meetings.

LOCATION OF WHERE THE WORK IS TO BE PERFORMED:

Consultants will work in the Hannah Building, 608 W. Allegan St. in Lansing, Michigan.

EXPECTED CONTRACTOR WORK HOURS AND CONDITIONS:

Work hours are not to exceed eight (8) hours a day, forty (40) hours a week. Normal working hours of 8:00 am to 5:00 pm are to be observed unless otherwise agreed to in writing.

No overtime will be permitted.

This purchase order is a release from Contract Number 071B0200349. This purchase order, statement of work, and the terms and conditions of Contract Number 071B0200349 constitute the entire agreement between the State and the Contractor.

Form No. DTMB-3521 (Rev. 5/2015)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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. 071B0200349

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Mindteck, Inc.	Bruce Gehman	Bruce.gehman@mindteck.com
150 Corporate Drive, Suite 200	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
Camp Hill, PA 17011	(717) 732-2211	8616

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	MDE	Ann Lindberg		
CONTRACT ADMINISTRATOR	DTMB	Terry Mead	(517) 284-7035	meadt@michigan.gov

CONTRACT SUMMARY

DESCRIPTION: MDE CNAP Technical Support

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 15, 2010	September 14, 2015		September 14, 2015

PAYMENT TERMS	DELIVERY TIMEFRAME
N/A	N/A

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
☐ P-card ☐ Direct Voucher (DV) ☐ Other	☐ Yes ☒ No

MINIMUM DELIVERY REQUIREMENTS

DESCRIPTION OF CHANGE NOTICE

EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
☒	1 year	☐		September 14, 2016

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$1,562,400.00	$316,448.00	$1,878,848.00

DESCRIPTION: Effective September 15, 2015, this contract is hereby amended and increased by $316,448.00, for contracted resources, which include the existing Project Manager and Programmer Analyst, to support the first option year and to provide additional funds to the existing contract for software maintenance, enhancements, and operational support per attached Statement of Work, for the time-frame 9/15/2015 – 9/14/2016. In addition, we have accepted their request to increase the hourly rate for the Programmer Analyst from $68.00 per hour to $70.00 per hour. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement, DTMB Procurement

and the approval of the State Administrative Board on August 18, 2015.

MICHIGAN DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
IT SERVICES
STATEMENT OF WORK

Project Title: MDE Child Nutrition Application Programs and Food Nutrition Services – Fiscal Reporting Systems	**Period of Coverage:** 10/1/2015 – 9/30/2016
Requesting Department: Education	**Date:** 6/2/2015
Agency Project Manager: Diane Golzynski	**Phone:** (517)335-0565
DTMB Project Manager: Maria Thomas	**Phone:** 517-373-2313

Brief Description of Services to be provided:

BACKGROUND:

The Michigan Department of Education (MDE) Office Of School Support (OSSS) Section is responsible for the administration of federally funded Child Nutrition Programs. The mission of these programs is to provide nutritionally balanced, low-cost or free lunches and snacks to children each school day. The programs operate in Public and Non-public schools, Residential Child Care Institutions, Child Care Centers, Day Care Homes, Summer Camps and Food Distribution agencies throughout Michigan.

OSSS currently utlizes several systems to support the Food Nutrition Programs. These are the Michigan Electronic Grants Program (MEGSPlus), Michigan Nutrition Data System (MiND), Grant Electronic Monitoring System/Michigan Administrative Review System (GEMS/MARS), and other Food Nutrition Services – Fiscal Reporting System (FNS FRS). These systems help administer several Child Nutrition Programs including the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Snack Program, Special Milk Program (SMP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), Summer Camps Special Milk Program (SCSM), Fresh Fruit and Vegetable Program (FFVP), and Food Distribution Programs like The Emergency Food Assistance Program (TEFAP) and Commodity Supplemental Food Program (CSFP). These multi-platform systems support: data gathering, data verification, online data processing and batch data processing, financial management, management information support, fiscal reporting, budgeting and forecasting.

These electronic systems require periodic maintenance and upgrade to support changes in the Federal Regulations mandated by the USDA. These systems are critical as they process over 350 million dollars of Fedaral Funds a year to almost 1,800 recipient agencies who cater to over 12,000 sites/providers. In addition, Michigan has a state mandate requiring that all public schools participate in the in the school lunch program. Failure to keep these critical systems operational would not only jeopardize the state mandate but also would result in our inability to process payments to our recipient agencies which would cause Michigan to be non-compliant with federal regulations.

PROJECT OBJECTIVE:

To provide maintenance, enhancements, and operational support to the Food Nutrition Services – Fiscal Reporting Systems within the Michigan Department of Education (MDE).

SCOPE OF WORK:

The contracted resources will function as an integral part of the team working on the development, enhancement, and maintenance of all MDE systems supporting the food and nutrition programs. The expected work will encompass the software development life cycle processes of planning, analysis, design, implementation, and maintenance, as well as the phases and activities associated with these processes:

- Project management: Adopt best Project Management Practices and embrace SUITE Guidelines
- Code Development: Application and Database Design, development, Data Migration/Conversion.
- Maintenance/Enhancement of existing applications
- Monitoring and Control: Unit and system testing, Quality Control and Quality Assurance.
- Conduct training and develop Project Documentation.

TASKS:

Technical support is required to assist with the following tasks:

- Requirements gathering, analysis, and documentation for assigned projects
- Provide ongoing project management, technical and operational support for the Food Nutrition Services – Fiscal reporting Systems.
- Ensure that all work conforms to the State Unified Information Technology Environment (SUITE), project management standards and systems engineering methodology.
- Design and manage databases for optimal performance which includes periodically updating views, functions, procedures, table indices, packages and table APIs to make them more efficient.
- Adopt secure coding standards, ensure continuous quality control and employ documented deployment procedures driven by DTMB policies and directives.
- Troubleshoot production problems and ensure 24/7 system availability; suggest recommendations for process and system improvements.
- Design, develop, validate and implement test plans; acquire test data for applications to determine the accuracy of program logic to produce desired results. Unit and system testing to be performed on work requests, service patches, browser updates, server moves, migration to newer technologies, etc.
- Adhere to the MDE/DTMB authorized security policy and periodically re-evaluate security threats.
- Employ DTMB specified Work Flow Management process and Change Management Processes
- Test database and associated design, assuring compliance with the business rules, which govern the database.
- Assist with the preparation of help documents, training materials and process manuals associated with the assigned projects
- Provide end-user training and plan train-the-trainer documentation.
- Assist with the preparation of training materials affiliated with assigned projects.

DELIVERABLES:

Deliverables for this project include:

- Requirements validation, Testing and Deployment support for the 8 Child Nutrition Program Applications for the calendar year in MEGSplus.
- Requirements for 5 Claims Reimbursements Systems, 3 Cost Collection and Payments Systems and 2 Reporting Systems under MIND.
- Requirements validation, Development, Testing and Deployment support for GEMS/MARS.
- Prototypes for joint application development and testing exercises with the program offices.
- Documentation of all work effort in Team Foundation Server projects and generate routine reports for Program Offices.
- Project documentation of processes and procedures,
  System schematic, Database diagrams, Data dictionaries, Process Flow Diagrams for all FNS FRS Systems.
- Audit Response – Federal, State, Internal.
- Data Prep for information exchange with CEPI-EEM, CEPI-MSDS, DHS Licensing, MDE-CMS, and USDA.
- Data requests for program offices, federal requestors and other MDE partners.

ACCEPTANCE CRITERIA:

Acceptance is tied to adequate performance of required ongoing maintenance services and upon written acceptance and sign-off by the Agency Project Manager and DTMB Project Manager

Final acceptance is expressly conditioned upon completion of ALL applicable tasks, deliverables.

PROJECT CONTROL AND REPORTS:

A bi-weekly progress report must be submitted to the Agency and DTMB Project Managers throughout the life of this project. This report may be submitted with the billing invoice. Each bi-weekly progress report must contain the following:

1. Hours: Indicate the number of hours expended during the past two weeks, and the cumulative total to date for the project. Also state whether the remaining hours are sufficient to complete the project.

2. Accomplishments: Indicate what was worked on and what was completed during the current reporting period.

3. Funds: Indicate the amount of funds expended during the current reporting period, and the cumulative total to date for the project.

SPECIFIC DEPARTMENT STANDARDS:

Agency standards, if any, in addition to DTMB standards.

PAYMENT SCHEDULE:

Payment will be made on a Time and Materials basis. (see Attachment A, Cost Table below) DTMB will pay CONTRACTOR upon receipt of properly completed invoice(s) which shall be submitted to the billing address on the State issued purchase order not more often than monthly. DTMB Accounts Payable area will coordinate obtaining Agency and DTMB Project Manager approvals. All invoices should reflect actual work completed by payment date, and must be approved by the Agency and DTMB Project Manager prior to payment. The invoices shall describe and document to the State's satisfaction a description of the work performed the progress of the project, and fees. When expenses are invoiced, receipts will need to be provided along with a detailed breakdown of each type of expense.

Attachment A, Cost Table

Staffing Classifications	**Firm Fixed Hourly Rate**	**Hours Per Year (maximum)**	**Total Contract Value**
Project Manager Peter Jones	$89.50	1984	$177,568.00
Senior Programmer/Analyst Rajesh Kannan	$70.00	1984	$138,880.00
CONTRACT TOTAL			**$316,448.00**

Payment shall be considered timely if made by the DTMB within forty-five (45) days after receipt of properly

completed invoices.

EXPENSES:

The State will NOT pay for any travel expenses, including hotel, mileage, meals, parking, etc.

PROJECT CONTACTS:

The designated Agency Project Manager is:

Diane Golzynski
Michigan Department of Education
Grants Coordination and School Support Services
Hannah Building, 4th Floor
608 W. Allegan St.
Lansing, MI 48909
517-373-3383
GolzynskiD@michigan.gov

The designated DTMB Project Manager is:
Maria Thomas, Manager
DTMB Agency Services - MDE
Education Section
Hannah Building, 1st Floor
608 W. Allegan St.
Lansing, MI 48909
(517)335-1701
ThomasM16@michigan.gov

AGENCY RESPONSIBILITIES:
The State will provide the following resources use on this project: work space, minimal clerical support, desk, telephone, PC workstation, access to printer, and access to copiers and fax machines, software licenses as appropriate to the work.

The State will notify Contractor(s) in writing if a senior resource is not performing at senior level. The Contractor will be responsible for finding a senior level replacement, or will reduce the hourly rate for the person to that of a non-senior resource, at the discretion of the State.

The State's Project Manager(s) duties shall include, but not be limited to:

- Provide State facilities, as needed
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions
- Provide acceptance and sign-off of deliverable/milestone
- Review and sign-off of timesheets and invoices
- Resolve issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Document and archive all important project decisions
- Arrange, schedule and facilitate State staff attendance at all project meetings.

LOCATION OF WHERE THE WORK IS TO BE PERFORMED:
Consultants will work in the Hannah Building, 4th Floor, and 608 W. Allegan St. in Lansing, Michigan.

EXPECTED CONTRACTOR WORK HOURS AND CONDITIONS:
Work hours are not to exceed eight (8) hours a day, forty (40) hours a week. Normal working hours of 8:00 am to 5:00 pm are to be observed unless otherwise agreed to in writing.

No overtime will be permitted.

This purchase order is a release from Contract Number 071B0200349. This purchase order, statement of

work, and the terms and conditions of Contract Number 071B0200349 constitute the entire agreement between the State and the Contractor.

DocuSign Envelope ID: 77C1B416-8BDC-40F1-A955-D34964FE5F78

Mindteck, Inc.
150 Corporate Center Drive
Suite 200, Camp Hill, PA 17025
Tel: (717) 732 2211
Fax: (717) 732 2927

www.mindteck.com

June 8, 2015

Ms. Maria Thomas
Information Technology Manager, Agency Services- Education
Michigan Department of Technology, Management and Budget
Lansing, MI

Subject: Vendor acceptance letter for 1 year extension of Rajesh Kannan and Peter Jones

Ref: Contract 071B0200349

Dear Madam,

With reference to above cited contract, we are pleased to confirm our acceptance to renew the contract for the option year 9/16/2015 to 9/15/2016, for a contract value of $316,448, for the following resources:

1. Project Manager: Peter Jones
    - The hourly rate for Peter Jones will remain the same, at $89.50/hour
    - The total hours are limited to 1984, for a total of $177,568.
2. Senior Programmer/Analyst: Rajesh Kannan
    - The hourly rate for Rajesh Kannan, at $70/hour.
    - The total hours are limited to 1984, for a total of $138,880

We take this opportunity to reconfirm that Mindteck Inc., will continue to honor the terms and conditions of the current contract.

Thanking you and assuring you of our best services at all times. If you have any question, please feel free to contact me.

Sincerely

DocuSigned by:
Meenaz Dhanani
D384AFD19815499

Meenaz Dhanani
Executive Director

Certificate of Completion

Envelope Number: 77C1B4168BDC40F1A955D34964FE5F78
Subject: Please DocuSign: State of MI extension letter June 2015.docx
Source Envelope:
Document Pages: 1
Certificate Pages: 5
AutoNav: Enabled
EnvelopeId Stamping: Enabled

Signatures: 1
Initials: 0

Status: Completed

Envelope Originator:
anjali ajwani
1828 goodhope road, suite 201
Enola, PA 17025
anjali.ajwani@mindteck.com
IP Address: 65.156.189.228

Record Tracking

Status: Original
08 38 2015 | 01:38 ET

Holder: anjali ajwani
anjali.ajwani@mindteck.com

Location: DocuSign

Signer Events	Signature	Timestamp
Meenaz Dhanani md@mindteck.com Executive Director Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 08 01 2015 | 02:01 ET ID: 4d7deb82-fccb-487c-bef6-b4c2d7489b56	DocuSigned by: Meenaz Dhanani D3B4AFD1BB154B8... Using IP Address: 70.199.99.67 Signed using mobile	Sent: 08 40 2015 | 01:40 ET Viewed: 08 01 2015 | 02:01 ET Signed: 08 02 2015 | 02:02 ET

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Maria Thomas ThomasM16@Michigan.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered ID:	COPIED	Sent: 08 02 2015 | 02:02 ET Viewed: 08 48 2015 | 02:48 ET
Bruce Gehman bruce.gehman@mindteck.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered ID:	COPIED	Sent: 08 02 2015 | 02:02 ET
Barbara Hoffman barbara.hoffman@mindteck.com Security Level: Email, Account Authentication (None)	COPIED	Sent: 08 02 2015 | 02:02 ET

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered ID:		

Notary Events		Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	08 02 2015 | 02:02 ET
Certified Delivered	Security Checked	08 02 2015 | 02:02 ET
Signing Complete	Security Checked	08 02 2015 | 02:02 ET
Completed	Security Checked	08 02 2015 | 02:02 ET

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
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Form No. DMB 234A (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Failure to deliver in accordance with Contract terms and conditions and this notice may be considered in default of Contract

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET **September 14, 2010**
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

NOTICE
OF
CONTRACT NO. 071B0200349
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Mindteck, Inc.** **1828 Good Hope Rd, Suite 201** **Enola, PA 17025** **Email: Harminder.Singh@mindteck.com**	TELEPHONE Harminder Singh **717-322-2211** CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 517-241-0239 **Jacque Kuch**
CONTRACT COMPLIANCE INSPECTOR: **Ann Lindberg** **MDE-CNAP TECHNICAL SUPPORT**	
CONTRACT PERIOD: From: **September 15, 2010** To: **September 14, 2015**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

TOTAL ESTIMATED CONTRACT VALUE $1,562,400.00

Form No. DMB 234A (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Failure to deliver in accordance with Contract terms and conditions and this notice may be considered in default of Contract

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F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

The terms and conditions of this Contract are those of ITB #071I0200173, this Contract Agreement, and the vendor's quote dated July 6, 2010. 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.

Contract Value $1,562,400.00

FOR THE VENDOR:	**FOR THE STATE:**
Mindteck, Inc. Firm Name	Signature
Authorized Agent Signature	**Greg Faremouth, Director** Name/Title
Authorized Agent (Print or Type)	**IT Division** Division
Date	Date

STATE OF MICHIGAN
Department of Technology Management and Budget
Purchasing Operations

Contract No. 071B0200349

MDE Child Nutrition Application Program (CNAP) and Federal Nutrition System and Federal Reporting System (FNS FRS) TechnicalSupport

Buyer Name: **Jacque Kuch**
Telephone Number: **517-241-0239**
E-Mail Address: **kuchj@michigan.gov**

Table of Contents

DEFINITIONS ***31***

Article 1 – Statement of Work (SOW) ***34***

1.000 Project Identification **34**
1.001 Project Request 34
1.002 Background 34

1.100 Scope of Work and Deliverables **35**
1.101 In Scope 35
1.102 Out Of Scope 36
1.103 Environment 36

1.200 Roles and Responsibilities **39**
1.201 Contractor Staff, Roles, And Responsibilities 39
1.202 State Staff, Roles, And Responsibilities 41
1.203 Other Roles And Responsibilities 42

1.300 Project Plan **42**
1.301 Project Plan Management – 42
1.302 Reports – 42

1.400 Project Management **42**
1.401 Issue Management – 42
1.402 Risk Management – 42
1.403 Change Management – 42

1.500 Acceptance **43**
1.501 Criteria 43
1.502 Final Acceptance 43

1.600 Compensation and Payment **43**
1.601 Compensation And Payment 43
Holdback – 43
1.701 Additional Terms and Conditions 43

Article 2, Terms and Conditions ***45***

2.000 Contract Structure and Term **45**
2.001 Contract Term 45
2.002 Options to Renew 45
2.003 Legal Effect 45
2.004 Attachments & Exhibits 45
2.005 Ordering 45
2.006 Order of Precedence 45
2.007 Headings 46
2.008 Form, Function & Utility 46
2.009 Reformation and Severability 46

2.010 Consents and Approvals **46**
2.011 No Waiver of Default 46
2.012 Survival 46

2.020 Contract Administration **46**
2.021 Issuing Office 46
2.022 Contract Compliance Inspector 46
2.023 Project Manager 47
2.024 Change Requests 47
2.025 Notices 48
2.026 Binding Commitments 49
2.027 Relationship of the Parties 49
2.028 Covenant of Good Faith 49
2.029 Assignments 49

2.030 General Provisions **49**
2.031 Media Releases 49
2.032 Contract Distribution 50

	2.033 Permits	50
	2.034 Website Incorporation	50
	2.035 Future Bidding Preclusion	50
	2.036 Freedom of Information	50
	2.037 Disaster Recovery	50
2.040	**Financial Provisions**	**50**
	2.041 Fixed Prices for Services/Deliverables	50
	2.042 Adjustments for Reductions in Scope of Services/Deliverables	50
	2.043 Services/Deliverables Covered	50
	2.044 Invoicing and Payment – In General	51
	2.045 Pro-ration	51
	2.046 Antitrust Assignment	51
	2.047 Final Payment	51
	2.048 Electronic Payment Requirement	51
2.050	**Taxes**	**52**
	2.051 Employment Taxes	52
	2.052 Sales and Use Taxes	52
2.060	**Contract Management**	**52**
	2.061 Contractor Personnel Qualifications	52
	2.062 Contractor Key Personnel	52
	2.063 Re-assignment of Personnel at the State's Request	53
	2.064 Contractor Personnel Location	53
	2.065 Contractor Identification	53
	2.066 Cooperation with Third Parties	53
	2.067 Contract Management Responsibilities	53
	2.068 Contractor Return of State Equipment/Resources	54
2.070	**Subcontracting by Contractor**	**54**
	2.071 Contractor full Responsibility	54
	2.072 State Consent to delegation	54
	2.073 Subcontractor bound to Contract	54
	2.074 Flow Down	54
	2.075 Competitive Selection	55
2.080	**State Responsibilities**	**55**
	2.081 Equipment	55
	2.082 Facilities	55
2.090	**Security**	**55**
	2.091 Background Checks	55
	2.092 Security Breach Notification	55
	2.093 PCI DATA Security Requirements	55
2.100	**Confidentiality**	**56**
	2.101 Confidentiality	56
	2.102 Protection and Destruction of Confidential Information	56
	2.103 Exclusions	57
	2.104 No Implied Rights	57
	2.105 Respective Obligations	57
2.110	**Records and Inspections**	**57**
	2.111 Inspection of Work Performed	57
	2.112 Examination of Records	57
	2.113 Retention of Records	57
	2.114 Audit Resolution	58
	2.115 Errors	58
2.120	**Warranties**	**58**
2.130	**Insurance**	**58**
	2.131 Liability Insurance	58
	2.132 Subcontractor Insurance Coverage	60
	2.133 Certificates of Insurance and Other Requirements	60
2.140	**Indemnification**	**60**
	2.141 General Indemnification	60
	2.142 Code Indemnification	60
	2.143 Employee Indemnification	61

2.144 Patent/Copyright Infringement Indemnification 61
2.145 Continuation of Indemnification Obligations 61
2.146 Indemnification Procedures 61

2.150 Termination/Cancellation 62
2.151 Notice and Right to Cure 62
2.152 Termination for Cause 62
2.153 Termination for Convenience 63
2.154 Termination for Non-Appropriation 63
2.155 Termination for Criminal Conviction 63
2.156 Termination for Approvals Rescinded 63
2.157 Rights and Obligations upon Termination 64
2.158 Reservation of Rights 64

2.160 Termination by Contractor 64
2.161 Termination by Contractor 64

2.170 Transition Responsibilities 64
2.171 Contractor Transition Responsibilities 64
2.172 Contractor Personnel Transition 65
2.173 Contractor Information Transition 65
2.174 Contractor Software Transition 65
2.175 Transition Payments 65
2.176 State Transition Responsibilities 65

2.180 Stop Work 65
2.181 Stop Work Orders 65
2.182 Cancellation or Expiration of Stop Work Order 66
2.183 Allowance of Contractor Costs 66

2.190 Dispute Resolution 66
2.191 In General 66
2.192 Informal Dispute Resolution 66
2.193 Injunctive Relief 67
2.194 Continued Performance 67

2.200 Federal and State Contract Requirements 67
2.201 Nondiscrimination 67
2.202 Unfair Labor Practices 67
2.203 Workplace Safety and Discriminatory Harassment 67
2.204 Prevailing Wage 67

2.210 Governing Law 68
2.211 Governing Law 68
2.212 Compliance with Laws 68
2.213 Jurisdiction 68

2.220 Limitation of Liability 68
2.221 Limitation of Liability 68

2.230 Disclosure Responsibilities 69
2.231 Disclosure of Litigation 69
2.232 Call Center Disclosure 69
2.233 Bankruptcy 69

2.240 Performance 70
2.241 Time of Performance 70
2.242 Service Level Agreement (SLA) 70
2.243 Liquidated Damages 71
2.244 Excusable Failure 71

2.250 Approval of Deliverables 72
2.251 Delivery of Deliverables 72
2.252 Contractor System Testing 72
2.253 Approval of Deliverables, In General 73
2.254 Process for Approval of Written Deliverables 74
2.255 Process for Approval of Custom Software Deliverables 74
2.256 Final Acceptance 75

2.260 Ownership 75
2.261 Ownership of Work Product by State 75

2.262 Vesting of Rights 75
2.263 Rights in Data 75
2.264 Ownership of Materials 75

2.270 State Standards 76
2.271 Existing Technology Standards 76
2.272 Acceptable Use Policy 76
2.273 Systems Changes 76

2.280 Extended Purchasing 76
2.281 MiDEAL (Michigan Delivery Extended Agreements Locally 76
2.282 State Employee Purchases - reserved 76

2.290 Environmental Provision 76

2.300 Deliverables 76
2.301 Software – 76
2.302 Hardware – 76

2.310 Software Warranties 77
2.311 Performance Warranty – 77
2.312 No Surreptitious Code Warranty – 77
2.313 Calendar Warranty – 77
2.314 Third-party Software Warranty – 77
2.315 Physical Media Warranty – 77

2.320 Software Licensing 77
2.321 Cross-License, Deliverables Only, License to CONTRACTOR 77
2.322 Cross-License, Deliverables and Derivative Work, License to Contractor 77
2.323 License Back to the State 77
2.324 License Retained by Contractor 77
2.325 Pre-existing Materials for Custom Software Deliverables 77

2.330 Source Code Escrow 77
2.331 Definition 77
2.332 Delivery of Source Code into Escrow 77
2.333 Delivery of New Source Code into Escrow 77
2.334 Verification 77
2.335 Escrow Fees 77
2.336 Release Events – 78
2.337 Release Event Procedures – 78
2.338 License 78
2.339 Derivative Works 78

2.400 Other Provisions 78
2.411 Forced Labor, Convict Labor, or Indentured Servitude Made Materials – 78
2.421 Knowledge of Child Labor for Listed End Products – 78

Attachment A 79

DEFINITIONS

Days	Means calendar days unless otherwise specified.
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/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Audit Period	See Section 2.110
Business Day	Whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
Blanket Purchase Order	An alternate term for Contract as used in the States computer system.
Business Critical	Any function identified in any Statement of Work as Business Critical.
Chronic Failure	Defined in any applicable Service Level Agreements.
Deliverable	Physical goods and/or commodities as required or identified by a Statement of Work
DTMB	Department of Technology Management & Budget
Environmentally preferable products	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 that contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.
Excusable Failure	See Section 2.244.
Hazardous material	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	Any interruption in Services.
ITB	A generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders
Key Personnel	Any Personnel designated in Article 1 as Key Personnel.
New Work	Any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Ozone-depleting substance	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, hydro chlorofluorocarbons
Post-Consumer Waste	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	Industrial by-products that would otherwise go to disposal and wastes generated after completion of a manufacturing process, but do not include internally generated scrap commonly returned to industrial or manufacturing processes.
Recycling	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.
Deleted – Not Applicable	Section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.
Reuse	Using a product or component of municipal solid waste in its original form more than once.
RFP	Request for Proposal designed to solicit proposals for services

Services	Any function performed for the benefit of the State.
Source reduction	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	Any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
Subcontractor	A company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
Unauthorized Removal	Contractor's removal of Key Personnel without the prior written consent of the State.
Waste prevention	Source reduction and reuse, but not recycling.
Waste reduction and Pollution prevention	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	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 this Contract.
API	Application Programming Interface
CACFP	Child and Adult Care Food Program
CNAP	Child Nutrition Application Program
CSFP	Commodity Supplemental Food Program
EFT	Electronic Funds Transfer
ETC	Estimate to Complete
FDCH	Family Day Care Homes
FNS-FRS	Food Nutrition System-Fiscal Report System
FOIA	Freedom of Information Act
GCSS	Grants Coordination and School Support
I-SITE	Internet-State Interface Technology Enhancement. An online interface designed by the NAIC for state insurance departments to obtain comprehensive financial, market conduct, producer licensing, and securities information. I-SITE offers regulators access to NAIC database information including Summary Reports, Batch Reports, and Detailed Lookup Reports.
MAIN	Michigan Administrative Information Network. The State's automated administrative management system that supports accounting, payroll, purchasing, and other activities.
MB – One Stop	Michigan Business – One Stop - an online service that guides users who want to start, operate or expand a business in Michigan.
NPN	National Producer Number is NIPR's solution to privacy issues surrounding the use of the Social Security Number.
NSLP	National School Lunch Program
Obase	One of OFIR's three central information systems.
OES	Office of Enterprise Security. Defines and audits security for SOM systems.
PMM	Project Management Methodology
SBP	School Breakfast Program
SCSM	Summer Camps Special Milk Program
SFSP	Summer Food Service Program

SUITE	State Unified Information Technology Environment. The overall purpose of SUITE is to bring the Department of Technology, Management and Budget (DTMB) systems development areas up to CMMI Level 3, which ensures consistent process usage throughout the organization. This includes using the same Project Management Methodology (PMM), Systems Engineering Methodology (SEM), Process Management, and Supporting Processes across all systems development areas within DTMB.
TEFAP	The Emergency Food Assistance Program
USDA	U.S. Department of Agriculture

Article 1 – Statement of Work (SOW)

1.000 Project Identification

1.001 PROJECT REQUEST

This Contract is for one (1) Project Manager and one (1) Senior Programmer/Analyst to provide programming, oversight, and quality assurance services to assist the Department of Technology Management & Budget (DTMB) and the Michigan Department of Education (MDE) with the day-today support of the Child Nutrition Application Program (CNAP) and Federal Nutrition System and Federal Reporting System (FNS-FRS), upgrade these systems from classic ASP to .NET, and to add functionality based on the Michigan School Lunch mandate in the Michigan School Code 380.127a and the Federal USDA Regulations Section 250.14 of the Child Nutrition and WIC reauthorization Act.

This Contract period will be from September 15, 2010 to September 14, 2015 (up to 1,984 hours per year per resource), with five (5) one-year options to renew. The State does not commit to procuring services in the quantities estimated or in any other amounts.

1.002 BACKGROUND

MDE's Grants Coordination and School Support (GCSS) Section is responsible for the administration of federally funded Child Nutrition Programs. The mission of these programs is to provide nutritionally balanced, low-cost or free lunches and snacks to children each school day. The programs operate in public and nonpublic schools, as well as in residential child care institutions throughout Michigan.

Grants Coordination and School Support (GCSS) currently manages several Food Nutrition Programs that fall under the umbrella systems of Child Nutrition Application Program (CNAP) and Federal Nutrition System and Federal Reporting System (FNS FRS) including the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Snack Program, Special Milk Program (SMP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), Fresh Fruit and Vegetable Program (FFVP), Food Distribution Program, The Emergency Food Assistance Program (TEFAP) and Commodity Supplemental Food Program (CSFP). These programs are supported by multi-platform systems for: data gathering, data verification, online data processing and batch data processing, financial management, management information support, fiscal reporting, budgeting and forecasting projections.

These systems require ongoing maintenance due to changes in USDA collecting and reporting requirements. These systems are critical as they process over $350 million dollars a year to almost 1,800 recipient agencies who cater to over 12,000 sites/providers of USDA funds. In addition, Michigan has a state mandate requiring that all public schools participate in the in the school lunch program. Failure to keep these critical systems operational would not only jeopardize the state mandate but also would result in our inability to process payments to our recipient agencies which would cause Michigan to be non-compliant with federal regulations.

DTMB/MDE is seeking to upgrade CNAP from classic ASP to .Net, maintain all systems prior to and after the upgrade, and add additional functionality based on Federal USDA requirements.

DTMB requires that all software developed be standardized under a common development platform such as the .NET environment. These systems have to be dynamically restructured to accommodate changes initiated by other systems used by various agencies interacting with Grants Coordination and School Support (GCSS). New federal regulations and policy updates continually create the demand for additions and/or modifications to the standard operating procedures, system wide. The system development life cycle requires a very clear understanding of the governing federal regulations, policies and state laws and demands programmatic acumen to break them down into business and logical processes.

More information about Michigan Department of Education of Education Child and Adult Care Food Programs is available at - *http://www.michigan.gov/mde/0,1607,7-140-43092_25656---,00.html*

More information about the Elementary and Secondary Education Act (ESEA) is available at *No Child Left Behind - http://www2.ed.gov/nclb/landing.jhtml*

More information about Grants Coordination and School Support is available at the GCSS website: http://www.michigan.gov/mde/0,1607,7-140-6530_6569_29919---,00.html

The Child Nutrition Application Program (CNAP) and Federal Nutrition System and Federal Reporting System (FNS FRS) system development has always had a multi-pronged strategy to adapt to the fluctuating technology changes and still provide backward compatibility. Over time, these systems have migrated from mainframe-based COBOL code to Visual FoxPro (VFP) based Client Server Application to SQL Server – VFP Application to .Net based Windows and Web Application. DTMB requires that all new development for the systems be standardized under a common .Net platform.

Over the last eight years, the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Snack Program, Special Milk Program (SMP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), Fresh Fruit and Vegetable Program (FFVP), Food Distribution Program, The Emergency Food Assistance Program (TEFAP) and Commodity Supplemental Food Program (CSFP) have been dynamically restructured to accommodate changes initiated by other systems used by various agencies interacting with GCSS. These changes were the result of the demands from new federal regulations and policies. Updates, additions, and/or modifications to the system will continue to require resource(s) that have a clear understanding of the system development life cycle. Because the USDA programs are undergoing reauthorization, development of systems should incorporate regulatory changes pursuant to the reauthorization of the Agriculture and Consumer Protection Act of 1973 (Federal Regulations 7CFR, Parts247, 250 and 251), Richard B. Russell National School Act and the Child Nutrition and WIC Reauthorization Act of 2004. A very clear, detailed understanding of the governing federal regulations, policies, and state laws and a demand for the programmatic acumen to break emerging requirements down into business and logical process additions and/or modifications to system-wide standard operating procedures, will be necessary to update this system and meet the strict deadlines provide by the federal regulations, policies, and state laws. The resources needed for this RFP also need to have a clear understanding of Project Management Methodology (PMM), Systems Engineering Methodology (SEM), Process Management, and Supporting Processes across all systems development areas within DTMB http://www.michigan.gov/suite.

1.100 Scope of Work and Deliverables

1.101 IN SCOPE

The contracted resources will function as an integral part of the team working on the development, enhancement, and maintenance of the Food and Nutrition System-Fiscal Reporting System (FNS-FRS) of applications. The CNAP system is being converted from classic ASP to .Net while the remaining applications have been converted to .Net, but are in various versions of SQL and the .Net framework. The expected work will encompass the software development life cycle processes of planning, analysis, design, implementation, and maintenance, as well as the phases and activities associated with these processes:

- Project management/quality assurance
- Requirements gathering, analysis, and documentation
- Design, development, and implementation of Web-based applications
- Data migration/conversion
- Maintenance/enhancement of existing applications
- Unit and system testing
- Training and documentation

A more detailed description of the software, services (work) and deliverables sought for this project is provided in Article 1, Section 1.104, Work and Deliverables.

1.102 OUT OF SCOPE

1. Application development for any other unit outside of GCSS
2. COTS Solution
3. Procurement of hardware
4. Hardware maintenance
5. Hosting Services

1.103 ENVIRONMENT

Broadly classified into four environments:

1. Local Development
2. Development
3. Test
4. Production Environment

All code changes undergo a three-step process in order to be introduced into production. First, code is developed and unit tested in the "local development" stage, in which the developer's workstation houses a development database, web server and development tools on the local developer's machine. Source code control is provided by server based Visual Source Safe (soon to be Visual Team Foundation Server (June 2010).

Upon successful local unit testing the compiled code is moved to the "development" stage, which is composed of Web servers, Application server, web services server, reporting server, database server, network devices, and runtime tools needed to run the application in a server environment. In this environment the system integration testing takes place.

Once unit and system integration testing is completed, the code is moved to the System Test (aka QA) stage, which consists of Web servers, application server, web services server, reporting server, database server, networking devices, and the runtime tools needed to run the application in a server environment. System test stage is also knows as Quality Assurance (QA). This is where user acceptance testing (UAT) is performed by the GCSS staff and application stakeholders.

Upon UAT approval, the code changes are promoted by DTMB staff to the production environment. The production environment is composed of Web servers, application server, web services server, reporting server, database server, networking devices, and the runtime tools needed to run the application in a server environment. Production promotions must be requested through the Remedy system.

Promotions to the system test (QA) and Production environment must be made through the remedy change management system.

The links below provide information on the State's Enterprise IT policies, standards and procedures which includes security policy and procedures, IT strategic plan, eMichigan web development and the State Unified Information Technology Environment (SUITE).

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products provided as a result of this RFP must comply with all applicable State IT policies and standards. The Contractor awarded the contract must request any exception to State IT policies and standards in accordance with DTMB processes. The State may deny the exception request or seek a policy or standards exception.

Contractor is required to review all applicable links provided below and state compliance in their response.

Enterprise IT Policies, Standards and Procedures:
http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html

All software and hardware items provided by the Contractor must run on and be compatible with the DMTB Standard Information Technology Environment. Additionally, the State must be able to maintain software and other items produced as the result of the Contract. Therefore, non-standard development tools may not be used unless approved by DTMB. The Contractor must request, in writing, approval to use non-standard software development tools, providing justification for the requested change and all costs associated with any change. The State's Project Manager and DTMB must approve any tools, in writing, before use on any information technology project.

It is recognized that technology changes rapidly. The Contractor may request, in writing, a change in the standard environment, providing justification for the requested change and all costs associated with any change. The State's Project Manager must approve any changes, in writing, and DTMB, before work may proceed based on the changed environment.

Enterprise IT Security Policy and Procedures:
http://www.michigan.gov/dit/0,1607,7-139-34305-108216--,00.html

The State's security environment includes:

- DTMB Single Login.
- DTMB provided SQL security database.
- Secured Socket Layers.
- SecureID (State Security Standard for external network access and high risk Web systems)

DTMB requires that its single - login security environment be used for all new client-server software development. Where software is being converted from an existing package, or a client-server application is being purchased, the security mechanism must be approved in writing by the State's Project Manager and DTMB's Office of Enterprise Security.

Any additional Agency specific security requirements above and beyond the enterprise requirements and standard terms and conditions stated in Article 2 must be provided as part of the Agency Specific Technical Environment.

IT Strategic Plan:
http://www.michigan.gov/dit/0,1607,7-139-30637-135173--,00.html

IT eMichigan Web Development Standard Tools:
http://www.michigan.gov/documents/Look_and_Feel_Standards_2006_v3_166408_7.pdf

The State Unified Information Technology Environment (SUITE):
Includes standards for project management, systems engineering, and associated forms and templates – must be followed: http://www.michigan.gov/suite

Agency Specific Technical Environment:

Hardware Listing	o Multiple HP Proliant DL380 G3 with 2 (Intel Xeon 3.06 GHz)Dual-Core; 4 GB memory; 2 X 73 GB Hard drives; RAID 5; Load balanced via content switch; o Multiple HP Proliant DL560 G1 with 4 (Intel Xeon 2.0 GHz)Dual-Core; 4 GB memory; 3 X 36 GB Hard drives; RAID 5; Load balanced via content switch
Operating Systems	o Windows 2003, Internet Information Services 6.0
Desktop Workstations	o Dell Pentium with Windows XP
Software Listing	o Classic ASP o VB6 o ASP.Net using 3.5, and 4.0 framework o .Net framework 4.0 o Visual Studio 2008

	o Visual Source Safe 2.0d
	o JavaScript
	o HTML
	o XML
	o MS Office 2003
	o Microsoft Project
	o Visio
Database	o MS SQL Server 2005
Network	o MS Active Directory
Browser	o Internet Explorer 6.x, 7.x, Firefox
Reporting tools	o SQL Reporting Services 2005
Interfaces	o State of Michigan's eMichigan Standards
Other systems/applications requiring integration	o Registry of Educational Personnel (REP)

1.104 Work And Deliverable

The work and deliverables/services for this Contract include:

The contractors must conduct ongoing system maintenance, enhancements and upgrade activities to the CNAP and FNS FRS applications. Assigned tasks will vary according to the specific project needs that exist at any time during the term of this contract. The number of development and maintenance requests will vary throughout the contract period, as will the required tasks.

The tasks to be performed by the contracted resources include but are not limited to the following:

- Requirements gathering, analysis, and documentation for assigned projects
- Analyze, develop, test and implement a Web-based Application submission process within FNS-FRS for the following applications: NSLP, CACFP-Centers, FDCH, SFSP, SCSM, TEFAP, CSFP
- Provide ongoing project management and technical support for existing CNAP and FNS FRS applications
- Assist in the migration to newer technologies (i.e. SQL 2005 to SQL 2008; .NET 2.0 framework to 4.0; Visual Studio 2008 to Visual Studio 2010; Visual Source Safe 6.0d to Visual Team Foundation Server 2010)
- Assist in the implementation and migration of CNAP and FNS FRS applications to new SQL database
- Assist in data migration/conversion for assigned projects
- Ensure that all work conforms to State Information Technology Environment (SUITE), project management, systems engineering methodology, and other IT standards in effect.
- Create, modify and test scripts and make required changes to the existing database.
- Maintain and alter code regarding database views, functions, procedures, packages and table APIs to make them more efficient.
- Maintain consistency in development, quality control and production while following DTMB standards, policies and directives.
- Consult with internal and external technical staff to determine best methods of data integration.
- Learn and understand the business rules of FNS-FRS and CNAP, as maintained by current DTMB-Agency Services-MDE-Lansing staff.
- Troubleshoot production problems; make recommendations for improvements
- Design, develop, validate and implement test plans; acquire test data for applications to determine the accuracy of program logic to produce desired results. Unit and system testing to be performed on work requests, service patches, browser updates, server moves, migration to newer technologies, etc.
- Debug and revise programs based on test results.
- Incorporate all levels of security into test plans, which were identified as system requirements.
- Test database and associated design, assuring compliance with the business rules, which govern the database.

- Provide documentation that describes and explains any and all developed processes
- Assist with the preparation of help documents and procedure manuals affiliated with assigned projects
- Provide end-user and train-the-trainer courses for MDE personnel and school districts
- Provide technical training for DTMB Agency Services staff
- Assist with the preparation of training materials affiliated with assigned projects

1.200 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

A. Contractor Staff

The Contractor must provide resumes in the attached Personnel Resume templates (**Attachment A**) along with chronological resumes for staff, including subcontractors, who will be assigned to the Contract, indicating the duties/responsibilities and qualifications of such personnel, and stating the amount of time each will be assigned to the project. The competence of the personnel the Contractor proposes for this project will be measured by the candidate's education and experience with particular reference to experience on similar projects as described in this Statement of Work. The Contractor must commit that staff identified in its proposal will actually perform the assigned work.

The contractor must also submit chronological resumes (Attachment B) and a letter of commitment for Key Personnel, signed by the identified resource, stating their commitment to work for the contractor/subcontractor on this project contingent on award of the bid... In the event that a resource's Resume Summary Template does not match up with his/her chronological resume, the chronological resume will be the document of record. If the identified personnel are currently assigned to a State project the contractor must provide a letter signed by the State Project Manager releasing the individual from the project upon execution of the contract.

The Contractor must provide, and update when changed, an organizational chart indicating lines of authority for personnel involved in performance of this Contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management and indicate who within the firm will have prime responsibility and final authority for the work.

All Key Personnel may be subject to the State's interview and approval process. Any key staff substitution must have the prior approval of the State. The State has identified the following as key personnel for this project:

Project Manager-Not to Exceed rate $95.00 per hour

The Project Manager is required to have the following skills and will be evaluated accordingly:

- Must have a minimum of 5 years project management experience in IT projects of similar size & scope.
- Must have a minimum of 5 years of professional experience directing & facilitating information technology developers.
- Must have a minimum of 5 years technical experience as systems architect, technical lead or senior analyst
- Must have a minimum of 5 years of quality assurance experience evaluating and testing new or modified software programs and software development procedures used to verify that programs function according to user requirements and conform to establishment guidelines
- Minimum 3 years experience with the SOM's SUITE process preferred.

- Possession of a bachelor's degree – preferably in information technology, engineering or business. Project Management Professional (PMP) certification preferred

- Minimum 3 years experience in verbal and written communications with clients and technical staff in English

- Experience in developing food nutrition tracking applications preferred

Senior Programmer/Analyst-Not to Exceed Rate $85.00 per hour

The Senior Programmer/Analyst is required to have the following skills and will be evaluated accordingly:

- Must have a minimum of 8 years experience analyzing business requirements, generating system specifications, converting specifications into code, and applying knowledge of computer programming techniques and computer languages

- Must have a minimum of 8 years of experience evaluating user requests for new or modified programs, or analyzing and developing specifications for bridge design, to determine feasibility, cost and time required, compatibility with current system, and computer capabilities

- Must have a minimum of 5 years designing, developing and implementing web applications using ASP or ASP.NET

- Must have a minimum of 3 years total development experience using Microsoft Visual Studio .NET

- Must have a minimum of 3-5 years Microsoft SQL database development and SQL stored procedures

- Thorough knowledge of Classic ASP

- Possession of a bachelor's degree – preferably in information technology, engineering or business preferred.

- Minimum 3 years experience in verbal and written communications with clients and technical staff in English

- Experience in developing food nutrition tracking applications preferred

B. On Site Work Requirements

1. **Location of Work**
   The work is to be performed, completed, and managed at the following location:

   Hannah Building, 4th Floor
   608 W. Allegan
   Lansing, Michigan 48909

2. **Hours of Operation:**
   a. Normal State working hours are 8:00 a.m. to 5:00 p.m. EST, Monday through Friday, with work performed as necessary after those hours to meet project deadlines. No overtime will be authorized or paid.
   b. The State is not obligated to provide State management of assigned work outside of normal State working hours. The State reserves the right to modify the work hours in the best interest of the project.
   c. Contractor shall observe the same standard holidays as State employees. The State does not compensate for holiday pay.

3. **Travel:**
   a. No travel or expenses will be reimbursed. This includes travel costs related to training provided to the State by Contractor.
   b. Travel time will not be reimbursed.

4. **Additional Security and Background Check Requirements:**
   Contractor must present certifications evidencing satisfactory Michigan State Police Background checks ICHAT and drug tests for all staff identified for assignment to this project.

   In addition, proposed Contractor personnel will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Prints, if required by project.

   Contractor must pay for all costs associated with ensuring their staff meets all requirements.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

The State will provide the following resources for the Bidder's use on this project: work space, minimal clerical support, desk, telephone, PC workstation, access to printer, and access to copiers and fax machines, software licenses as appropriate to the work.

The State will notify Contractor(s) in writing if a senior resource is not performing at senior level. The Contractor will be responsible for finding a senior level replacement, or will reduce the hourly rate for the person to that of a non-senior resource, at the discretion of the State.

State Project Manager

The designated DTMB Agency Services Project Manager is:
Maria Ouellette
DTMB Agency Services – MDE
Hannah Building, 1st Floor
608 W. Allegan
Lansing, MI 48909
(517)335-1701
OuelletteM1@michigan.gov

The State's Project Manager(s) duties shall include, but not be limited to:

- Provide State facilities, as needed
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions
- Provide acceptance and sign-off of deliverable/milestone
- Review and sign-off of timesheets and invoices
- Resolve issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Document and archive all important project decisions
- Arrange, schedule and facilitate State staff attendance at all project meetings.

DTMB shall provide a Contract Administrator whose duties shall include, but not be limited to, supporting the management of the Contract.

State Contract Administrator
Ann Lindberg
DTMB Agency Services – MDE
Cadillac Place, Suite #9-350
3032 West Grand Boulevard
Detroit, Michigan 48202
(313)456-3218
lindberga@michigan.gov

1.203 OTHER ROLES AND RESPONSIBILITIES

- Contractor staff will be subject to the rules, regulations, and policies of DTMB and the Michigan Department of Civil Service.
- Contractor staff will be subject to DTMB and MDE rules for computer and Internet usage and will be required to sign an acceptable use agreement, as required of DTMB's and MDE's own employees.
- Contractor staff must attend any required DTMB or MDE orientation, security awareness training, other relevant security and/or confidentiality training, and any other project-related required training. Contractor staff must sign any appropriate agreements or training certifications.
- Contractor staff assigned to work with restricted (a.k.a. sensitive) data have an obligation to safeguard and protect the confidentiality of such data. Further, if the staff member accidentally or purposefully releases restricted or sensitive data, the vendor assumes full responsibility for any resulting penalties, such as those described in the Identity Theft Protection Act (Act 452 P.A. 2004, amended July 2007).
- Contractor assumes full responsibility for the acts of all subcontractors.
- Contractor may use subcontractors to fulfill requirements of the contract. If subcontractors are employed, vendor will pay subcontractors within 30 days of the Vendor's monthly invoice.
- Contractor must ensure that staff exhibits professional conduct and act in the best interest of the State.

1.300 Project Plan

1.301 PROJECT PLAN MANAGEMENT –
RESERVED

1.302 REPORTS –
reserved

1.400 Project Management

1.401 ISSUE MANAGEMENT –
RESERVED

1.402 RISK MANAGEMENT –
RESERVED

1.403 CHANGE MANAGEMENT –
RESERVED

1.500 Acceptance

1.501 CRITERIA

Acceptance is tied to adequate performance of required ongoing maintenance services and upon written acceptance and sign-off by the DTMB Project Manager.

1.502 FINAL ACCEPTANCE

Final acceptance is expressly conditioned upon completion of ALL applicable tasks, deliverables as identified in Article 1, Section 1.104 Work and Deliverables to the satisfaction of the DTMB Project Manager.

1.600 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

Method of Payment

The "Not to Exceed" hourly rates will be the maximum hourly rate the Contractor will be allowed to charge for a resource in that classification. The "Not to Exceed" hourly rate must incorporate any direct and indirect costs, ongoing fees, and one-time charges. The State will not pay for any travel expenses, including s hotel, mileage, meals, parking, etc. Travel time will not be reimbursed.

Standard payment terms for the State are net 45 days from invoice receipt. The Bidder may only invoice the State once a month for all resources.

Invoicing

Contractor must submit properly itemized invoices to "Bill to" Address on Purchase Order.

Invoices shall provide and itemize, as applicable:

- Vendor name, address and phone number
- Dates covered
- Contract number
- Purchase order number
- Number of hours billed
- Resource name
- Total number of hours and dollars being billed by the contractor against the purchase order for the month
- Total dollars being billed by the vendor for the month

Incorrect or incomplete invoices will be returned to the Contractor for correction and reissuance.

HOLDBACK –

RESERVED

1.701 ADDITIONAL TERMS AND CONDITIONS

- The Contractor, during the performance of services detailed in this Contract, will be responsible for any loss or damage to original documents, belonging to Department of State they are in the Contractor's possession. Restoration of lost or damaged original documents shall be at the Contractor's expense. All questions that may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, the interpretation of designs and specifications, and as to the satisfactory and acceptable fulfillment of the terms of this agreement shall be decided by the State.

- All work prepared by the Contractor during the execution of this contract shall be considered works made by hire and shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. This includes, but is not limited to, all new business processes created, all planning and design work performed, all technology developed, the source and object code of all software programs and systems, any business objects or databases created, all related documentation (written or automated), and all documents and reports. If by

operation of law any of the work, including all related intellectual property rights is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such work, including all related intellectual property rights. The Contractor agrees to provide at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned work. If the Contractor uses any subcontractors to perform and prepare any of the work, the Contractor shall insure through agreement with the subcontractors that all intellectual property rights in any of the work shall belong exclusively to the State. Failure of the Contractor to insure such rights may be considered by the State to be a material breach of this contract. (Article 2 2.260)

- The Contractor must agree that they will not furnish or disclose any items owned by the State to a third party without the written permission of the State. This includes both items created as part of this contract and items owned by the State that are incidental to the contract. The Contractor shall also agree not to use items owned by the State for other purposes without the prior written permission of the State.

- The Contractor must use all software in accordance with the State's license agreements and any further restrictions imposed by the State. The Contractor shall not make any unauthorized copies of any software under any circumstances. Contractors found copying or knowingly using copyrighted software other than for backup purposes are subject to progressive disciplinary action. Contractors shall not provide software to any outsiders including consultants, local governmental units, and others when this would be a violation of law or copyright agreements.

- Contractors are responsible for maintaining the confidentiality of their passwords and are liable for any harm resulting from disclosing or allowing disclosure of any password. Any conduct that restricts or inhibits the legitimate business use of State systems or network is prohibited. Each person must use State systems and networks only for lawful purposes. Specifically prohibited is any use of State systems or disclosure of any data which would constitute a criminal offense, give rise to civil liability, violate any State of Michigan policy, or otherwise violate any applicable local, state, or federal law. This also applies to any computer systems or networks that are accessed from State computer systems or networks.

- The State has developed, and will continue to develop during the course of this effort, a growing number of information technology standards. The selected Contractor must follow any and all standards adopted by the State. Where standards do not exist, the final acceptance of a new technique, technology, or design will rest with the Contract Compliance Inspector.

- Contractor must present certifications evidencing satisfactory Michigan State Police Background checks ICHAT and drug tests for all staff identified for assignment to this project.

  In addition, proposed Contractor personnel will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Prints, if required by project.

Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 CONTRACT TERM

This Contract is for a period of **five (5)** years beginning **September 15, 2010** through **September 14, 2015.** All outstanding Purchase Orders must also expire upon the termination for any of the reasons listed in **Section 2.150** of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, shall 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. The Contract may be renewed for up to **five (5)** additional **one**-year periods.

2.003 LEGAL EFFECT

Contractor accepts this Contract by signing two copies of the Contract and returning them to the Purchasing Operations. The Contractor shall not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the 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 shall not be liable 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), signed by all the parties and a Purchase Order against the 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 must issue an approved written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order 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 specifically contained in that Purchase Order or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown; however, the Contractor will be required to 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

The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the 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.**

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

2.007 HEADINGS

Captions and headings used in the 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 the Contract.

2.008 FORM, FUNCTION & UTILITY

If the Contract is for use of more than one State agency and if the Deliverable/Service does not the meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

2.009 REFORMATION AND SEVERABILITY

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

2.010 Consents and Approvals

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the 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 the Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of the Contract.

2.012 SURVIVAL

Any provisions of the 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 the Contract for any reason. Specific references to survival in the 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 Management and Budget, Purchasing Operations and DTMB/MDE (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. The Purchasing Operations Contract Administrator for this Contract is:

Jacque Kuch, Buyer
Purchasing Operations
Department of Technology Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
kuchj@michigan.gov
(517)241-0239

2.022 CONTRACT COMPLIANCE INSPECTOR

The Director of Purchasing Operations directs the person named below, or his or her designee, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. **Monitoring Contract activities does not imply the authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract. Purchasing Operations is the only State office**

authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract. The Contract Compliance Inspector for this Contract is:

Ann Lindberg
Contract Administrator
DTMB Agency Services - MDE
Cadillac Place, Suite #9-350
3032 West Grand Boulevard
Detroit, Michigan 48202
lindberga@michigan.gov
(313)456-3218

2.023 PROJECT MANAGER

The following individual will oversee the project:

Maria Ouellette, Manager
Education Section
DTMB Agency Services - MDE
Hannah Building, 1st Floor
608 W. Allegan
Lansing, Michigan 48909
OuelletteM1@michigan.gov
(517)335-1701

Louis Burgess, Manager
MDE Grants Coordination and School Support
Hannah Building, 4th Floor
608 W. Allegan
Lansing, Michigan 48909
burgessl@michigan.gov
(517)335-3672

2.024 CHANGE REQUESTS

The State reserves the right to request from time to time any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the 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, Contractor shall provide a detailed outline of all work to be done, including tasks necessary to accomplish the Additional Services/Deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

If the State requests or directs the Contractor to perform any Services/Deliverables that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly before commencing performance of the requested activities it believes are New Work. If the Contractor fails to notify the State before commencing performance of the requested activities, any such activities performed before the Contractor gives notice shall be conclusively considered to be in-scope Services/Deliverables and not New Work.

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the Statements of Work, then before performing such Services or providing such Deliverables, the Contractor shall notify the State in writing that it considers the Services or Deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the

Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that Service or providing that Deliverable. If the Contractor does so notify the State, then such a Service or Deliverable shall be governed by the Change Request procedure in this Section.

In the event prices or service levels are not acceptable to the State, the Additional Services or New Work shall be subject to competitive bidding based upon the specifications.

(1) Change Request at State Request
If the State requires Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(2) Contractor Recommendation for Change Requests:
Contractor shall be entitled to propose a Change to the State, on its own initiative, should Contractor believe the proposed Change would benefit the Contract.

(3) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal shall include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

(4) By giving Contractor written notice within a reasonable time, the State shall 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")?

(5) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Purchasing Operations.

(6) 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 this 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 the Contract.

2.025 NOTICES

Any notice given to a party under the Contract must be deemed effective, if addressed to the party as addressed below, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third 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.

State:
State of Michigan
Purchasing Operations
Attention:
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

Contractor:
Name:
Address:

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 the Contract. Contractor may change the representatives from time to time upon giving 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 shall be deemed to be an employee, agent or servant of the State for any reason. Contractor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and Subcontractors during the performance of the Contract.

2.028 COVENANT OF GOOD FAITH

Each party shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties shall 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 the Contract.

2.029 ASSIGNMENTS

Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the 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 the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform 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 the Contract or the State's ability to recover damages.

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 the Contract that all payments must be made to one entity continues.

If the Contractor intends to assign the contract or any of the Contractor's rights or duties under the 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 shall 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 shall 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 Public Act No. 442, as amended, 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 this Contract shall 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 shall 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 shall 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 shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope.

2.043 SERVICES/DELIVERABLES COVERED

The State shall not be obligated to pay any amounts in addition to the charges specified in this Contract for all Services/Deliverables to be provided by Contractor and its Subcontractors, if any, under this Contract.

2.044 INVOICING AND PAYMENT – IN GENERAL

(a) Each Statement of Work issued under this Contract shall 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 shall 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 shall 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 1.600**.

(c) Correct invoices shall be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d1) All invoices should reflect actual work done. Specific details of invoices and payments shall be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity shall occur only upon the specific written direction from Purchasing Operations.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) shall mutually agree upon. The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 15th day of the following month.

The Government 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.

2.045 PRO-RATION

To the extent there are Services that are to be paid for on a monthly basis, the cost of such Services shall 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 the Contract, nor shall 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 shall 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. Contractors are required to register with the State electronically at http://www.cpexpress.state.mi.us. As stated in Public Act 431 of 1984, all contracts that the State enters into for the purchase of goods and services shall provide that payment shall be made by electronic fund transfer (EFT).

2.050 Taxes

2.051 EMPLOYMENT TAXES

Contractor shall collect and pay all applicable federal, state, and local employment taxes, including the taxes.

2.052 SALES AND USE TAXES

Contractor shall register and 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 this 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 this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.

2.062 CONTRACTOR KEY PERSONNEL

(a) The Contractor must provide the Contract Compliance Inspector with the names of the Key Personnel.

(b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.

(c) The State shall have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor shall notify the State of the proposed assignment, shall introduce the individual to the appropriate State representatives, and shall provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State shall provide a written explanation including reasonable detail outlining the reasons for the rejection.

(d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, and resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material

breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.

(e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

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 shall 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 the Contract shall perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel shall, 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 must be clearly identifiable while on State property by wearing a State-issued badge, as required. 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 agrees to 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 shall 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 this Contract and shall 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 agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor's performance under this Contract with the requests for access.

2.067 CONTRACT MANAGEMENT RESPONSIBILITIES

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services. Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties shall include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities in accordance with the Project Plan is likely to delay the timely achievement of any Contract tasks.

The Contractor shall provide the Services/Deliverables directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor shall act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables.

Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

2.068 CONTRACTOR RETURN OF STATE EQUIPMENT/RESOURCES

The Contractor shall return to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

2.070 Subcontracting by Contractor

2.071 CONTRACTOR FULL RESPONSIBILITY

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

2.072 STATE CONSENT TO DELEGATION

Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Purchasing Operations has given written consent to such delegation. The State shall have 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 shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State shall 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 shall 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 shall 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 shall be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State shall 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 shall not relieve Contractor of any obligations or performance required under this Contract. A list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract is attached.

2.074 FLOW DOWN

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

2.075 COMPETITIVE SELECTION

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

2.080 State Responsibilities

2.081 EQUIPMENT

The State shall provide only the equipment and resources identified in the Statement of Work and other Contract Exhibits.

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 shall 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 agrees that it shall 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 shall be used to determine Contractor personnel eligibility for working within State facilities and systems. The investigations shall 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 shall be initiated by the State and shall be reasonably related to the type of work requested.

All Contractor personnel shall also be expected to 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 shall be expected to agree to the State's security and acceptable use policies before the Contractor personnel shall be accepted as a resource to perform work for the State. It is expected the Contractor shall present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff shall be expected to 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 shall 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 the 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

Contractors with access to credit/debit card cardholder data must adhere to the Payment Card Industry (PCI) Data Security requirements. Contractor agrees that they are responsible for security of cardholder data in their

possession. Contractor agrees that data can ONLY be used for assisting the State in completing a transaction, supporting a loyalty program, supporting the State, providing fraud control services, or for other uses specifically required by law.

Contractor agrees to provide business continuity in the event of a major disruption, disaster or failure.

The Contractor shall contact the Department of Management and Budget, Financial Services immediately to advise them of any breaches in security where card data has been compromised. In the event of a security intrusion, the Contractor agrees the Payment Card Industry representative, or a Payment Card Industry approved third party, shall be provided with full cooperation and access to conduct a thorough security review. The review will validate compliance with the Payment Card Industry Data Security Standard for protecting cardholder data.
Contractor agrees to properly dispose sensitive cardholder data when no longer needed. The Contractor shall continue to treat cardholder data as confidential upon contract termination.

The Contractor shall provide the Department of Management and Budget, Financial Services documentation showing PCI Data Security certification has been achieved. The Contractor shall advise the Department of Management and Budget, Financial Services of all failures to comply with the PCI Data Security Requirements. Failures include, but are not limited to system scans and self-assessment questionnaires. The Contractor shall provide a time line for corrective action.

2.100 Confidentiality

2.101 CONFIDENTIALITY

Contractor and the State each acknowledge that the other possesses and shall 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 this Contract, is marked as confidential, proprietary or with a similar designation by the State. “Confidential Information” excludes any information (including this Contract) that is publicly available under the Michigan FOIA.

2.102 PROTECTION AND DESTRUCTION OF CONFIDENTIAL INFORMATION

The State and Contractor shall 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 shall (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 shall 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 this 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 the 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 in this Section shall 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 this Section shall 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 this Contract for any reason.

2.110 Records and Inspections

2.111 INSPECTION OF WORK PERFORMED

The State's authorized representatives shall 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 shall 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 shall 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 shall 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 the Contract and with applicable laws and rules. The State shall 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 the Contract.

2.113 RETENTION OF RECORDS

Contractor shall maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall 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 shall 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 shall meet to review each audit report promptly after issuance. The Contractor shall 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 shall 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

If the audit demonstrates any errors in the documents provided to the State, then the amount in error shall 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 shall be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of the contract, whichever is earlier.

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

2.120 Warranties

RESERVED

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 that 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 provided relative to this Contract/Purchase Order is 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 this 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 this Contract must be issued by companies that have been approved to do business in the State.
See www.michigan.gov/dleg.

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 a self-insurer provides the applicable coverage, 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 one million dollars ($1,000,000.00) with a maximum deductible of fifty thousand dollars ($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: three million dollars ($3,000,000.00) each occurrence and three million dollars ($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 this 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 this 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(s) must fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) 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 DMB 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 Number or the Purchase Order Number 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 coverage afforded under the policies SHALL 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 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 insured 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 the 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 this 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 this 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 this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this 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 this 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 shall 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 the 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 the 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 shall 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 the contract, and the State in its sole discretion determines that the breach is curable, then the State shall 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 this 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 shall 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 the 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 this Contract in part, the charges payable under this Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for convenience 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 this 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 the 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 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 shall 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 shall 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 shall pay the Contractor for only the work completed to that point under the 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 this 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 the 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 this 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 this 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 the 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 2.160** before it terminates the Contract.

2.170 Transition Responsibilities

2.171 CONTRACTOR TRANSITION RESPONSIBILITIES

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor shall 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 thirty (30) days. These efforts must include, but are not limited to, those listed in **Section 2.150.**

2.172 CONTRACTOR PERSONNEL TRANSITION

The Contractor shall 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 will notify all of Contractor's subcontractors of procedures to be followed during transition.

2.173 CONTRACTOR INFORMATION TRANSITION

The Contractor shall 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 will provide the State with asset management data generated from the inception of this Contract through the date on which this Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor will 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 shall 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 the 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, the termination provisions of this Contract must govern reimbursement. 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 will 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 reconcile all accounts between the State and the Contractor, complete any pending post-project reviews and perform any others obligations 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 the 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**. 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 2.182**.

2.182 CANCELLATION OR EXPIRATION OF STOP WORK ORDER

The Contractor shall resume work if the State cancels a Stop Work Order or if it expires. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall 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 the 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 will 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 shall be deemed to be a termination for convenience under **Section 2.153**, and the State shall pay reasonable costs resulting from the Stop Work Order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this Section**.**

2.190 Dispute Resolution

2.191 IN GENERAL

Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to the 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 the 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 shall be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any dispute after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, to resolve the dispute without the need for formal legal proceedings, as follows:

(1) 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 at issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(2) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract shall be honored in order that each of the parties may be fully advised of the other's position.

(3) The specific format for the discussions shall 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.

(4) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DMB, or designee, shall 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 shall 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 shall 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 shall 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 that the damages to the party resulting from the breach shall 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 the 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, and marital status, 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 will 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 the Contract.

2.202 UNFAIR LABOR PRACTICES

Under 1980 PA 278, MCL 423.321, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled 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, shall 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 the 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 shall 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 shall 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

Wages rates and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this Contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Labor and Economic Development, Wage and Hour Bureau, schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term

Contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

The Contractor, its subcontractors, their subcontractors and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the Contract. Contractor shall also post, in a conspicuous place, the address and telephone number of the Michigan Department of Labor and Economic Development, the agency responsible for enforcement of the wage rates and fringe benefits. Contractor shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

2.210 Governing Law

2.211 GOVERNING LAW

The Contract shall 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 shall comply with all applicable state, federal and local laws and ordinances in providing the Services/Deliverables.

2.213 JURISDICTION

Any dispute arising from the Contract shall 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 shall be 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 this 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.

The Contractor's liability for damages to the State is limited to two times the value of the Contract or $500,000 which ever is higher. The foregoing limitation of liability does not apply to claims for infringement of United States patent, copyright, trademarks 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 this 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.

The State's liability for damages to the Contractor is limited to the value of the Contract.

2.230 Disclosure Responsibilities

2.231 DISCLOSURE OF LITIGATION

Contractor shall 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) shall 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 shall 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 that 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 shall be deemed to satisfy the requirements of this Section.

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:

(a) the ability of Contractor (or a Subcontractor) to continue to perform this Contract according to its terms and conditions, or

(b) 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 this 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:

  (1) Contractor and its Subcontractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and

  (2) 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 shall 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 DMB Purchasing Operations.

  (2) Contractor shall also notify DMB 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 shall also notify DMB Purchase Operations within 30 days whenever changes to company affiliations occur.

2.232 CALL CENTER DISCLOSURE

Contractor and/or all subcontractors involved in the performance of this Contract providing call or contact center services to the State shall disclose the location of its call or contact center services to inbound callers. Failure to disclose this information is a material breach of this Contract.

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 this 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 shall 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 shall 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,** Contractor shall 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 AGREEMENT (SLA)

(a) SLAs will be completed with the following operational considerations:

(1) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.

(2) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.

(3) 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.

(4) 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:

(i) 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.

(ii) 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) will be 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 will not affect any tiered pricing levels.

(c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will 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

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result. Therefore, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.152**, the State is entitled to collect liquidated damages in the amount of $5,000.00 and an additional $100.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

Unauthorized Removal of any Key Personnel
It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.152**, the State may assess liquidated damages against Contractor as specified below.

For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount is $25,000.00 per individual if the Contractor identifies a replacement approved by the State under **Section 2.060** and assigns the replacement to the Project to shadow the Key Personnel who is leaving for a period of at least 30 days before the Key Personnel's removal.

If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 days, in addition to the $25,000.00 liquidated damages for an Unauthorized Removal, Contractor must pay the amount of $833.33 per day for each day of the 30 day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to $25,000.00 maximum per individual. The total liquidated damages that may be assessed per Unauthorized Removal and failure to provide 30 days of shadowing must not exceed $50,000.00 per individual.

2.244 EXCUSABLE FAILURE

Neither party will be liable for any default, damage or delay in the performance of its obligations under the Contract to the extent the default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, 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 OF DELIVERABLES

A list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable") or a Custom Software Deliverable is attached, if applicable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

Prior to delivering any Deliverable to the State, Contractor will first perform all required quality assurance activities, and, in the case of Custom Software Deliverables, System Testing to verify that the Deliverable is complete and in conformance with its specifications. Before delivering a Deliverable to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

In discharging its obligations under this Section, Contractor shall be at all times (except where the parties agree otherwise in writing) in compliance with Level 3 of the Software Engineering Institute's Capability Maturity Model for Software ("CMM Level 3") or its equivalent.

2.252 CONTRACTOR SYSTEM TESTING

Contractor will be responsible for System Testing each Custom Software Deliverable in Contractor's development environment prior to turning over the Custom Software Deliverable to the State for User Acceptance Testing and approval. Contractor's System Testing shall include the following, at a minimum, plus any other testing required by CMM Level 3 or Contractor's system development methodology:

Contractor will be responsible for performing Unit Testing and incremental Integration Testing of the components of each Custom Software Deliverable.

Contractor's System Testing will also include Integration Testing of each Custom Software Deliverable to ensure proper inter-operation with all prior software Deliverables, interfaces and other components that are intended to inter-operate with such Custom Software Deliverable, and will include Regression Testing, volume and stress testing to ensure that the Custom Software Deliverables are able to meet the State's projected growth in the number and size of transactions to be processed by the Application and number of users, as such projections are set forth in the applicable Statement of Work.

Contractor's System Testing will also include Business Function Testing and Technical Testing of each Application in a simulated production environment. Business Function Testing will include testing of full work streams that flow through the Application as the Application will be incorporated within the State's computing environment. The State shall participate in and provide support for the Business Function Testing to the extent reasonably requested by Contractor. Within ten (10) days before the commencement of Business Function

Testing pursuant to this Section, Contractor shall provide the State for State review and written approval Contractor's test plan for Business Function Testing.

Within five (5) Business Days following the completion of System Testing pursuant to this **Section**, Contractor shall provide to the State a testing matrix establishing that testing for each condition identified in the System Testing plans has been conducted and successfully concluded. To the extent that testing occurs on State premises, the State shall be entitled to observe or otherwise participate in testing under this Section as the State may elect.

2.253 APPROVAL OF DELIVERABLES, IN GENERAL

All Deliverables (Written Deliverables and Custom Software Deliverables) require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which, in the case of Custom Software Deliverables, will include the successful completion of State User Acceptance Testing, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables being reviewed. If Contractor fails to provide a Deliverable to the State in a timely manner, the State will nevertheless use commercially reasonable efforts to complete its review or testing within the applicable State Review Period.

Before commencement of its review or testing of a Deliverable, the State may inspect the Deliverable to confirm that all components of the Deliverable (e.g., software, associated documentation, and other materials) have been delivered. If the State determines that the Deliverable is incomplete, the State may refuse delivery of the Deliverable without performing any further inspection or testing of the Deliverable. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable and the applicable certification by Contractor in accordance with this Section.

The State will approve in writing a Deliverable upon confirming that it conforms to and, in the case of a Custom Software Deliverable, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable that remain outstanding at the time of State approval.

If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing State approval of a Deliverable, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the contract price for such Deliverable and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses without the need to furnish proof in substantiation of such general expenses; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor (and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

The State, at any time and in its own discretion, may halt the UAT or approval process if such process reveals deficiencies in or problems with a Deliverable in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the review or UAT process and, in that event, Contractor will correct the deficiencies in such Deliverable in accordance with the Contract, as the case may be.

Approval in writing of a Deliverable by the State shall be provisional; that is, such approval shall not preclude the State from later identifying deficiencies in, and declining to accept, a subsequent Deliverable based on or which incorporates or inter-operates with an approved Deliverable, to the extent that the results of subsequent review or testing indicate the existence of deficiencies in the subsequent Deliverable, or if the Application of which the subsequent Deliverable is a component otherwise fails to be accepted pursuant to **Section 2.080**.

2.254 PROCESS FOR APPROVAL OF WRITTEN DELIVERABLES

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Written Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Written Deliverable is approved in the form delivered by Contractor or describing any deficiencies that shall be corrected prior to approval of the Written Deliverable (or at the State's election, subsequent to approval of the Written Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within five (5) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Written Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Written Deliverable to confirm that the identified deficiencies have been corrected.

2.255 PROCESS FOR APPROVAL OF CUSTOM SOFTWARE DELIVERABLES

The State will conduct UAT of each Custom Software Deliverable in accordance with the following procedures to determine whether it meets the criteria for State approval – i.e., whether it conforms to and performs in accordance with its specifications without material deficiencies.

Within thirty (30) days (or such other number of days as the parties may agree to in writing) prior to Contractor's delivery of any Custom Software Deliverable to the State for approval, Contractor shall provide to the State a set of proposed test plans, including test cases, scripts, data and expected outcomes, for the State's use (which the State may supplement in its own discretion) in conducting UAT of the Custom Software Deliverable. Contractor, upon request by the State, shall provide the State with reasonable assistance and support during the UAT process.

For the Custom Software Deliverables listed in an attachment, the State Review Period for conducting UAT will be as indicated in the attachment. For any other Custom Software Deliverables not listed in an attachment, the State Review Period shall be the number of days agreed in writing by the parties (failing which it shall be forty-five (45) days by default). The State Review Period for each Custom Software Deliverable will begin when Contractor has delivered the Custom Software Deliverable to the State accompanied by the certification required by this **Section** and the State's inspection of the Deliverable has confirmed that all components of it have been delivered.

The State's UAT will consist of executing test scripts from the proposed testing submitted by Contractor, but may also include any additional testing deemed appropriate by the State. If the State determines during the UAT that the Custom Software Deliverable contains any deficiencies, the State will notify Contractor of the deficiency by making an entry in an incident reporting system available to both Contractor and the State. Contractor will modify promptly the Custom Software Deliverable to correct the reported deficiencies, conduct appropriate System Testing (including, where applicable, Regression Testing) to confirm the proper correction of the deficiencies and re-deliver the corrected version to the State for re-testing in UAT. Contractor will coordinate the re-delivery of corrected versions of Custom Software Deliverables with the State so as not to disrupt the State's UAT process. The State will promptly re-test the corrected version of the Software Deliverable after receiving it from Contractor.

Within three (3) business days after the end of the State Review Period, the State will give Contractor a written notice indicating the State's approval or rejection of the Custom Software Deliverable according to the criteria and process set out in this **Section**.

2.256 FINAL ACCEPTANCE

"Final Acceptance" shall be considered to occur when the Custom Software Deliverable to be delivered has been approved by the State and has been operating in production without any material deficiency for fourteen (14) consecutive days. If the State elects to defer putting a Custom Software Deliverable into live production for its own reasons, not based on concerns about outstanding material deficiencies in the Deliverable, the State shall nevertheless grant Final Acceptance of the Project.

2.260 Ownership

2.261 OWNERSHIP OF WORK PRODUCT BY STATE

The State owns all Deliverables, as they are work made for hire by the Contractor for the State. The State owns all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

2.262 VESTING OF RIGHTS

With the sole exception of any preexisting licensed works identified in the SOW, the Contractor assigns, and upon creation of each Deliverable automatically assigns, to the State, ownership of all United States and international copyrights, trademarks, patents, or other proprietary rights in each and every Deliverable, whether or not registered by the Contractor, insofar as any the Deliverable, by operation of law, may not be considered work made for hire by the Contractor for the State. From time to time upon the State's request, the Contractor must confirm the assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as the State may request. The State may obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.

2.263 RIGHTS IN DATA

The State is the owner of all data made available by the State to the Contractor or its agents, Subcontractors or representatives under the Contract. The Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of the Contractor. No employees of the Contractor, other than those on a strictly need-to-know basis, have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, the Contractor must only use personally identifiable information as strictly necessary to provide the Services and must disclose the information only to its employees who have a strict need-to-know the information. The Contractor must comply at all times with all laws and regulations applicable to the personally identifiable information.

The State is the owner of all State-specific data under the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State may use personally identifiable information only as strictly necessary to utilize the Services and must disclose the information only to its employees who have a strict need to know the information, except as provided by law. The State must comply at all times with all laws and regulations applicable to the personally identifiable information. Other material developed and provided to the State remains the State's sole and exclusive property.

2.264 OWNERSHIP OF MATERIALS

The State and the Contractor will continue to own their respective proprietary technologies developed before entering into the Contract. Any hardware bought through the Contractor by the State, and paid for by the State, will be owned by the State. Any software licensed through the Contractor and sold to the State, will be licensed directly to the State.

2.270 State Standards

2.271 EXISTING TECHNOLOGY STANDARDS

The Contractor will 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 (MICHIGAN DELIVERY EXTENDED AGREEMENTS LOCALLY

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: www.michigan.gov/buymichiganfirst. Unless otherwise stated, the Contractor must ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and equipment to these local governmental agencies at the established State of Michigan contract prices and terms to the extent applicable and where available. The Contractor must send its invoices to, and pay the local unit of government, on a direct and individual basis.

To the extent that authorized local units of government purchase quantities of Services and/or equipment under this Contract, the quantities of Services and/or equipment purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

2.282 STATE EMPLOYEE PURCHASES - RESERVED

2.290 Environmental Provision

RESERVED

2.300 Deliverables

2.301 SOFTWARE –

RESERVED

2.302 HARDWARE –

RESERVED

2.303 EQUIPMENT TO BE NEW –

RESERVED

2.304 EQUIPMENT TO BE NEW AND PROHIBITED PRODUCTS –
RESERVED

2.310 Software Warranties

2.311 PERFORMANCE WARRANTY –
RESERVED

2.312 NO SURREPTITIOUS CODE WARRANTY –
RESERVED

2.313 CALENDAR WARRANTY –
RESERVED

2.314 THIRD-PARTY SOFTWARE WARRANTY –
RESERVED

2.315 PHYSICAL MEDIA WARRANTY –
RESERVED

2.320 Software Licensing

2.321 CROSS-LICENSE, DELIVERABLES ONLY, LICENSE TO CONTRACTOR
RESERVED

2.322 CROSS-LICENSE, DELIVERABLES AND DERIVATIVE WORK, LICENSE TO CONTRACTOR
RESERVED

2.323 LICENSE BACK TO THE STATE
RESERVED

2.324 LICENSE RETAINED BY CONTRACTOR
RESERVED

2.325 PRE-EXISTING MATERIALS FOR CUSTOM SOFTWARE DELIVERABLES
RESERVED

2.330 Source Code Escrow

2.331 DEFINITION
RESERVED

2.332 DELIVERY OF SOURCE CODE INTO ESCROW
RESERVED

2.333 DELIVERY OF NEW SOURCE CODE INTO ESCROW
RESERVED

2.334 VERIFICATION
RESERVED

2.335 ESCROW FEES
RESERVED

2.336 RELEASE EVENTS –
RESERVED

2.337 RELEASE EVENT PROCEDURES –
RESERVED

2.338 LICENSE
RESERVED

2.339 DERIVATIVE WORKS
RESERVED

2.400 Other Provisions

2.411 FORCED LABOR, CONVICT LABOR, OR INDENTURED SERVITUDE MADE MATERIALS –
RESERVED

2.421 KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS –
RESERVED

Attachment A
Cost Table

No.	Staffing Classification(s)	Firm Fixed Hourly Rate	Hours (1984 per year x five years)	Total Contract Value
	Project Manager Peter Jones "*Not to Exceed $95/hour*"	$ 89.50	9,920 (5 years)	$ 887,840
	Senior Programmer/Analyst Rajesh Kannan *"Not to Exceed $85/hour"*	$ 68.00	9,920 (5 years)	$ 674,560
	CONTRACT TOTAL			**$1,562,400**

Notes:
Hourly rates quoted are firm, fixed rates for the duration of the contract. The State will utilize the fully loaded hourly rates detailed above for each resource identified above.

"Not to Exceed" rates reflect current State standard staff augmentation rates for the classifications identified above.