



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**

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

CONTRACT CHANGE NOTICE

Change Notice Number **6**
to
Contract Number **071B1300034**

CONTRACTOR	OPTUM GOVERNMENT SOLUTIONS, INC.
	11000 Optum Circle
	Eden Prairie, MN 55344
	David Wieber
	(517) 993-0929
	david.wieber@optum.com
	*****4101

STATE	Program Manager	John Migaldi	DTMB
		517-636-5070	
		migaldig@michigan.gov	
STATE	Contract Administrator	Jarrod Barron	DTMB
		(517) 284-7045	
		BarronJ1@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Treasury Eskort Maintenance & Support				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
September 15, 2010	September 30, 2015	2 - 1 Year	September 30, 2016	
PAYMENT TERMS		DELIVERY TIMEFRAME		
n/a		n/a		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
n/a				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 year	<input type="checkbox"/>		September 30, 2017
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$5,124,874.00		\$ 1,093,092.00	\$6,217,966.00	

DESCRIPTION: Effective August 16, 2016, the State exercises the final option year, renews ESKORT Software Maintenance and Support for \$264,588.00 per the original contract and renews the production support services at the hourly rates shown on the attached table not to exceed \$828,504.00. The attached Responsibility Matrix denotes the parties' relative services roles and responsibilities. Total \$1,093,092.00 cost is added to the contract value. All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement and DTMB Procurement approval.

Pricing for Time and Materials Based services

Rates effective October 1, 2016 – September 30, 2017

Proposed Skill Sets - Renewal Option Year 2	Resource Name	Not to Exceed Hourly Rate
Data Warehouse Developer Sr/Jr	Chandra Teja	\$128.00
Data Warehouse BI Analyst Sr/Jr	Lois Franchino	\$128.00
ESKORT System Specialists	TBD, as needed	\$230.00
Onsite ESKORT System Consultant	TBD, as needed	\$170.00 (10/1/2016-3/31/2017)
		\$130.00 (4/1/2017 – 9/30/2017)

The scope of services for the Data Warehouse Developer Sr/Jr, Data Warehouse BI Analyst Sr/Jr and ESKORT System Specialists shall remain the same for Option Year 2 as they were for Option Year 1.

The parties add the Onsite ESKORT System Consultant role for Option Year 2. The scope of services for this role shall be as described on the following ESKORT Application Services Project List:

1. **ESKORT Application Technical Support** – The Onsite Intrasoft System Consultant may be engaged to support ESKORT application requests related to ESKORT deployments, and product upgrades and extensions to hardware and software for all of the three environments that include UAT, QA, and Production.
2. **ESKORT Application Modifications and Fixes** – The Onsite Intrasoft System Consultant may be engaged to support investigation into ESKORT application related issues as well as design and implementation of modifications and/or fixes to the application.
3. **ESKORT Application Configuration Support** - The Onsite Intrasoft System Consultant may be engaged to assist TCB staff with configuration changes in all three ESKORT application components of Selection, Case Manager, and Audit Support.
4. **ESKORT Application Training** - The Onsite Intrasoft System Consultant may be engaged to provide ESKORT training to designated TCB staff. The training will include documentation on how to do the tasks that are being taught by the Onsite Intrasoft System Consultant.
5. **Application Functionality Support** - The Onsite Intrasoft System Consultant may be engaged to assist TCB staff with changes to the audit workflow and leveraging other functionalities in the ESKORT application that currently are not being used.
6. **Risk Assessment** - The Onsite Intrasoft System Consultant may be engaged to provide support to the Risk Assessment Unit as they create more sophisticated rules and new knowledge bases (ex. a CBAT knowledge base).
7. **Discovery** - If ESKORT is approved as the Discovery replacement, the Onsite Intrasoft System Consultant may be engaged to assist with system design, facilitate communications, and provide training and continued support to Discovery staff.

Subject to the exception set forth in the second sentence of this paragraph, the start date of the Services is anticipated to be October 1, 2016, but will not begin any earlier than the date the State signs this Change Notice for this Contract extension and issues the related Purchase Order(s) to Optum (the “Services Start Date”), The Services Start Date for the Onsite ESKORT System Consultant shall be a date mutually agreed upon between the State and Optum, provided that the State has given Optum at least three (3) months’ prior written notice at any time after the State’s signature to this Change Notice. If and to the extent the Onsite ESKORT System Consultant can commence Services earlier than such three month period and both the State and Optum agree on such earlier date, then the Services Start Date for the Onsite ESKORT System Consultant shall be that earlier date.

The term during which the Services may be performed shall be from the Services Start Date and continuing until Optum’s completion of all of the Services up to the then current, not to exceed Services SOW amount, provided that the State shall have the right to terminate the Services provided by the Onsite ESKORT System Consultant prior to such time if the State provides at least thirty (30) days prior written notice to Optum, but where the effective date of such termination shall be no earlier than six (6) months following the Services Start Date (the “Services Term”).

Responsibility Matrix

ESKORT Operating System, Middleware, and ESKORT Software Support Responsibility Matrix	DTMB	TCB	Optum/ Intrasoft
Make ESKORT Software Changes and/or fixes			Perform
Make ESKORT Software Configuration Changes - Customer controlled Configurations		Perform	Assist
Deployment of ESKORT Software modifications into the UAT, QA, and Production environments	Perform		Assist
Deployment of ESKORT Configuration changes into the QA, and Production environments	Perform	Assist	Assist
Provide ESKORT Software maintenance and support	Assist	Assist	Perform
Perform Middleware Software and infrastructure (Hardware or Network) troubleshooting and problem detection	Perform	Assist	Assist
Perform Installation of Middleware Software release upgrades and patches	Perform		Assist
Perform Middleware Software configuration changes/updates	Perform		Assist
Perform Middleware Software troubleshooting and problem determination related to ESKORT Software	Perform	Assist	Assist
Perform ESKORT Software troubleshooting and problem determination	Assist	Assist	Perform
Ownership and management of any ESKORT Software end user ID administration, including password resets	Assist	Perform	
Ownership of all end-user relationships and end-user support requirements	Assist	Perform	Assist
Administer changes to ESKORT application thresholds and processes being monitored	Perform		
Monitor and forward Security alerts related to the System Software	Perform		
Perform Middleware Software log file rotation, pruning, and archiving	Perform		
Procure and keep current service contracts with the Middleware Software manufacturer for maintenance and support including upgrades and updates/fixes	Perform		
Provide the appropriate support information for State contacts and Middleware Software manufacturer support contacts (IDs, contact names, telephone numbers, license numbers, etc.)	Perform		
Establish point of contact with Middleware Software manufacturer	Perform		
Monitor Middleware Software manufacturer communications regarding "hot fixes" and/or "security fixes" that are recommended for immediate implementation by the manufacturer	Perform		
Implementation of any Middleware Software product upgrade	Perform	Assist	Assist
Provide and maintain Middleware Software problem solution documentation	Perform		Assist
Provide Operating system level support including all security and fix patches	Perform		
Provide all Server Hardware level maintenance	Perform		
Provide all Data Center related services	Perform		

*Middleware = JBOSS and all other Server Based Software provided by DTMB for Monitoring, Backups, and Server Support as well as MS SQL Server which are not provided by Optum/Intrasoft

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. 5
to
CONTRACT NO. 071B1300034
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Optum Government Solutions, Inc 13625 Technology Drive Eden Prairie, MN 55344	David Wieber	David.wieber@optum.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	(517) 993-0929	4101

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	John Migaldi	(517) 636-5070	migaldig@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Terry Mead	(517) 284-7035	meadt@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: ESKORT COMPLIANCE SOLUTION			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	2, one year	September 30, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$5,124,874.00		0.00	\$5,124,874.00	
DESCRIPTION: Effective October 7, 2015: Sarayu Consultants, Inc. is an approved Subcontractor and their employee Chandra Teja is replacing Satwinder Singh on this project as the Data Warehouse Database Developer/Administrator with the same roles and responsibilities and at the same rate and within the Not to Exceed Hourly Rate of \$128.00. This is a zero dollar change notice. All other terms, conditions, specifications, and pricing remain the same, per Contractor and Agency agreement and DTMB approval.				



822 Centennial Way, Suite 100 | Lansing, MI 48917 | phone: (517) 993-0929 | www.optum.com

September 30, 2015

Ms. Lucy Pline
Department of Technology, Management and Budget
Michigan Department of Treasury, Operations Center
7285 Parsons Drive
Lansing, MI 48922

RE: DATA WAREHOUSE DATABASE ADMINISTRATOR STAFFING MODIFICATION UNDER THE MICHIGAN TREASURY ESKORT MAINTENANCE CONTRACT No. 071B1300034

Dear Lucy:

Optum Government Solutions, Inc. ("Optum") is planning the following project staffing modification as a result of Mr. Satwinder Singh no longer being available to Optum to supply to the State:

- Mr. Satwinder Singh – Data Warehouse Database Administrator will be replaced by Mr. Chandra Teja. Mr. Teja is a resource from a subcontractor to Optum, Sarayu Consultants, Inc. (Saray) through a Master Subcontract Agreement that contains applicable terms and conditions based on the requirements of the Optum-State of Michigan Contract No. 071B1300034 ("the Contract"). Mr. Singh's last day on the project was September 4, 2015 and Mr. Teja's first day on the project will be October 7, 2015.

By counter-signing in the space provided below, the State hereby approves Optum's staffing modification, as outlined above and the State will issue a Change Notice to the Contract reflecting the State's approval of 1) Sarayu as an approved subcontractor to Optum per section 2.072 of the Contract, and 2) the replacement of Satwinder Singh with Chandra Teja effective as of October 7, 2015.

Should you have any questions, please do not hesitate to contact me. Thank you again for the opportunity to work with you and your project team.

Sincerely,

David C. Wieber
Optum Director of Michigan Operations

AGREED TO: STATE OF MICHIGAN DTMB

By: _____

Title: DTMB Data Warehouse Manager for Treasury

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

CHANGE NOTICE NO. 4
 to
CONTRACT NO. 071B1300034
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Optum Government Solutions, Inc. 13625 Technology Drive Eden Prairie, MN 55344	David Wieber	David.wieber@optum.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(517) 993-0929	-4101

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

CONTRACT SUMMARY			
DESCRIPTION: ESKORT COMPLIANCE SOLUTION			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	2, one year	September 30, 2015
PAYMENT TERMS	F.O.B.	SHIPPED TO	
N/A	N/A	N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF EXTENSION/OPTION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 year	September 30, 2016
CURRENT VALUE		VALUE/COST OF CHANGE NOTICE	ESTIMATED REVISED AGGREGATE CONTRACT VALUE	
\$4,366,824.00		\$758,050.00	\$5,124,874.00	

DESCRIPTION:
 Effective 10/1/2015, this contract is hereby amended and increased by \$758,050.00 to support the first option year. The breakdown consists of \$258,265.00 for Software Licenses, Maintenance, and Support in attached Table 1, and also provides additional application services of \$499,785.00 as defined in the attached Change Request 006, dated 6/2/2015 for the timeframe of 10/1/2015 – 9/30/2016. All other terms, conditions, pricing and specifications remain the same. Per contractor and agency agreement, DTMB Procurement approval and State Administrative Board approval on

8/4/2015.



822 Centennial Way, Suite 100 | Lansing, MI 48917 | phone: (517) 993-0929 | www.optum.com

June 17, 2015

Ms. Lucy Pline
Department of Technology, Management and Budget
Michigan Department of Treasury, Operations Center
7285 Parsons Drive
Lansing, MI 48922

RE: Treasury ESKORT Change Request 006 – ESKORT Contract Option Year Extension

Dear Lucy:

Optum Government Solutions, Inc. ("Optum") is pleased to respond to the State of Michigan Department of Technology, Management and Budget ("DTMB") or (the "State") request to exercise the first option year extension provided under the terms and conditions of the ESKORT Maintenance Contract No. 071B1300034, executed by and between the State and Optum, as amended herein (the "Contract").

Optum and the State mutually agree to extend the services per Section 2.002 in the Contract, for one year at the Option Year 1 pricing which is defined in Attachment 1, Table 1 of the Contract.

In addition to exercising the first option year, the State has also requested that Optum provide certain ESKORT related Data Warehouse and application services (the "Services"), which are in alignment with the additional services contemplated and defined in Attachment 1 Table 2 of the Contract. The Services are further defined in the attached Statement of Work for ESKORT Related Data Warehouse and Application Services (the "Services SOW").

In order to accept this one year contract extension, the State will need issue a Change Notice to the Contract which extends the Contract end date to September 30, 2016 and increases the Contract funding by \$758,050, that includes \$258,265 for ESKORT Software Maintenance and Support, and \$499,785 for the Services. In addition, the related Purchase Order(s) to Optum will need to be issued on or before October 1, 2015.

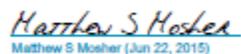
Should you have any questions, please do not hesitate to contact me. Thank you again for the opportunity to work with you and your project team.

Sincerely,



Point of Contact:

David Wieber
Michigan Director of Operations
Optum Government Solutions, Inc.



Matthew S Mosher (Jun 22, 2015)

Signer:

Matthew S. Mosher
Chief Operating Officer, Optum Data Management
Optum Government Solutions, Inc.



Statement of Work for ESKORT Related Data Warehouse and Application Services -
Change Request 006:

State of Michigan Department of Technology, Management and Budget and the Department of Treasury

ESKORT Related Data Warehouse and Application Services

June 17, 2015



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Contact Information

David Wieber
Director of Michigan Operations
Optum Government Solutions, Inc..
822 Centennial Way, Suite 100
Lansing, MI 48917
Tel: 517-993-0929
E-Mail: david.wieber@optum.com

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1. Introduction

Optum Government Solutions, Inc. ("Optum") is pleased to present this Statement of Work for ESKORT Related Data Warehouse and Application Services (the "Services SOW") to the State of Michigan, Department of Technology, Management and Budget ("DTMB") in service to the Michigan Department of Treasury ("Treasury"), collectively referred to as the "State", to provide assistance in making modifications to the Treasury ESKORT System and Treasury Data Warehouse and its supporting processes (the "Services") that are involved in providing data to the ESKORT Software ("ESKORT"). The Services described in this Services SOW will be performed on a Time and Materials basis.

2. Background and Project Objective

The Treasury Tax Compliance Bureau ("TCB") implemented the ESKORT system in 2001 to streamline the auditing process. The auditing process includes field audits, selection, research, tracking, and reporting. In 2012/13, the ESKORT system was upgraded to the current edition with the inclusion of Michigan specific product extensions.

ESKORT is the principal software tool used by the State to evaluate taxpayer information and select audits based on risk analysis. The cases that are selected are assigned to State auditors through a controlled workflow process that has approval steps. Auditors use ESKORT in the field to conduct audits and record the results, interacting with a central repository of all cases selected by TCB. Finalized cases are sent through an approval process prior to final determinations given to taxpayers. Auditors track the time spent in auditing through ESKORT.

The ESKORT Software obtains its data from the Treasury Data Warehouse (TDW), which is hosted on the State's Teradata Enterprise Data Warehouse platform, and the TDW receives data from Treasury's various Tax applications, Federal sources, and other State sources.

Optum understands that the TCB's priorities are focused on revenue collection, fraud detection, and tax revenue recovery. All efforts detailed in this Services SOW will be planned and delivered with an emphasis on the needs of the ESKORT system, the TCB, and the audit process.

The purpose of this Services SOW is to define the Optum resources to be provided, potential projects, scope, deliverables, and related pricing under which DTMB and Treasury shall engage Optum for supplying ESKORT and Treasury Data Warehouse related staffing in support of the ESKORT System.

3. Scope of Work, Deliverables, and Project Control and Reports

The scope of this Services SOW and related Services that the State may engage Optum to provide under this Services SOW are for the purpose of improving the ESKORT System and the related TDW, its Edit, Transformation and Load (ETL) processes, and data feeds to the ESKORT Software, all in support of improving the TCB Auditing process.

Optum staff will work at the direction of the State on the project list below. The State will prioritize the projects and make specific activity/task assignments to the Optum staff. The project list below shall not preclude the State from engaging and assigning the Optum staff to new projects that arise during the Services Term.

Project List:

1. **MBT/CIT TDW support services** - the design of the Michigan Business Tax ("MBT") and Corporate Income Tax ("CIT") systems in SAP will continue to call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
2. **SUW TDW support services** - the design of the Sales, Use, and Withholding ("SUW") tax system in SAP will call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
3. **FTW TDW support services** - the design of the Flow-Through Withholding ("FTW") tax system in SAP will call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
4. **ESKORT Data Modifications and Fixes** – Optum staff may be engaged to support investigation into ESKORT data related issues as well as design and implementation of modifications and/or fixes to the TDW to support accurate and complete data flowing to the ESKORT software.
5. **ESKORT Application and Database Support** – Optum and Intrasoft staff may be engaged to support ESKORT application and database related requests related to product upgrades and extensions as well as expert consultation on production configuration.
6. **BI Query Administrative services** - Optum staff may be engaged to work with the State's DBAs and BI Query users and administrators to refine the BI Query models and to keep them in sync with other developments, such as the migration of Treasury data to SAP.
7. **BI Query Training** - With the release of new versions of BI Query software, there will be a need throughout Treasury for Optum staff to provide training in the new features of the tool. This training will include the new features and capabilities of the tool and its application to Treasury ESKORT related data.
8. **TDW Optimization and Cleanup services** - Optum staff may be engaged to support the TDW optimization and cleanup activities. There continues to be a need for additional and ongoing cleanup and optimization of obsolete data, inactive users, loading and extract routines including ETL, and other tasks related to the TDW ESKORT data. Optum would support these activities by working with the State's DBA, users, and management.
9. **Registrations** – Optum or Intrasoft staff may be engaged in connection with required modifications of the ESKORT Configuration to process Registrations.
10. **Data Governance** – Optum staff may be engaged to support the Treasury Data Governance project.
11. **City Income Tax** - TDW support services - the design of the City Income Tax system in SAP will call for updates and changes as new tax years are added. These changes will

not only affect the data in SAP, but will also impact how the data is stored within the TDW.

12. **State Essential Service Assessment (SESA)** - TDW support services - the design of the SESA system in SAP will call for create the tables within TDW updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW.

13. **Special projects** – as determined by the TCB Director.

Deliverable(s):

1. Optum staff engaged via this Services SOW will deliver weekly status reports.
2. Optum will deliver a monthly report of hours to be reviewed for accuracy and approved by the State in a timely manner.

4. State Responsibilities

Optum's ability to perform the Services is subject to the timely and complete performance of the tasks attributed to the State in the project work plan and to the fulfillment by the State of its individual and collective responsibilities as described in this section or other sections of the Services SOW.

The State will provide Optum (and where required, Intrasoft) with access to the necessary platforms, systems and interfaces related to the development, testing, and/or implementation of the requested Services.

The State will provide Optum (and where required, Intrasoft) personnel facilities that Optum may reasonably require to perform the Services, in particular, office space, supplies, furniture, computer facilities, telephone/fax communications, analog lines and broadband access via network connectivity capability while Optum (and where required, Intrasoft) is performing the Services. The State will be responsible for providing appropriate backup and maintaining security and virus-checking procedures for computer facilities the State provides.

5. Assumptions Including Specific Department Standards

Optum will not provide the State with, and the prices defined in this Services SOW do not include the provision of, any products (hardware or software licenses) or any other deliverables pursuant to this Services SOW other than those set forth in Section 3 above.

As it relates to the ESKORT System Specialist defined in Section 7 below, Optum will provide the ESKORT System Specialist Time and Material services defined in this Services SOW after mutually agreed-to JIRA's have been submitted and approved by the State. The JIRA's shall include the project description, including whether the project is one from Section 3 or a Special Project and include explicit approval by the State.

6. Schedule and Service Term

The start date of the Services is anticipated to be October 1, 2015, but will not begin any earlier than the date the State issues a Change Notice for this Contract extension and the related Purchase Order(s) to Optum (the "Services Start Date"),

The term during which the Services may be performed shall be from the Services Start Date and continuing until Optum's completion of all of the Services up to the then current, not to exceed Services SOW amount (the "Services Term").

The total amount of the Services is further subject to the mutually agreed budget for this effort, which is presently set at a Not to Exceed Total Amount of \$499,785 documented in the table set forth in Section 7 of this Services SOW. The budget may, however, be changed if mutually agreed to in writing by the State and Optum, contingent upon Optum's receipt of a change order or amended Statement of Work establishing a new, not to exceed amount.

This Services SOW will be considered completed when either of the following events first occurs:

1. The end date of September 30, 2016 is reached.
2. The Services SOW funding has been exhausted.

7. Payment Schedule and Acceptance Criteria

The estimated amount for each Time and Material priced service is identified in the following table, where the hourly rate for the Proposed Skill Set is based on the aggregate hours associated with the project:

Pricing for Time and Materials Based services

Proposed Skill Sets - Renewal Option Year 1	Resource Name	Estimated Hours	Not to Exceed Hourly Rate	Estimated Amount
Data Warehouse Developer Sr/Jr	Satwinder Singh	1860	\$128.00	\$238,080.00
Data Warehouse BI Analyst Sr/Jr	Lois Franchino	1860	\$128.00	\$238,080.00
ESKORT System Specialist		105	\$225.00	\$23,625.00
Total Not to Exceed Amount				\$499,785.00

The "Renewal Option Year 1" in the table above represents the period from October 1, 2015 – September 30, 2016.

Pursuant to, and consistent with, the Contract, Optum will provide the Time and Material services, as defined in the Scope of Work section above and subsequently executed approved JIRA's, in accordance with the above prices for services to be performed.

On a monthly basis, Optum will provide the State with a worksheet detailing the actual hours worked for the period. The worksheet must be signed by an authorized representative of the State in a timely manner and provided to Optum in a manner as may be mutually agreed-upon. Optum will invoice the State monthly for the Services provided. In so far as the scope of work described in this Services SOW are to be performed solely on a time and material basis, the State acknowledges and agrees that the State shall be obligated to pay for each hour worked and that there is no other 'acceptance criteria' applicable to the services described in this Services SOW.

The mix of hours per position/proposed skill set may be modified over the term of this Services SOW as mutually agreed by the parties and set forth in amendments to this Services SOW signed by the parties.

8. Contractor Work Hours, Project Contacts, Location, and Travel Expenses

The Services will be provided during normal State working hours which 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.

The contacts for the Project described in this Services SOW are:

- For the State: John Migaldi
- For Optum: Kristen Pawlowski

The Services will be performed at State of Michigan Department of Treasury DTMB site at the State's Secondary Complex on Crowser Drive in Lansing, MI or, if specified in an individual Letter Agreement for a specific Project, remotely from an Optum or Intrasoft office location.

There are no anticipated travel expenses related to the Services.

9. Contract Terms

The Services shall be provided under, and this Services SOW is issued pursuant to, the terms and conditions of Contract No. 071B1300034 by and between Optum and the State of Michigan, Department of Technology, Management and Budget ("DTMB"), as amended and as modified herein (collectively, the "Contract"). Optum understands that DTMB intends to enter into an inter-agency funding agreement with Treasury under which Treasury will become a third party beneficiary of the Services provided for under this Services SOW. However, the Services shall continue to be supplied and billed by Optum through DTMB under the terms and conditions of the Contract.

Before Optum commences any activities defined in this Services SOW, the State must approve this Services SOW by issuing a Change Notice and purchase order for the amount described in Section 7. This Services SOW is valid until September 30, 2015 such that the signed Change Notice and applicable purchase order (s) must be received by Optum on or before that date.



MI Treasury Letter SOW CR006 - ESKORT DW Enhancements (FINAL) 6-2-2015

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June 04, 2015

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June 04, 2015 - 12:13 PM CDT



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

Project Title: ESKORT Contract Option Year Extension	Period of Coverage: 9/15/2015 – 9/14/2016
Requesting Department: DTMB Supporting Treasury	Date: 7/9/2015
DTMB Project Manager: John Migaldi	Phone: 517-636-5070

Brief Description of Services to be provided:

BACKGROUND:

The Treasury Tax Compliance Bureau (“TCB”) implemented the ESKORT system in 2001 to streamline the auditing process. The auditing process includes field audits, selection, research, tracking, and reporting. In 2012/13, the ESKORT system was upgraded to the current edition with the inclusion of Michigan specific product extensions.

ESKORT is the principal software tool used by the State to evaluate taxpayer information and select audits based on risk analysis. The cases that are selected are assigned to State auditors through a controlled workflow process that has approval steps. Auditors use ESKORT in the field to conduct audits and record the results, interacting with a central repository of all cases selected by TCB. Finalized cases are sent through an approval process prior to final determinations given to taxpayers. Auditors track the time spent in auditing through ESKORT.

The ESKORT Software obtains its data from the Treasury Data Warehouse (TDW), which is hosted on the State’s Teradata Enterprise Data Warehouse platform, and the TDW receives data from Treasury’s various Tax applications, Federal sources, and other State sources.

PROJECT OBJECTIVE:

The purpose of this Services SOW is to define the Optum resources to be provided, potential projects, scope, deliverables, and related pricing under which DTMB and Treasury shall engage Optum for supplying ESKORT and Treasury Data Warehouse related staffing in support of the ESKORT System.

SCOPE OF WORK:

Provide under this Services SOW are for the purpose of improving the ESKORT System and the related TDW, its Edit, Transformation and Load (ETL) processes, and data feeds to the ESKORT Software, all in support of improving the TCB Auditing process.

TASKS:

Satwinder Singh is a DBA who will be responsible for analyzing issues with the ESKORT system, understanding why, and making corrections to the system or datawarehouse as needed. His hours specific hours will be based on the types of issues that arise.

Lois Franchino is a Business Analyst responsible for loading data into the datawarehouse, creating documentation, running scripts, and requirements gathering. Lois’s hours will be based upon priority of the agency.

Proposed Skills Sets – Renewal Option Year 1	Resource Name	Estimated Hours	Not to Exceed Hourly rate	Estimated Amount
Data Warehouse Developer Sr/Jr	Satwinder Singh	1860	\$128.00	\$238,080.00
Data Warehouse BI Analyst Sr/Jr	Lois Franchino	1860	\$128.00	\$238,080.00
ESKORT System Specialist		105	\$225.00	\$23,625.00
Total Not to Exceed Amount				\$499,785.00

DELIVERABLES:

Deliverables will not be considered complete until the Agency Project Manager has formally accepted them. Deliverables for this project include:

1. **MBT/CIT** TDW support services - the design of the Michigan Business Tax (“MBT”) and Corporate Income Tax (“CIT”) systems in SAP will continue to call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
2. **SUW** TDW support services - the design of the Sales, Use, and Withholding (“SUW”) tax system in SAP will call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
3. **FTW** TDW support services - the design of the Flow-Through Withholding (“FTW”) tax system in SAP will call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
4. **ESKORT Data Modifications and Fixes** – Optum staff may be engaged to support investigation into ESKORT data related issues as well as design and implementation of modifications and/or fixes to the TDW to support accurate and complete data flowing to the ESKORT software.
5. **ESKORT Application and Database Support** – Optum and Intrasoft staff may be engaged to support ESKORT application and database related requests related to product upgrades and extensions as well as expert consultation on production configuration.
6. **BI Query Administrative** services - Optum staff may be engaged to work with the State’s DBAs and BI Query users and administrators to refine the BI Query models and to keep them in sync with other developments, such as the migration of Treasury data to SAP.
7. **BI Query Training** - With the release of new versions of BI Query software, there will be a need throughout Treasury for Optum staff to provide training in the new features of the tool. This training will include the new features and capabilities of the tool and its application to Treasury ESKORT related data.
8. **TDW Optimization** and Cleanup services - Optum staff may be engaged to support the TDW optimization and cleanup activities. There continues to be a need for additional and ongoing cleanup and optimization of obsolete data, inactive users, loading and extract routines including ETL, and other tasks related to the TDW ESKORT data. Optum would support these activities by working with the State’s DBA, users, and management.
9. **Registrations** – Optum or Intrasoft staff may be engaged in connection with required modifications of the

ESKORT Configuration to process Registrations.

10. **Data Governance** – Optum staff may be engaged to support the Treasury Data Governance project.

11. **City Income Tax** - TDW support services - the design of the City Income Tax system in SAP will call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW.

12. **State Essential Service Assessment (SESA)** - TDW support services - the design of the SESA system in SAP will call for create the tables within TDW updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW.

13. **Special projects** – as determined by the TCB Director.

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. 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 DTMB Project Manager is:

John Migaldi
DTMB – Agency Services

Operations Center/2nd Floor
7285 Parsons Drive
Dimondale, MI
517-636-5070
MigaldiG@michigan.gov

AGENCY RESPONSIBILITIES:

The State will provide Optum (and where required, Intrasoft) personnel facilities that Optum may reasonably require to perform the Services, in particular, office space, supplies, furniture, computer facilities, telephone/fax communications, analog lines and broadband access via network connectivity capability while Optum (and where required, Intrasoft) is performing the Services. The State will be responsible for providing appropriate backup and maintaining security and virus-checking procedures for computer facilities the State provides.

LOCATION OF WHERE THE WORK IS TO BE PERFORMED:

Consultants will work at the Operations Center in Dimondale, MI.

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.

Table 1: Recurring Costs: Software License and Maintenance and Support

No.	Cost Categories	ESKORT Selection Cost (\$)	ESKORT Case Mgt. and Tracking Cost (\$)	ESKORT Audit Support Cost (\$)	Total (\$)
	Software license cost*				
	First Year	0	0	0	0
	Second Year	0	0	0	0
	Third Year	0	0	0	0
	Fourth Year	0	0	0	0
	Fifth Year	0	0	0	0
	Total Software License Recurring Costs – without option years				
	Option Year 1	0	0	0	0
	Option Year 2	0	0	0	0
	Software Maintenance and Support cost (may includes helpdesk)**				
	First Year	\$83,790	\$95,800	\$60,050	\$239,640
	Second Year	\$83,790	\$95,800	\$60,050	\$239,640
	Third Year	\$83,790	\$95,800	\$60,050	\$239,640
	Fourth Year	\$86,163	\$98,376	\$61,061	\$245,600
	Fifth Year	\$88,031	\$100,897	\$62,976	\$251,904
	Total Software Maintenance and Support Recurring Costs – without option years**	\$ 425,564	\$486,673	\$304,187	\$ 1,216,424
	Option Year 1	\$90,596	\$102,765	\$64,904	\$258,265
	Option Year 2	\$ 91,796	\$106,645	\$66,147	\$264,588
	Combined Total – without option years	\$425,564	\$486,673	\$304,187	\$1,216,424

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

CHANGE NOTICE NO. 3
 to
CONTRACT NO. 071B1300034
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Optum Government Solutions, Inc. 13625 Technology Drive Eden Prairie, MN 55344	David Wieber	David.wieber@optum.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(517) 993-0929	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Whitnie Zuker	517-335-5306	zuckerw@michigan.gov
BUYER	DTMB	Whitnie Zuker	517-335-5306	zuckerw@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: ESKORT COMPLIANCE SOLUTION			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	2, one year	September 30, 2015
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$500,000.00		\$4,366,824.00		

Effective immediately, this contract is hereby **INCREASED** by \$500,000.00 and is updated to include items from Change Request 005 dated August 12, 2013. Please also note that the buyer has been changed to Whitnie Zuker. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement, DTMB Procurement approval and the approval of the State Administrative Board on October 15, 2013.



822 Centennial Way, Suite 100 | Lansing, MI 48917 | phone: (517) 993-0929 | www.optum.com

August 12, 2013

Mr. Neil Slagle
Department of Technology, Management and Budget
Michigan Department of Treasury, Operations Center
7285 Parsons Drive
Lansing, MI 48922

RE: Michigan Treasury ESKORT Change Request 005 – ESKORT Data Warehouse Services

Dear Neil:

Pursuant to your request, and on behalf of Optum Government Solutions, Inc. ("Optum"), I am pleased to provide the attached Statement of Work for Change Request 005 to the Michigan Department of Technology, Management and Budget ("DTMB"), for services related to the Michigan Department of Treasury ESKORT and Data Warehouse Services Project.

Optum is providing this Change Request under the terms and conditions of Contract No. 071B1300034, executed by and between the State of Michigan and Optum, as amended herein (the "Contract"). In order to accept the proposed work from Optum, the State will need to sign the attached Statement of Work ("SOW") and return an electronic copy of the signed SOW to Optum on or before December 31, 2013 as well as issue the purchase order described in the attached SOW on or before December 31, 2013.

Should you have any questions, please do not hesitate to contact me. Thank you again for the opportunity to work with you and your project team.

Sincerely,

A handwritten signature in blue ink that reads "David Wieber".

Point of Contact:
David Wieber
Michigan Director of Operations
Optum Government Solutions, Inc.

A handwritten signature in blue ink that reads "Charlene A. Bonvissuto".

Charlene A. Bonvissuto (Aug 12, 2013)

Signer:
Charlene A. Bonvissuto
Chief Operating Officer
Optum Government Solutions, Inc.
IGX83581

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Statement of Work for ESKORT Data Warehouse Services - Change Request 005:

State of Michigan Department of Technology, Management and Budget and the Department of Treasury

ESKORT Data Warehouse Services

August 12, 2013

Copyrights and Trademarks

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Optum acknowledges the rights of owners of the trademarks cited herein.

Contact Information

David Wieber
Director of Michigan Operations
Optum Government Solutions, Inc.
822 Centennial Way, Suite 100
Lansing, MI 48917
Tel: 517-993-0929
E-Mail: david.wieber@optum.com

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1. Introduction

Optum Government Solutions, Inc. ("Optum") is pleased to present this Statement of Work ("SOW") for ESKORT Data Warehouse Services to the State of Michigan, Department of Technology, Management and Budget ("DTMB") in service to the Michigan Department of Treasury ("Treasury"), collectively referred to as the "State", to provide assistance in making modifications to the Treasury ESKORT System and Treasury Data Warehouse and its supporting processes ("the Services") that are involved in providing data to the ESKORT Software ("ESKORT"). The Services described in this SOW will be performed on a Time and Materials basis.

2. Background and Project Objective

The Treasury Tax Compliance Bureau ("TCB") implemented the ESKORT system in 2001 to streamline the auditing process. The auditing process includes field audits, selection, research, tracking, and reporting. In 2012/13, the ESKORT system was upgraded to the current edition with the inclusion of Michigan specific product extensions.

ESKORT is the principal software tool used by the State to evaluate taxpayer information and select audits based on risk analysis. The cases that are selected are assigned to State auditors through a controlled workflow process that has approval steps. Auditors use ESKORT in the field to conduct audits and record the results, interacting with a central repository of all cases selected by TCB. Finalized cases are sent through an approval process prior to final determinations given to taxpayers. Auditors track the time spent in auditing through ESKORT.

The ESKORT Software obtains its data from the Treasury Data Warehouse (TDW), which is hosted on the State's Teradata Enterprise Data Warehouse platform, and the TDW receives data from Treasury's various Tax applications, Federal sources, and other State sources.

Optum understands that the TCB's priorities are focused on revenue collection, fraud detection, and tax revenue recovery. All efforts detailed in this SOW will be planned and delivered with an emphasis on the needs of the ESKORT system, the TCB, and the audit process.

The purpose of this SOW is to define the Potential Projects, Scope, and Deliverables, under which DTMB and Treasury can engage Optum to supply ESKORT and Treasury Data Warehouse related staffing in support of the ESKORT System.

3. Scope of Work, Deliverables, and Project Control and Reports

The scope of this SOW and related Services that the State may engage Optum to provide under this SOW are for the purpose of improving the ESKORT System and the related TDW, its Edit, Transformation and Load (ETL) processes, and data feeds to the ESKORT Software, all in support of improving the TCB Auditing process.

Optum staff engaged for each project will work at the direction of the State on the project list below. The State will prioritize the projects and make specific activity/task assignments to the Optum staff. The project list below shall not preclude the State from engaging and assigning the Optum staff to new projects that arise during the Services Term.

Project List:

1. **MBT/CIT TDW support services** - the design of the Michigan Business Tax ("MBT") and Corporate Income Tax ("CIT") systems in SAP will continue to call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
2. **SUW TDW support services** - the design of the Sales, Use, and Withholding ("SUW") tax system in SAP will call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
3. **FTW TDW support services** - the design of the Flow-Through Withholding ("FTW") tax system in SAP will call for updates and changes as new tax years are added. These changes will not only affect the data in SAP, but will also impact how the data is stored within the TDW and how the data is accessed and used by ESKORT.
4. **ESKORT Data Modifications and Fixes** – Optum staff may be engaged to support investigation into ESKORT data related issues as well as design and implementation of modifications and/or fixes to the TDW to support accurate and complete data flowing to the ESKORT software.
5. **ESKORT Application and Database Support** – Optum and Intrasoft staff may be engaged to support ESKORT application and database related requests related to product upgrades and extensions as well as expert consultation on production configuration.
6. **BI Query Administrative services** - Optum staff may be engaged to work with the State's DBAs and BI Query users and administrators to refine the BI Query models and to keep them in sync with other developments, such as the migration of Treasury data to SAP.
7. **BI Query Training** - With the release of the new version of BI Query, there will be a need throughout Treasury for Optum staff to provide training in the new features of the tool. This training will include the new features and capabilities of the tool and its application to Treasury ESKORT related data.
8. **TDW Optimization and Cleanup services** - Optum staff may be engaged to support the TDW optimization and cleanup activities. There continues to be a need for additional and ongoing cleanup and optimization of obsolete data, inactive users, loading and extract routines including ETL, and other tasks related to the TDW ESKORT data. Optum would support these activities by working with the State's DBA, users, and management.
9. **Registrations** – Optum or Intrasoft staff may be engaged in connection with required modifications of the ESKORT Configuration to process Registrations.
10. **Data Governance** – Optum staff may be engaged to support the Treasury Data Governance project.
11. **Special projects** – as determined by the TCB Director.

Deliverable(s):

1. Optum staff engaged via this SOW will deliver weekly status reports.
2. Optum will deliver a monthly report of hours to be reviewed for accuracy and approved by the State in a timely manner.

4. State Responsibilities

Optum's ability to perform the Services defined herein is subject to the timely and complete performance of the tasks attributed to the State in the project work plan and to the fulfillment by the State of its individual and collective responsibilities as described in this section or other sections of the SOW.

The State will provide Optum (and where required, Intrasoft) with access to the necessary platforms, systems and interfaces related to the development, testing, and/or implementation of the requested Services.

The State will provide Optum (and where required, Intrasoft) personnel facilities that Optum may reasonably require to perform the Services, in particular, office space, supplies, furniture, computer facilities, telephone/fax communications, analog lines and broadband access via network connectivity capability while Optum (and where required, Intrasoft) is performing the Services. The State will be responsible for providing appropriate backup and maintaining security and virus-checking procedures for computer facilities the State provides.

5. Assumptions Including Specific Department Standards

Optum will not provide the State with, and the prices defined in this SOW do not include the provision of, any products (hardware or software licenses) or any other deliverables pursuant to this SOW other than those set forth in Section 3 above.

Optum will only provide the Time and Material services defined in this SOW, which are mutually agreed-to via letters submitted to the State by Optum and countersigned by the State (the "Letter Agreements"). The Letter Agreements shall define (a) the specific staffing by labor category and name), (b) project description, including whether the project is one from Section 3 or a Special Project, (c) the start date for providing the personnel described in the Letter Agreement and (d) any other additional terms and conditions associated with the project covered by the Letter Agreement. Such Letter Agreements shall add and otherwise amend the terms and conditions of this SOW.

6. Schedule and Service Term

The start date of the Services is anticipated to be October 1, 2013, but will not begin any earlier than the date that this SOW has been signed by both parties and a Letter Agreement has been signed by both parties for the applicable Project, subject in all events to the availability of requested Optum and/or Intrasoft resources (the "Services Start Date").

The term during which the Services may be performed shall be from the Services Start Date and continuing until Optum's completion of all of the Services up to the then current, not to exceed SOW amount (the "Services Term").

The total amount of the Services is further subject to the mutually agreed budget for this effort, which is presently set at an Initial, Not to Exceed Total Amount documented in the table set forth in Section 7 of this SOW. The budget may, however, be changed if mutually agreed to in writing by the State and Optum, contingent upon Optum's receipt of a change order or amended Statement of Work establishing a new, not to exceed amount.

This SOW will be considered completed when either of the following events first occurs:

1. The end date of September 30, 2015 is reached.
2. The SOW funding has been exhausted.

7. Payment Schedule and Acceptance Criteria

The estimated price for each Time and Material priced service is identified in the following table, where the hourly rate quoted for the applicable labor category is based on the aggregate hours associated with the project:

Pricing for Time and Materials Based services

Proposed Skill Sets	Estimated Hours	Not to Exceed Hourly Rate	Estimated Amount
Data Warehouse Developer Senior Year 4	1,200	\$ 154	\$184,800.00
Data Warehouse Developer Senior Year 5	1,200	\$ 158	\$189,600.00
Project Management Year 4	100	\$ 164	\$ 16,400.00
Project Management Year 5	110	\$ 168	\$ 18,480.00
ESKORT System Specialist Year 4	210	\$ 213	\$ 44,730.00
ESKORT System Specialist Year 5	210	\$ 219	\$ 45,990.00
Not to Exceed Total Amount			\$500,000.00

Note: The "Year 4" designation in the table above represents the fourth year of the Contract which is the period from October 1, 2013 – September 30, 2014. The "Year 5" designation in the table above represents the fifth year of the Contract which is the period from October 1, 2014 – September 30, 2015.

Pursuant to, and consistent with, the Contract, Optum will provide the Time and Material services, as defined in the Scope of Work section above and subsequently executed Letter Agreements, in accordance with the above prices for services to be performed.

On a monthly basis, Optum will provide the State with a worksheet detailing the actual hours worked for the period. The worksheet must be signed by an authorized representative of the State in a timely manner and provided to Optum in a manner as may be mutually agreed-upon. Optum will invoice the State monthly (based on the Optum fiscal month) for the Services provided. In so far as the scope of work described in this SOW are to be performed solely on a time and material basis, the State acknowledges and agrees that the State shall be obligated to pay for each hour worked and that there is no other 'acceptance criteria' applicable to the services described in this SOW. Under no circumstances shall the State have the right to withhold or delay payment for hours worked by Optum within the initial or then current not to exceed amount of the SOW.

The mix of hours per position/proposed skill set may be modified over the term of this SOW as mutually agreed by the parties and set forth in amendments to this SOW signed by the parties.

8. Contractor Work Hours, Project Contacts, Location, and Travel Expenses

The Services will be provided during normal State working hours which 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.

The contacts for the Project described in this SOW are:

- For the State: John Migaldi
- For Optum: Dave Wieber

The Services will be performed at State of Michigan Department of Treasury DTMB site at the State's Secondary Complex on Crowser Drive in Lansing, MI or, if specified in an individual Letter Agreement for a specific Project, remotely from an Optum or Intrasoft office location.

There are no anticipated travel expenses related to the Services.

9. Contract Terms

The Services shall be provided under, and this SOW is issued pursuant to, the terms and conditions of Contract No. 071B1300034 by and between Optum and the State of Michigan, Department of Technology, Management and Budget ("DTMB"), as amended and as modified herein (collectively, the "Contract"). Optum understands that DTMB intends to enter into an inter-agency funding agreement with Treasury under which Treasury will become a third party beneficiary of the Services provided for under this SOW. However, the Services shall continue to be supplied and billed by Optum through DTMB under the terms and conditions of the Contract.

Before Optum commences any activities defined in this SOW, the State must approve this SOW by signing in the Signatures and Acceptance section below and issuing a new purchase order for the amount described in Section 7 as well as executing one or more Letter Agreement(s). This SOW is valid until December 31, 2013 such that the signed SOW and applicable purchase order (s) must be received by Optum on or before that date.

10. Signatures and Acceptance

State of Michigan DTMB

Signature _____

Name: _____

Title: _____

Date: _____

Michigan Department of Treasury

Signature _____

Name: _____

Title: _____

Date: _____

Optum Government Solutions, Inc.

Signature Charlene A. Bonvissuto
Charlene A. Bonvissuto (Aug 12, 2013)

Name: Charlene A. Bonvissuto

Title: Chief Operating Officer

Date: Aug 12, 2013

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

December 21, 2012

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B1300034
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Optum Government Solutions, Inc. 13625 Technology Drive Eden Prairie, MN 55344	David Wieber	David.wieber@optum.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(517) 993-0929	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Mark Lawrence	517-241-1640	Lawrencem1@michigan.gov
BUYER	DTMB	Mark Lawrence	517-241-1640	Lawrencem1@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: ESKORT COMPLIANCE SOLUTION			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	2, one year	September 30, 2015
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$0.00		\$3,866,824.00		

Effective December 17, 2012, the attached document is hereby incorporated into this contract. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and the approval of DTMB Procurement.

Requirements for vendor based on Exhibit 7 of IRS Publication 1075

I. PERFORMANCE

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor or the contractor's employees.
- (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) All computer systems receiving, processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
- (7) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (8) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (9) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.
- (10) Notwithstanding the foregoing provisions, the State and Contractor hereby agree to the following clarification regarding Section I(1-9) above set forth in (a) below and the following additional safeguards in connection with ensuring compliance with IRS Publication 1075 set forth in (b) through (d) below:
 - (a) Contractor shall only be obligated to comply with Sections I(1-9) above with respect to its obligations under the Contract to provide hardware, software and services.
 - (b) The State shall be responsible for taking all steps reasonably necessary so that no federal tax information ("FTI") is transmitted to Contractor or to Contractor's previously approved subcontractor, Intracom IT-Services Denmark A/S now trading as Intrasoft International Scandinavia A/S ("Intrasoft") or to any person who is not an Authorized FTI Recipient (the "Non-Authorized FTI Recipients"), in connection with the provision of any of the

products or services under this Contract, where such steps shall include, but not be limited to, the de-identification and/or removal of any FTI prior to sending any data available to Contractor or Intrasoft or to any Non-Authorized FTI Recipient. For purposes of this Section I(10), the term "Authorized FTI Recipient" shall mean any person described in Section I(8) and any employee of an approved subcontractor, provided that for either type of person, the State has authorized access to federal tax data information; additionally, the Contractor will maintain a list of subcontractor personnel for which the State has authorized access to federal tax data information [the "Authorized FTI Recipients". Also see Section I(8)].

- (c) If the State fails to fulfill the responsibility in Section I[10(b)], then Contractor shall notify the State in writing and destroy the FTI that has been received to fulfill its obligations under this contract. If Contractor fails to notify and destroy, then and only then shall the obligations set forth in Section I (9) shall apply.
- (d) Upon discovery by Contractor of a disclosure of federal tax information by Contractor or any other person (other than the State) to any Non-Authorized FTI Recipient, Contractor shall perform the following:
 - (1) Notify the Contract Compliance Inspector within twelve (12) hours of awareness;
 - (2) Document the specifics of the incident known at the time into a Data Incident Report, Treasury Form 4000;
 - (3) Email the data incident report to the Treas_Security@michigan.gov mailbox and Contract Compliance Inspector (reports must be sent electronically and encrypted via State approved encryption techniques. Contractor must use the term "Data Incident Report" in the subject line of the email).
- (e) With respect to I(8) above, the State will notify Contractor when the State has granted FTI access to one or more of Contractors staff so that Contractor is able to maintain and provide the list specified.

II. CRIMINAL/CIVIL SANCTIONS:

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for federal employees] in an amount equal to the sum of the

greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the recertification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213 and 7213A (see Exhibit 6, IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Returns Information and Exhibit 5, RRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10). For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION:

The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET November 27, 2012
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48913

CHANGE NOTICE NO. 1
To
CONTRACT NO. 071B1300034
Between
THE STATE OF MICHIGAN
And

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Optum Government Solutions, Inc. 13625 Technology Drive Eden Prairie, MN 55344	David Wieber	David.wieber@optum.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(517) 993-0929	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Mark Lawrence	(517) 241-1640	Lawrencem1@michigan.gov
BUYER:	DTMB	Mark Lawrence	(517) 241-1640	Lawrencem1@michigan.gov

INITIAL CONTRACT SUMMARY:			
DESCRIPTION: ESKORT COMPLIANCE SOLUTION			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
5 Yrs.	October 1, 2010	September 30, 2015	2, 1 Yr. Options
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:	
OPTION EXERCISED: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	IF YES, NEW EXPIRATION DATE:
Effective September 27, 2012 this contract is hereby AMENDED as follows:	
<ol style="list-style-type: none"> 1. Contract is INCREASED by \$1,000,000.00 2. Change the buyer to Mark Lawrence 3. Change the vendor's legal name to Optum Government Solutions, Inc. and its principal place of business to 13625 Technology Drive, Eden Prairie, MN 55344. 4. As the vendor contact, replace Renee Owings with David Wieber. 	
Per vendor, agency agreement, the approval DTMB Procurement and the approval of the State Administrative Board on September 27, 2012.	
VALUE/COST OF CHANGE NOTICE:	\$1,000,000.00
ESTIMATED AGGREGATE CONTRACT VALUE REMAINS:	\$3,866,824.00

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET September 20, 2010
PURCHASING OPERATIONS
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

NOTICE
OF
CONTRACT NO. 071B1300034
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Integrus Inc. 12125 Technology Drive Eden Prairie, MN 55344 Email: Renee.Owings@ingenix.com		TELEPHONE (517) 327-2280 Renee Owings
		CONTRACTOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-3993 Dale N. Reif
Contract Compliance Inspector: Mark Lawrence <p style="text-align: center;">ESKORT Compliance Solution</p>		
CONTRACT PERIOD: 5 yrs. + 2 one-year options From: October 1, 2010 To: September 30, 2015		
TERMS	N/A	SHIPMENT
F.O.B.	N/A	SHIPPED FROM
MINIMUM DELIVERY REQUIREMENTS	N/A	N/A
MISCELLANEOUS INFORMATION:		

TOTAL ESTIMATED CONTRACT VALUE: \$2,866,824.00

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

CONTRACT NO. 071B1300034
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Integris Inc. 12125 Technology Drive Eden Prairie, MN 55344 Email: Renee.Owings@ingenix.com	TELEPHONE (517) 327-2280 Renee Owings CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-3993 Dale N. Reif
Contract Compliance Inspector: Mark Lawrence <p style="text-align: center;">ESKORT Compliance Solution</p>	
CONTRACT PERIOD: 5 yrs. + 2 one-year options From: October 1, 2010 To: September 30, 2015	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: The terms and conditions of this Contract are those of RFP-DR-084R0200092, this Contract and the Contractor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.	
Estimated Contract Value: \$2,866,824.00	

THIS IS NOT AN ORDER: Orders for delivery will be issued directly by the Department of Treasury through the issuance of a Purchase Order Form.

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

<p>FOR THE CONTRACTOR:</p> <p style="text-align: center;">Integris Inc. _____ Firm Name</p> <p style="text-align: center;">Authorized Agent Signature Lee D. Valenta _____ Authorized Agent (Print or Type) September 14, 2010 _____ Date</p>	<p>FOR THE STATE:</p> <p style="text-align: center;">Signature Greg Faremouth, Division Director _____ Name/Title IT Division _____ Division _____ Date</p>
--	--



STATE OF MICHIGAN
Department of Technology, Management and Budget
Purchasing Operations

Buyer Information
Dale N. Reif
(517) 373-3993
reifd@michigan.gov

Contract Number 071B1300034
ESKORT Software Maintenance and Support
Michigan Department of Treasury



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Article 1 – Statement of Work (SOW)

1.000 Project Identification

1.001 PROJECT BACKGROUND

The State of Michigan, Department of Treasury Tax Compliance Bureau (“TCB”, “Treasury”, or the “State”) implemented the ESKORT system in 2001 to streamline the auditing process. The auditing process includes field audits, selection, research, tracking and reporting. In 2008, the ESKORT system was upgraded to the then-current edition with the inclusion of Michigan-specific product extensions.

ESKORT is the principal software tool used to evaluate taxpayer information and select audits based on risk analysis. The cases that are selected are assigned to auditors through a controlled workflow process that has approval steps. Auditors use ESKORT in the field to conduct audits and record the results, interacting with a central repository of all cases selected by TCB. Finalized cases are sent through an approval process prior to final determinations given to taxpayers. Auditors track the time spent in auditing through ESKORT.

The software developer is Intracom IT Services Denmark A/S (“Developer”). In the United States, the Developer is exclusively represented by Integris Inc. (“Supplier”).

TCB maintains thirteen offices, eight in Michigan and one each on the states of California, Illinois, Ohio, New York, and Texas. The main operational office located is located in Dimondale, Michigan at the Treasury Operations Center.

1.100 Scope of Work and Deliverables

1.101 IN SCOPE

This project consists of the following scope:

- Software Licenses
 - ESKORT Selection
 - ESKORT Case Management and Tracking
 - ESKORT Audit Support
- Release Notes and Documentation
- Training
- Maintenance and Support
 - ESKORT Selection
 - ESKORT Case Management and Tracking
 - ESKORT Audit Support
- Reserve bank of hours for future enhancements and/or legislative mandates

The State reserves the right to purchase additional software licenses, training, services, maintenance and support. These additional purchases will require an amendment to the Contract and may require approval from the State Administrative Board.

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.

Supplier and Developer have provided software licenses for the above-mentioned ESKORT Compliance Solution components (the “Software” or “ESKORT”) which are currently in production use at the Department of the Treasury (the “Department”) – namely for Selection, Case Management and Tracking, and Audit Support. Those licenses, have been provided to the State on a perpetual, fully paid up basis, subject to the State’s continued observance of the applicable software license terms, including, without limitation, that usage is limited to the Department’s Audit Division. .



1.102 OUT OF SCOPE

The following items are out of scope:

- Vendor Hosting
- New or replacement audit software.
- Hardware purchase or hardware maintenance.

1.103 ENVIRONMENT

The links below provide information on the State's Enterprise information technology (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).

Enterprise IT Policies, Standards and Procedures:

<http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>

The version of the ESKORT Compliance Solution that was implemented in Treasury in 2008 complied with the then current technology standards. The Developer as the author of the ESKORT Compliance Solution, continues to track the evolution of the underlying hardware platform and system software used by the ESKORT Compliance Solution. If the State makes changes to their IT policies that affect the ESKORT Compliance Solution as implemented in Treasury, Supplier is prepared to review those changes and propose projects to incorporate those changes in the ESKORT Compliance Solution for Treasury on a Time and Material or Fixed Price basis under a mutually agreed and executed change request.

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 must approve in writing any changes 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:

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

Notwithstanding the foregoing, the version of the ESKORT Compliance Solution as implemented in 2008 complied with then current Security Policy and Procedures and used the MDTMB Single Login, operates on an MDTMB provided SQL database and used SSL for all HTTP data transmissions.

IT Strategic Plan:

<http://www.michigan.gov/dit/0,1607,7-139-30637-135173--,00.html>

Supplier understands the State's IT Strategic Plan and its policies and standards, and will work with the State to keep projects aligned with the MDTMB IT goals and objectives based upon mutually agreed upon change requests and associated pricing.

IT eMichigan Web Development Standard Tools:

http://www.michigan.gov/documents/Look_and_Feel_Standards_2006_v3_166408_7.pdf

Supplier acknowledges and will comply with the appropriate eMichigan Web Development Standards as part of this Contract.

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>



Supplier acknowledges and will comply with the State's requirements as they relate to SUITE with the exception of the development work performed by Developer. Developer has its own established software development and project management processes which it will employ when making changes to the core ESKORT software. The State is responsible for providing a development and support environment for the ESKORT Compliance Solution that conforms to the SUITE standards, and for providing remote access to that platform for required Supplier and Developer personnel.

Supplier will work with the MDTMB Project Manager in utilizing the SUITE standards for project management, systems engineering and associated forms and templates.

Agency Specific Technical Environment

ESKORT is deployed per Developer standards for application servers, database servers, and desktop computers. The production installation consists of:

Audit Support / CM&T Application server:

- Dell PowerEdge 2950
- 2 X 2.66 GHz processor
- 8 GB RAM memory
- 146 GB X 2 of hard drive disk space (RAID-1).
- Windows 2003 SVR EE
- Network Adapter Card
- Located in the Michigan Lake Superior Hosting center, Zone 2 of the State's infrastructure

Selection Application server:

- Dell PowerEdge 2950
- 2 X 2.66 GHz processor
- 8 GB RAM memory
- 146 GB X 2 of hard drive disk space (RAID-1).
- Windows 2003 SVR EE
- Network Adapter Card
- Located in the Michigan Lake Superior Hosting center, Zone 2 of the State's infrastructure

Database server:

- 2 of Dell PowerEdge 2950 configured as a cluster
- 2 of 2 X 2.66 GHz processor
- 2 of 8 GB RAM memory
- 2 of 146 GB X 2 of hard drive disk space (RAID-1).
- 2 of Windows 2003 SVR EE
- 2 of Network Adapter Card
- SQL Server 2005 Enterprise Edition
- Located in the Michigan Lake Superior Hosting center, Zone 2 of the State's infrastructure

Desktop

- The State meets or exceeds the Developer's standard for desktop computers
- Intel 32 processor running at 1 GHz or faster
- 1 GB RAM
- 1024X768 SVGA display adapter and monitor (or equivalent laptop)
- Adobe Reader 7
- Microsoft Windows XP recommended
- 100 GB hard drive recommended



In addition to the production environment, there are three other ESKORT replicas deployed for in-house use.

- Development: a complete and autonomous environment that is used to work on new ESKORT features
- User Acceptance Testing: a complete and autonomous environment where clients test the work produced in the ESKORT Development environment
- Quality Assurance: a complete and autonomous environment where application code is locked down to be either the pre-production release of new software or the replica of production following a software release.

The State's current licensing agreement for the ESKORT Compliance Solution software operates on the infrastructure documented above. The maintenance solution included in this Contract assumes that Supplier would continue to provide maintenance on the currently licensed software, and on the currently provided development environment.

Supplier works with MDTMB personnel who are responsible for the deployment of the ESKORT Compliance Solution on the UAT, QA, and Production platforms. Supplier provides installation documentation and guides to MDTMB personnel and also 'walk behind support' (i.e., monitoring, and providing additional guidance as needed to State personnel as they actually perform the work) to those individuals as they perform installation activities.

1.104 Work and Deliverables

Software Licenses

Contractor must provide the following licenses:

- ESKORT licenses for all server computers deployed in the Production, Development, User Acceptance Testing and Quality Assurance environments
- ESKORT licenses for all desktop clients deployed by the TCB in the Production, Development, User Acceptance Testing and Quality Assurance environments
- ESKORT Selection software for server installation
- ESKORT Case Management and Tracking software for server installation
- ESKORT Audit Support software for server installation
- ESKORT Client desktop software for system use of the above

The State is currently licensed to use the Software licenses on a perpetual basis consistent with the terms of the Developer's standard license agreement within the Department's Audit Division. Such licenses have a perpetual term, with no additional charge to the State, provided that the State observes the terms of the standard license agreement. A copy of that standard license agreement is included in Exhibit A – Standard License Agreement.

Release Notes and Documentation

The State may require the supply of release notes and system documentation when there is a modification of ESKORT caused by one or more of the following cases:

- (1) New features specific to Michigan;
- (2) New features developed by the Developer to serve the entire client base of the Developer;
- (3) Modifications of ESKORT to keep it compatible with supported versions of the operating system and database system technology that the Developer or Supplier recommends to the State or that the State requests to stay within State standards, and/or
- (4) Modifications of ESKORT to correct a defect.

In all cases, the State will have the option of working with Supplier and Developer to implement ESKORT versions. The work may be done remotely or onsite at the discretion of Supplier and Developer. The State will make a best effort to implement using Supplier release notes prior to engaging Supplier and Developer.

In all cases described above, the planning and actual development and implementation for new releases of the ESKORT Compliance Solution for the State is done on a schedule that is mutually agreed between Supplier and the State. Each time a new release of ESKORT is provided to the State, the release includes Release



Notes and if applicable, related documentation changes. When a release affects functionality specific to the State, State personnel are responsible for updating the specific end-user training materials and training manuals – as has been the historical practice by the State.

Depending on the nature of the release, the Release Notes from the Supplier could be one or more of the following:

1. Revised system documentation (i.e., installation guides, generic user and training guides, etc.) with changes noted as embedded in the text of the documentation.
2. Extracts from the Issue Reporting System used by Developer (i.e., JIRA) which documents the reported issue, investigation, and resolution by Developer. When a release includes resolution of more than one issue, the Release Notes are a concatenation of the documentation from JIRA.
3. White Papers – individual documents that describe the characteristics of a feature of ESKORT and the possible uses of that new feature within a given ESKORT implementation.

The release notes and documentation that will be supplied to the State in each of the cases described above will be sufficient for State personnel who have received ESKORT technical training to install and operate the Software or defect correction; it being understood that the State shall have the obligation to install such ESKORT modifications and/or defect corrections in the production environment and that any ESKORT technical training will be provided under change requests issued under the Contract and priced on a Time and Material basis under the bank of hours available under the Contract.

In addition, the foregoing Release Notes and Documentation will be provided by Supplier at no additional charge over and above the applicable annual maintenance charge solely if they relate to Modifications to ESKORT that are provided as part of ESKORT Software Maintenance (i.e., modifications that are provided to any customer of ESKORT that is under a software maintenance contract, modifications to correct defects consisting of failures of the ESKORT Software to conform to published documentation and modifications to the ESKORT Software that are of a non-material nature in order for the ESKORT software to remain compatible with (a) supported versions of the operating system and database system technology or (b) State standards.) All other Release Notes and Documentation will be provided as part of a Change Request for the Modification to ESKORT and charged to the State on a Time and Material basis just as Supplier will do with respect to the delivery and licensing of the corresponding ESKORT modification.

Training

Contractor must provide training in a variety of formats for product installation, use and administration for a variety of levels (e.g. basic, advanced, refresher, etc.).

Supplier and Developer offer training that is both generic to the product, and specific to each implementation of ESKORT. The Supplier offered training is specific to system administrators from both a technical and functional point of view – training individuals responsible for the user-configurable portions of the Software on configuration options – and training individuals responsible for the technical administration of the Software on the installation and systems management aspects of the Software.

Furthermore, at the request of the State, the Supplier also offers training that is specific to the end-user use of some components of the ESKORT solution – more specifically the Selection component.

For other components of ESKORT, the Supplier offers support and consultation to State personnel who design, develop, and deliver the majority of the end-user training (train-the-trainer). This model is consistent with past practice, and reflects the nature of the product which allows for significant end-user configuration according to the specific business practices of each organization.

Training is part of the overall planning for each release of ESKORT. Depending on the extent of the release, very formal training plans may be developed (for example, in the case of needing to train auditors on auditing a new tax type) or more informal plans may be developed (for example, in the case of installing a release that includes new selection rule building capabilities which would be used by a very limited number of individuals).



In all cases, however, the Software and application administrator training and the train-the-trainer training from Supplier and Developer is separately chargeable on a Time and Material basis using the bank of hours referenced in Attachment 1 – Cost Tables or on a Fixed Price basis, where the specifics of such training would be set forth in a change request.

The State has been and will continue to be responsible for end user training associated with the ESKORT Software. When the training is provided by the State, the Supplier is available for consultation and guidance, and will review training materials developed by the State to the extent that the Supplier is able to critique and review such materials (e.g., the Supplier is not an expert on State tax legislation so would not be in a position to critique the training of specific audit schedules). End-user training in the use of the products can be provided by the Supplier and the Developer on a T&M basis at the request of the State if an exception to the normal practice of having the State deliver the end user training is desired, subject to a mutually agreed upon change request.

When there is a modification of ESKORT caused by new features specific to Michigan, Supplier and Developer will supply training sufficient for the State to install and operate the Software as intended by agreed on change orders describing the intended functionality of the Software. The charges will be included in the time and materials costs for the change request and not included in this Contract as part of the annual maintenance charge. The training may be done remotely or onsite as agreed in the change order.

Supplier will include in scope of an approved change request, the training for any modification to ESKORT caused by new system features specific to Michigan. Supplier will also include within the scope of an approved change request, support to assist Treasury in the development and delivery of training materials to end-users of the ESKORT system. This end-user training is the responsibility of Treasury with one possible exception – and that is the training of Selection personnel. Typically the training of end-users of Selection is a joint effort between Supplier and Treasury leadership. This is due to the limited number of Selection users and the technical nature of the Selection component.

When there is modification of ESKORT caused by new features developed by the Developer to serve the entire client base of the Developer, Supplier and Developer will supply training sufficient for the State to install and operate the Software as intended by agreed on change orders describing the intended functionality of the Software. The training will be included in this Contract as part of the annual maintenance charge with no added time and material charges. The training may be done remotely or onsite at the discretion of Supplier and Developer.

When there is modification of ESKORT to keep it compatible with supported versions of the operating system and database system technology that the Developer and/or Supplier recommends to the State or that the State requests to stay within State standards, Supplier and Developer will supply training sufficient for the State to install and operate the Software as intended within the new technology versions and standards. Such training would be a separately chargeable service pursuant to a change request and priced either on a Time and Material basis using the bank of hours referred to in Attachment 1 – Cost Tables or on a Fixed Price basis. Supplier will provide training onsite or remotely as applicable.

When there is a modification of ESKORT to correct a defect, Supplier and Developer will supply release notes and system training sufficient for the State to install and operate the defect correction as intended by the new correction of the Software. The training will be included in this Contract as part of the annual maintenance charge with no added time and material charges. The training may be done remotely or onsite at the discretion of Supplier and Developer.

Only modifications to training manuals, training plans or other documentation specifically prepared for the State as part of a change order will be owned by the State, subject to the license back from the State provided to the Supplier under Article 2, Section 2.321 of this Contract. All other standard training manuals, training plans or other documentation constitute either pre-existing intellectual property of the Supplier and/or Developer or have not been developed and paid for specifically by the State; as such, ownership in such materials shall remain with the Supplier and/or Developer and the State shall enjoy a nonexclusive license to use such materials for their internal use consistent with the rights set forth in Article 2, Section 2.261 and 2.262 of this Contract



For implementation of major new releases (but not in ordinary maintenance releases to fix reported issues) of the ESKORT Compliance Solution, the training noted below is typically included in the pricing for the implementation of the major new release. Implementation of any major new release would not be covered by the annual maintenance charge. Instead, there would be a separate charge for the implementation of a major new release and there would be a precise specification of the training that would be covered by this price for the major new release. Hence, the training described below is solely for illustrative purposes:

Selection:

- A. Knowledge Engineering/Risk Analysis (Selection Designer, Console, Analysis Server) – duration 2 days.
- B. Case Selection (Selection Workbench, Audit Manager) – duration 2 days.
- C. Step Template development (Selection Workbench) – duration 2 days.

Audit Support:

- A. Electronic Case File (ECF) configuration (i.e., Audit Designer) – duration 3 days.
- B. Retrieval Server/Result Server configuration – duration 3 days.

Case Management and Tracking:

- A. CM&T Configuration – duration 2 days.
- B. Administrator (building and maintaining the user hierarchy, creating users, managing roles, actions, act as) – duration 2 days.
- C. Inventory Analyzer Database 'View' creation – duration ½ day (Note: this is limited to a review of the CM&T data model; it is assumed that the MDTMB personnel who will create the 'views' to be used by Inventory Analyzer are already experienced with creating SQL Server database 'views', as well as MDTMB personnel who will be responsible to the redevelopment of Crystal Reports).
- D. Inventory Analyzer Administration (create and save lists) – duration 1 day.

System Administration:

- A. ESKORT Installation – duration 2 days.

Supplier will work with the State to design, develop, and deliver any additional training courses required, provided that in all cases, Supplier will do this on a Time and Material or Fixed Price basis associated with an approved change request and not as a component of the annual charge for software maintenance.

Maintenance and Support

The Contractor must provide ESKORT maintenance and support as follows:

- 1. The Software Support shall include but is not limited to:
 - a) Resolution of errors in, or problems with, the Software or any part thereof, including the associated documentation which MDTMB or TCB has identified in accordance with the procedures established by Supplier and Developer and which may prevent the Software from performing or being used in accordance with the agreed upon System documentation.
 - b) Consultation assistance during MDTMB or TCB installation of new releases of the Software or parts thereof.
 - c) Responding to questions reasonably related to MDTMB or TCB usage of the Software from a named set of super users/administrators not to exceed four (4).
 - d) Development and application of a temporary fix or work-around, where possible, in the event of full resolution of an error/problem not being feasible in the short term.
 - e) Assistance in the preparation of Support Issue Reports and processing/responding to Support Issue Reports, as described below.



Developer maintains an on-line Web-based issue tracking system (i.e., JIRA) which is used by the State to report problems, raise issues, and ask questions. The JIRA system is used by Developer to exchange communications and to document the resolution of issues/problems and to answer questions. As noted previously, this information is also included in Release Notes, as applicable.

JIRA is accessed by named State personnel to report issues, set priorities, and track the status of issues during resolutions. Issue Reports are generated by JIRA and are configurable by the end-user. Supplier will work with the State in the use of JIRA to assist in the configuration and reporting of issues. Note: JIRA delivers Issue Reports to named State personnel who have requested them via e-mail.

- f) Assistance in resolving problems related to the installation of update and corrective information.
- g) Access to (right to use) new versions of the ESKORT Compliance Platform (generic compliance application code and user tools such as rule editor and compiler) as and when Supplier and Developer release them for general customer usage, or as may be mutually agreed upon by Supplier, Developer and MDTMB.

As long as the ESKORT Compliance Solution remains under maintenance, the State has the rights to new versions of licensed system modules (i.e., generic compliance application code and user tools, such as the rule editor and compiler) without additional charge. Updates and enhancements that require additional services from Contractor are subject to either a Time and Material or Fixed Price charges – as the application of those upgrades and enhancements need to be applied to the specific configuration and customization of the ESKORT Compliance Solution as implemented in the State.

The State has the right to use new versions of the ESKORT Compliance Platform (i.e., the generic application code and user tools such as the rule editor and compiler) when released for general customer usage in accordance with the same license terms that apply to the State's use of the ESKORT Selection, Case Management and Tracking, and Audit Support software applications.

- h) One annual on-site technical review with the Department that is designed to focus on a review of the Software and resulting recommendations for updating the Software. Scheduling the annual on-site review is subject to the mutual agreement of the State and Contractor.
- i) The software maintenance program includes all future software updates and system enhancements applicable to system modules licensed without further charge to all licensed users maintaining an annually renewable software support contract. It should be noted however, that the incorporation of those updates and enhancements into the then current ESKORT Compliance Solution installed at the State may require additional services from Supplier which are subject to either a Time and Material or Fixed Price charge – and will be provided under a mutually agreed and executed Change Request.
- j) Access to new versions of the ESKORT Compliance Platform (generic compliance application code and user tools such as rule editor and compiler) when released is subject to the following conditions:

As stated previously, Supplier will provide assistance to the State with respect to the installation of updates and explanations of corrective actions as required.

As long as the ESKORT Compliance Solution remains under maintenance, the State has the rights to new versions of licensed system modules. It should be noted however, that the incorporation of those updates and enhancement may require additional services from Supplier which are subject to either a Time and Material or Fixed Price charge – as the application of those upgrades and enhancements need to be applied to the specific configuration and customization of the ESKORT Compliance Solution as implemented in the State.



The State has the right to use new versions of the ESKORT Compliance Platform (i.e., the generic application code and user tools such as the rule editor and compiler) as and when Developer releases them for general customer usage in accordance with the same license terms that apply to the State's use of the ESKORT Selection, Case Management and Tracking, and Audit Support software applications. A copy of the click wrap license agreement that governs such usage and that was referenced when the latest upgrade was performed in 2008 is attached to this Contract as Exhibit A – Standard License Agreement.

2. The Software Support Shall Not Include the Following:

- a) Any services associated with incorporating updated, upgrades, enhancements and all or parts of new versions of the ESKORT Compliance Platform into the Software; the requirement to have new or improved functionality incorporated into the Software (which must be a MDTMB or TCB decision) and the effort used by Supplier and Developer to effect this incorporation will be charged separately at the then current time and materials rates or on the basis of a fixed price proposal.

The changes will only be made after a review of the business benefit of the new features and the full agreement of the State to proceed with the introduction of the changes as evidenced by a mutually agreed upon and signed Change Request.

- b) Any services associated with maintaining the domain parts of the Software (such as knowledge bases, audit plans, letter templates; etc.) – these will be the responsibility of MDTMB or TCB using a combination of the supplied ESKORT user tools and MDTMB provided standard third party products (such as WEB publishing tools, word processors, spread sheets etc.).
- c) Any services associated with updating the Software's application code in the event of changes in the underlying data environment/model or tax laws.
- d) Any services associated with updating the Software's application code in the event of changes in standard third party products used in conjunction with the Software.
- e) Any services associated with changes to the underlying platforms of the source data.
- f) Any services associated with the maintenance of any standard third party products used with, or which form part of, the Software.
- g) Any services associated with any Department initiated Change Request to the Software.

3. Software Support Procedures

- a) On discovery of a Support Issue, MDTMB or TCB will log and document the Support Issue in writing in accordance with a mutually agreed registration and documentation standard that is further described in this subsection a). The Supplier uses an on-line Web-based issue tracking system (i.e., JIRA) for the reporting of problems, issues and questions. The State has designated personnel who have 'write' access to JIRA (i.e., can enter problems, issues and questions) as well as 'read' access to JIRA (i.e., can access the JIRA system to review entries and obtain status reports). JIRA also has flexible 'notification' options which can provide (via e-mail) notices of priority issues, tracking of new issues, closed issues, release packages etc. These reporting features allow both the State and the Supplier to monitor status and effect mutually agreed escalation procedures.
- b) Developer will provide staff to answer MDTMB or TCB support calls during Developer's normal business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m. Danish time, excluding Danish holidays) in the same manner as is provided as of the date of this Contract. For significant Support Issues arising outside of the Developer's normal business hours, Supplier and Developer will provide MDTMB or TCB with after-hours contact information and, more specifically, to the four named State resources who will serve as points of contact for such support issues.



- c) Upon receipt of an initial report in JIRA, Developer will log the Support Issue using the same system that will track the status of the issue through to resolution; and Developer will undertake routine diagnosis and work to resolve the Support Issue within a reasonable period of time. Where deemed necessary by Developer, the Department will be asked (via JIRA and addressed to the person who submitted the issue) to provide further clarification and documentation of the problem to assist Developer in its resolution of the Support Issue. The Developer may also phone the individual who submitted the issue seeking clarification – and this will be documented as part of the issue tracking in JIRA as well.
- d) In the event that the Support Issue is not resolved to MDTMB or TCB satisfaction, MDTMB will escalate the Support Issue to the Supplier Project Manager who will escalate the Support Issue within Developer and who will work with Developer and MDTMB or TCB toward the resolution of the Support Issue. If MDTMB or TCB does not refer the Support Issue back to Developer within five (5) working days from the time that then the Support Issue will be considered resolved and the Support Issue report will be closed.

The Supplier Project Manager and Developer Maintenance Managers receive daily reports of issues submitted and issue activities as recorded within JIRA. These reports include escalations of issues with high priorities.

MDTMB and TCB can also receive these reports so that all participants can be well informed of the status of issues.

4. Onsite Support:

- a) If Supplier or Developer determines that onsite support is required for the resolution of any Support Issue then Supplier or Developer will provide such onsite support at no additional cost to MDTMB or TCB.
- b) If MDTMB requires on-site support from Supplier and Developer, which is not deemed necessary by Supplier or Developer in order to fulfill Supplier's obligations under this Agreement for the provision of Software Support, then Supplier and Developer will provide such support under conditions as may be mutually agreed to among Supplier, Developer and the MDTMB. MDTMB shall be charged for such on-site support in accordance with the hourly labor rate scale.
- c) If MDTMB or TCB have taken all actions recommended by Supplier and Developer to resolve given software defect and that defect persists despite remote efforts to correct it and where, based on Developer's sole assessment, on-site support would provide an effective advantage over remote access in resolving the issue, then and only then shall there be no additional charges for this support, including the expenses of travel and lodging. In all other cases, on site support shall be provided in accordance with the hourly rate scale as defined in the Contract or on a Fixed Price basis.
- d) Update Support: Developer shall provide resolution of Support Issues as well as an updating required software elements, documentation, installation procedures, etc., as necessary. The normal mode of operation is supply resolutions via the Internet, or secure file transfer. In order for Supplier and Developer to provide such support, the State will need to provide the required access to the ESKORT Development platforms for Supplier and Developer personnel, and to provide FTP type facilities to both send information to Developer and receive updates and documentation from Developer.

5. The MDTMB or TCB will reasonably assign a Priority classification ("Priority") to each Support Issue when the Support Issue is reported to Developer using the JIRA issue reporting system, which has been used by the State since November, 2008 based on the Priority classifications defined below. The Priority will remain as assigned by the Department unless MDTMB, TCB, Supplier and Developer mutually agree to change the priority of the Support Issue. The MDTMB or TCB will reasonably



negotiate the status of Support Issues with Supplier and Developer, as may be requested by Supplier and Developer. The priority of Support Issues for which work-around procedures can be provided by Developer will be reviewed after the work-around procedure is implemented.

- a) Priority 1 – Critical Support Issues – issues which prevent the Department from working with the Software and for which the Department requires immediate resolution: Developer will begin work immediately when the problem is reported. Developer will work on resolving the problem up to a maximum of 16 hours a day until the problem is resolved. The actual number of hours to be worked on the Support Issue by Developer must be agreed with the Department and will correspond to the time that the Department dedicates appropriate resources to support Developer in resolving the Support Issue.
- b) Priority 2 – High Support Issues – issues that prevent the Department from performing its normal work with the Software and which should be addressed with high priority. Developer will begin to work with such a Support Issue within 8 working hours of the problem being reported and will work with high priority within its normal business hours until the problem is resolved. The Department will make appropriate resources available to support Developer as may be reasonably required to resolve the Support Issue.
- c) Priority 3 – Normal/Low Support Issues – Support Issues that are not considered priority 1 or priority 2 by the Department. Developer shall begin work on such a Support Issue within 1 working week of the Support Issue being reported and will work actively within its normal business hours until the Support Issue is resolved. The Department will make appropriate resources available to support Developer as may be reasonably required to resolve the Support Issue.

Once issues are reported (using the Critical/High/Normal/Low classification) they are automatically routed to the Developer's ESKORT Account Manager. Upon review, contact is made with MDTMB or TCB for clarification and potential reclassification if required.

Developer will provide estimates to the State for the time required to address a Priority 1 issue and request corresponding time from the State to support the resolution.

6. Per procedures that were developed between Supplier and MDTMB Technical Support staff in 2008, Developer performs installation on the Development platform only, and all further installations are performed by MDTMB staff with the support of Developer. If requested by MDTMB staff, Supplier will install software on other defined platforms based on a mutually agreed upon Change Request and subject to either a Fixed Price or a Time and Material charge over and above the annual maintenance charge.

It is the State's responsibility to provide installation training to new State personnel in the case of turnover of State personnel.

7. Remote Services

In order that Supplier and Developer may provide remote Software Support, MDTMB and TCB shall provide and maintain, at the Department's expense, secure remote access to the servers that support the Software, if so requested by Developer. MDTMB and TCB shall provide Developer with all required logon-id's, passwords and/or other security and authentication procedures, hardware, software, tools and/or any other required components as may be required for Developer's access to the Software on the State servers. Such access will be provided as may mutually be agreed by the MDTMB, TCB and Supplier, and within the limitations of the MDTMB or TCB as allowed by then-current State and Departmental standards, policies, and procedures.

8. Software Modification

- a) Supplier will provide Software Modification on a fixed-price or Time and Material ("T&M") basis as defined in a mutually agreed-upon Change Request. The Modification Rates defined in this Contract will be used for all Software Modification provided either on a fixed-price or T&M basis.



- b) Supplier and MDTMB will use the Change Management process as established in the State standard project management methodology. No Software Modification work will be performed until a mutually agreed-upon Change Request has been executed by both Supplier and MDTMB.
 - c) The Change Management process may be modified as mutually agreed by Supplier and MDTMB.
 - d) The Acceptance Criteria for each Change Request will be defined in the mutually agreed-upon Change Request.
9. The State may terminate this Agreement upon 30 days written notice effective on the expiration date of an annual Support Term.
10. Software Support and Software Modification Limitations
- a) Installation: The installation of the Software and/or parts thereof, including all System revisions and updates, is the State's responsibility on the User Acceptance Test, QA and Production platforms. The installation of the ESKORT software, including revisions and updates on the Development platform will be done by Developer. The Supplier will provide reasonable assistance to the State personnel, as required to support them in their installation activities.
 - b) Software Support and Software Modification will be provided for the Software and for any changes/updates to the Software as have been made by Developer.
11. Any amendment to this Agreement is to be in writing and signed by both parties.
12. Diagnostic Materials
- a) Supplier may provide the State customer maintenance, support and other diagnostic routines, computer program media and related documentation ("Diagnostic Materials") for use in installing, testing, diagnosing or verifying the Software under a nonexclusive, nontransferable license but solely for the State's internal use and solely as long as this Contract is in effect. Within five (5) days after the effective date of the expiration or termination of this Contract, the Department will destroy the original and all copies of the Diagnostic Materials in any form and upon request, certify the destruction in writing.
 - b) The Diagnostic Materials will remain the property of Supplier or its licensors.
 - c) The Department will keep confidential Diagnostic Materials containing trade secrets and this obligation survives termination of this Agreement.
13. State Responsibilities
- a) DTMB and TCB shall each designate a minimum of one (1) and a maximum of four (4) primary contact(s) to work with Supplier and Developer in resolving problems with the Software. Such individual(s) is/are to have sufficient knowledge to be able to define the technical aspects of problems with the Software to Supplier and Developer, to interpret and apply remedial instructions received from Supplier and Developer, and to implement revisions to the Software provided by Supplier and Developer. These individuals will have 'read/write' access to the JIRA system for reporting and tracking issues and all issues will be reported via JIRA directly.

In addition, other individuals may be given 'read only' rights to the JIRA system to track the status of issues and to obtain reports. It would be expected that these other individuals would number no more than five (5) – but additional staff could be granted access per the mutual agreement of the State and Developer.
 - b) DTMB shall install revisions to the then current release of the Software, or licensor's specified prior release of the Software, within 90 days from date of provision by Supplier and Developer thereof or as mutually agree to by Supplier and Developer and the Department.
 - c) DTMB or TCB will provide on-line and remote access (including, but not limited to all required login id's, password, network and security) as may be required for Supplier and Developer to access the Software and provide the Software Support and Software Modification. Such access will be provided as may mutually be agreed by the MDTMB, TCB, and Supplier, and within the limitations of the State, MDTMB, and TCB standards.



14. Warranties and Representations

The Contract contains the following representations and warranties by the Supplier, provided, however, that these warranties, along with those set forth in Section 2.120 and 2.130, are the sole and exclusive warranties that shall be provided with respect to the ESKORT Software and the ESKORT Software Maintenance and Support described in this Contract. In addition, in the event of any breach of any of these warranties, the State's sole and exclusive remedy and the Supplier's entire liability shall be limited to the re-performance of applicable services and/or the supply of error corrections or modifications so as to comply with the corresponding warranty and if, after repeated efforts, the Supplier is unable to provide the applicable warranty, then the Supplier shall provide the State with a refund of the annual software maintenance and support price paid for the period during which the warranty was breached.

- a) The Supplier will use adequate numbers of qualified staff with suitable training, education, experience and skill to perform the services;
- b) The Supplier will use its best efforts to provide separately chargeable services to the State;
- c) The Supplier will use its best efforts to perform the separately chargeable services in a cost effective manner to the State;
- d) The Supplier and Developer will perform the services in a manner that does not knowingly infringe the proprietary rights of any third party;
- e) The Supplier will perform the services in a manner that complies with all applicable laws and regulations;
- f) The Supplier will maintain all equipment and software for which it has maintenance responsibilities in good operating condition and will undertake all repairs and preventive maintenance in accordance with applicable manufacturer's recommendations;
- g) The Supplier will use its best efforts to protect the Software used to provide the Services from viruses;
- h) The Supplier will not knowingly insert or activate any disabling code into the Software used to provide the Services without the State's prior written approval;
- i) Supplier, through Developer, agrees to provide a ninety (90) day warranty for all major upgrades where that warranty involves conformance to agreed and documented system specifications.
- j) The Supplier will maintain ESKORT to remain compatible and functional with third-party software used to develop and implement ESKORT. If the third party software is no longer supported by its manufacturer, Developer shall use reasonable efforts to keep ESKORT functional. It should be noted, however, that the continued availability of maintenance for ESKORT, should support be no longer available from the manufacturer of the third party software previously used by Developer to develop and implement ESKORT, may require a mutually agreed upon Change Request to authorize the work required on either a Time and Material or fixed fee basis, and would not be covered by the annual maintenance charge.

Supplier and Developer will provide assistance on technical issues with respect to ESKORT and will provide assistance on minor business issues. In both cases, the State would make a request for such assistance through JIRA and it would be processed based on its priority.

For business assistance which is not minor in nature (such as consultations on the changes needed to implement a new tax type), Supplier and Developer will provide such assistance on a Time and Material or fixed fee basis as a result of a mutually agreed upon Change Request.

Reserve bank of hours for future enhancements and/or legislative mandates



Application development during the span of this contract will be the responsibility of Supplier and the Developer based upon mutually agreed upon Change Requests, either on a Time and Material basis using the hourly rates in this Contract or on a fixed price basis set forth in the Change Request, except where such development is expressly stated below to be covered by the annual maintenance charge. Development can be expected in many categories: new features specific to Michigan, features developed to serve the entire client base of the Developer, changes to stay current with operating system and database system software, and correction of defects.

New features specific to Michigan are extensions to the baseline product as currently deployed at the State. This development will be on a time and material basis not included in the maintenance fees and will follow a defined project change process agreed to by both Supplier and the State. All work will be requested, described, bid, approved for development and accepted after testing in writing as required by the change process.

New features developed to serve the entire client base of the Developer are system enhancements made by Supplier and the Developer that improve ESKORT for any of ESKORT installations in the marketplace. These can be characterized as features that make ESKORT competitive in the marketplace. Note, however, that inclusion of those features within the customized and configured ESKORT system for the State may require either a Time and Material or Fixed Price service and will be only provided under a mutually agreed upon and approved Change Request.

If the change in the operating system or the database system involves a minor modification to ESKORT to keep it compatible with supported versions of the operating system and database system technology, this will be done within the maintenance costs. For larger modifications, this will be subject to Time and Material or Fixed Price services and will be provided under a mutually agreed upon and approved Change Request.

To the extent only minor modifications to ESKORT are required to keep ESKORT in compliance with State technology standards, as determined by the Developer, the Supplier shall provide such modifications as part of the maintenance costs. Otherwise, such modifications would be provided to the State only as part of mutually agreed upon and approved Change Request using the hourly rates set forth in this Contract.

Supplier and Developer will modify ESKORT to correct defects, where defect is defined as the failure of the ESKORT Software to conform to published specifications when used in accordance with such specifications. These changes will be included in the maintenance costs.

Software development specific to TCB business operations are extensions to the baseline ESKORT software suite as delivered or as amended by previous software change orders performed by Supplier. These changes will be paid from the reserve bank of hours for future enhancements and/or legislative mandates based upon a mutually agreed upon Change Request that specifies that such development effort is subject to Time and Material based pricing (or alternatively fixed pricing).

The ESKORT Compliance Solution complied with State standards as of the date of the implementation in November 2008. If a change in standards and policies involves a minor modification to ESKORT, this will be provided within the maintenance costs. For larger modifications, this will be subject to Time and Material or Fixed Price services and will be provided under a mutually agreed upon and approved Change Request.

Any change to the ESKORT system should be submitted via the JIRA system and an initial assessment will be made mutually between Developer and the State with respect to the nature and extent of the change. As determined by that assessment, changes that are not covered by the annual maintenance charge will be provided pursuant to a mutually agreed upon and approved Change Request which documents the change and the cost of implementing the change as either a Time and Material or a fixed fee. In addition, the schedule for the change and the acceptance criteria for the State will also be documented. The change is then subject to review and approval by the State – who will authorize Supplier to proceed with the change. Again, depending on the nature and scope of the change, a formal project plan will be developed and followed with appropriate project tracking and reporting through implementation. The Supplier and/or Developer will perform the development, unit, and system testing, and develop any required documentation, including release notes and training materials. The State will be responsible for the configuration of the Software parts that are the



State's responsibility (i.e., those parts that contain business knowledge unique to the State) and for installation activities on the UAT, QA, and Production Platforms. The State is also responsible for User Acceptance Testing and Acceptance. The State may use documentation provided by Supplier and consultation from Developer personnel in the development of any specific end-user training materials – and the State will deliver the end-user training. If Systems Administration training is required within the scope of the Change Request, Developer will provide this training either onsite or remotely, as mutually agreed upon.

1.200 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

A. Contractor Staff

Single Point of Contact (SPOC) - Mr. David Wieber is the Single Point of Contact who will serve as the primary interface to the State's designated project staff on the ESKORT Maintenance Project. The SPOC will be responsible and accountable for supporting the management of the Contract, facilitating dispute resolution, and advising the State of performance status, compliance, or any issues relating to Supplier's performance under the terms of the Contract.

The State reserves the right to require a change in the current SPOC if the assigned SPOC is not, in the opinion of the State, adequately serving the needs of the State.

Organizational Chart - The Contractor will maintain current 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. See the Organization Chart attached to this Contract as Attachment 2 and incorporated by reference herein.

The Contractor will provide a Business Manager to interact with the designated personnel from the State to insure reliable system maintenance work. Monty Bieber will serve as the Contractor's Business Manager and be responsible for managing all quotes, invoices, complaints, contract changes and facilitating business meetings.

The Contractor will provide a Technical Lead to interact with the designated personnel from the State to insure reliable system maintenance work. Marco Dijkstra is designated as the Contractor's Technical Lead and will serve as the point person for all technical issues and coordinate and oversee the day-to-day technical activities of the project team.

Subcontractors – See the materials that follow the Organization Chart in Attachment 2.

For service work drawn from the reserve bank of hours, the State may require the Contractor to provide a Project Manager. Contractor's project manager responsibilities include, at a minimum:

- Develop the project plan and schedule, and update as needed
- Serve as the point person for all project issues
- Coordinate and oversee the day-to-day project activities of the project team
- Assess and report project feedback and status
- Escalate project issues, project risks, and other concerns
- Review all project deliverables and provide feedback
- Proactively propose/suggest options and alternatives for consideration
- Utilize change control procedures
- Prepare project documents and materials
- Manage and report on the project's budget

For hourly rate services drawn from the reserve bank of hours, the State may require resumes for the consultants proposed by the contractor.



The Contractor will provide sufficient qualified staffing to satisfy the deliverables of this Statement of Work.

B. On Site Work Requirements

1. Work is to be performed, completed, and managed at the following location, subject to the clarifications in the immediately following paragraphs:

Michigan Department of Treasury
Treasury Operations Center
7285 Parsons Drive
Dimondale, Michigan 48821

Some of the proposed services required under this Contract will be provided on-site in at the location in Michigan noted above, However, much of the ESKORT Maintenance and Support and development of modifications or enhancements to ESKORT performed under Change Requests will be performed either at Supplier locations in the U.S., or off-site in Europe, depending on what is most appropriate (in terms of cost, efficiency, quality, etc.) to the nature of the task. The Supplier will determine as to whether work will be performed on-site or off-site.

Developer specific activities (which will include ESKORT support and maintenance, as well as development and potentially some Time and Material-based services) will be carried out at Developer's facilities in Europe. Apart from this, Supplier acknowledges and agrees that all other work required will be performed, completed, and managed in the immediate Lansing, MI area – either at State office buildings or, as may be mutually agreed upon between Supplier and the State, at a Supplier facility in the Lansing area. Supplier's current, Lansing-based office facility as of the date of this Contract is located at:

822 Centennial Way, Suite 100
Lansing, MI 48917

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, however, the resolution of defects may be affected by the lack of available State personnel in a timely manner. 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.

ESKORT Software Maintenance and Support shall be provided by the Developer, as a subcontractor to the Supplier during the Developer's normal business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m. Danish time, excluding Danish holidays), consistent with the requirements outline in Section 1.104, Maintenance, Subsection 3(b). Supplier and Developer will provide MDTMB or TCB with after-hours contact information that can be used in the event a significant Support Issue arises during any hours other than normal Developer business hours, also as set forth in Section 1.104, Maintenance, Subsection 3(b).

For all other services covered by this Contract, the actual hours of operation shall be set forth in a mutually agreed upon Change Request. However, Supplier and Developer staff will be dedicated to meeting project commitments on schedule and within budget.

3. Travel:

- a. No travel or expenses will be reimbursed, except as noted below. This includes travel costs related to training provided to the State by Contractor.
- b. Travel time will not be reimbursed.



- c. Notwithstanding the foregoing a Change Request may specify that such expenses will be reimbursed, in which case the State shall reimburse Supplier for actual costs incurred consistent with the State’s then current expense reimbursement policies if provided by the State to Supplier.

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 Contract if required by a Change Request covering an on site service. In addition, 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 involving an on site service. Contractor will 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 Contractor’s use when the Contractor is working at the State site:

- Work space
- Minimal clerical support
- Desk
- Telephone
- PC workstation
- Printer
- Access to copiers and fax machine
- Other resources as described in approved change requests executed in the life span of this contract.

State Project Manager- (DTMB and Agency)

DTMB will provide a Project Manager who will be responsible for the State’s infrastructure and coordinate with the Contractor in determining the Software configuration.

The MDTMB Project Manager will provide the following services:

- Provide State facilities, as needed
- Coordinate the State resources necessary for the project
- 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 project issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Conduct regular and ongoing review of the project to confirm that it meets original objectives and requirements
- Document and archive all important project decisions
- Arrange, schedule and facilitate State staff attendance at all project meetings.

Name	Agency/Division	Title
Pat Malloy	DTMB	Project Manager
Chelsea Hare-West	Treasury	Project Manager

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

Name	Agency/Division	Title
Mark Lawrence	DTMB – Purchasing Operations	Contract Administrator



1.300 Project Plan – Deleted NA

1.400 Project Management – Deleted NA

1.500 Acceptance – Deleted NA

1.600 Compensation and Payment

1.601 COMPENSATION AND PAYMENT

Method of Payment

Licensing and Maintenance will be a fixed annual price, as set forth in the Cost Tables, but where there are no additional license fees owed by the State for the use of the ESKORT Software in effect as of the date of this Contract or as may be modified based on modifications provided as part of the annual maintenance charge. The annual maintenance charge shall be invoiced annually in advance. The reserve bank of hours for future enhancements and/or legislative mandates will be invoiced monthly, or as agreed upon a statement of work.

Services to be drawn from this Contract will be dependent upon individual and mutually agreed upon statement(s) of work that are part of Change Requests between the Supplier and the State.

The Costs Table(s) attached as **Exhibit A** must be used as the format for submitting pricing information.

Travel

The State will not pay for any travel expenses, including hotel, mileage, meals, parking, etc. Travel time will not be reimbursed. Notwithstanding the foregoing, with respect to Change Requests issued under this Contract for future enhancements and/or legislative mandates that specifically state that travel and expenses are reimbursable, in which case, the State shall pay for such travel and expenses.

If Contractor reduces its prices for any of the Software or services during the term of this Contract, the State shall have the immediate benefit of such lower prices for new purchases. Contractor shall send updated prices to the State annually].

Invoicing

Contractor will submit properly itemized invoices to "Bill To" Address on Purchase Order. Invoices must provide and itemize, as applicable:

- Contract number;
- Purchase Order number
- Contractor name, address, phone number, and Federal Tax Identification Number;
- Description of any commodities/hardware, including quantity ordered;
- Date(s) of delivery and/or date(s) of installation and set up;
- Price for each item, or Contractor's list price for each item and applicable discounts;
- Maintenance charges;
- Net invoice price for each item;
- Shipping costs;
- Other applicable charges;
- Total invoice price,
- Payment terms, including any available prompt payment discount, and
- Attach a timesheet, where payment is made by hourly service rates.

The State may pay maintenance and support charges on a monthly basis, in arrears. Payment of maintenance service/support of less than one (1) month's duration shall be prorated at 1/30th of the basic monthly maintenance charges for each calendar day.

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



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 October 1, 2010 through September 30, 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 two (2) 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 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 Technology, Management and Budget, Purchasing Operations and the Michigan Department of Treasury (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 contact for this Contract is:

Dale N. Reif, Buyer
Purchasing Operations
Department of Technology, Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
reifd@michigan.gov
(517) 373-3993

2.022 CONTRACT ADMINISTRATOR

See Section 1.202

2.023 PROJECT MANAGER

See Section 1.202



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 Technology, 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: Dale N. Reif
 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 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.
- (d) 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, 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 Technology, 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 Technology, 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 Technology, Management and Budget, Financial Services documentation showing PCI Data Security certification has been achieved. The Contractor shall advise the Department of Technology, 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

2.121 WARRANTIES AND REPRESENTATIONS

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and must fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under this Contract.
- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under neither this Contract, nor their use by the State shall infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.



- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor.
- (l) All written information furnished to the State by or for the Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the information not misleading.
- (m) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the contract.
- (n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Technology, Management and Budget, Purchasing Operations.

2.122 WARRANTY EXCLUSION

INGENIX AND ITS SUPPLIERS DISCLAIM ALL OTHER EXPRESS WARRANTIES NOT SET FORTH IN THIS SECTION 2.120, 2.130 OR IN SECTION 1.104, MAINTENANCE AND SUPPORT, SUBSECTION 14 OF THE RFP AND DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING (WITHOUT LIMITATION) THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE NOT SPECIFIED HEREIN, RESPECTING THIS AGREEMENT AND THE SYSTEM, SOFTWARE, DOCUMENTATION AND SERVICES PROVIDED. INGENIX DOES NOT WARRANT THAT USE OF THE SYSTEM OR SOFTWARE WILL BE UNINTERRUPTED OR THAT THE SYSTEM OR SOFTWARE IS ERROR-FREE.

2.123 WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE – DELETED NA

2.124 WARRANTY OF TITLE

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



For purposes of this contract, the only ESKORT Software, modifications and/or error corrections that shall be considered “goods” for which title is to be conveyed to the State shall consist of modifications to the ESKORT Software that are State-specific (i.e., reflecting a Michigan-specific business process only)(the “State Specific ESKORT Customizations”). All other Deliverables, including, without limitation, the ESKORT standard systems making up the Michigan Solution, any modifications of a generic nature made to these systems, associated documentation and release notes (including user manuals, technical manuals, etc.) (collectively, the “Licensed Deliverables”) shall be licensed to the State solely for use under the ESKORT standard license terms, with all other rights and title (including but not limited to IP rights) retained by Intracom IT Services Denmark A/S (“the Developer”).

2.125 EQUIPMENT WARRANTY – DELETED NA

2.126 EQUIPMENT TO BE NEW – DELETED NA

2.127 PROHIBITED PRODUCTS

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

2.128 CONSEQUENCES FOR BREACH

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

2.130 Insurance

2.131 LIABILITY INSURANCE

The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must protect the State from claims 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

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 MDTMB 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 Technology, Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional 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 the Contractor under this Contract shall either become the property of the State or be licensed to the State based on the ownership and license terms set forth in Sections 2.261 and 2.262 of



the Contract, as amended by the exceptions noted below. 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 forty-five (45) 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 the value of the Contract or \$500,000 whichever 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 MDTMB Purchasing Operations.
 - (2) Contractor shall also notify MDTMB 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 MDTMB 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

For purposes of clarification, the provisions of Section 2.250 shall only apply if and to the extent the parties agree that the Supplier, working with the Developer, will be performing Services that involve the creation of a Custom Software Deliverable under a Change Request issued under this Contract and not to any other Deliverable provided hereunder, including, without limitation, any Deliverables provided as part of ESKORT



Software Maintenance and Support. Notwithstanding the foregoing, the requirement for the Supplier and/or the Developer to comply with CMM Level 3 shall only apply if and to the extent set forth in the applicable Change Request.

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 only type of Deliverable that shall be considered a work made for hire under Section 2.261 and for which the Contractor shall assign ownership to the State are those items that fit within the definition of a State Specific ESKORT Customization, as defined in Section 2.124. Similarly, the Developer retains ownership of all other Deliverables, including any Licensed Deliverables, as defined in Section 2.124 above and the State shall enjoy a non-exclusive, non-transferable right and license to use, solely for its internal business purposes, the Licensed Deliverables on the same license terms as are set forth in the ESKORT standard license agreement that governs the license terms applicable to the ESKORT Software in effect as of the effective date of this Agreement.

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 – DELETED NA

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 – Deleted NA

2.290 Environmental Provision

2.291 ENVIRONMENTAL PROVISION

Energy Efficiency Purchasing Policy: The State seeks wherever possible to purchase energy efficient products. This includes giving preference to U.S. Environmental Protection Agency (EPA) certified 'Energy Star' products for any category of products for which EPA has established Energy Star certification. For other purchases, the State may include energy efficiency as one of the priority factors to consider when choosing among comparable products.

Environmental Purchasing Policy: The State of Michigan is committed to encouraging the use of products and services that impact the environment less than competing products. The State is accomplishing this by including environmental considerations in purchasing decisions, while remaining fiscally responsible, to promote practices that improve worker health, conserve natural resources, and prevent pollution. Environmental components that are to be considered include: recycled content and recyclables; energy efficiency; and the presence of undesirable materials in the products, especially those toxic chemicals which are persistent and bioaccumulative. The Contractor should be able to supply products containing recycled and environmentally preferable materials that meet performance requirements and is encouraged to offer such products throughout the duration of this Contract. Information on any relevant third party certification (such as Green Seal, Energy Star, etc.) should also be provided.

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



Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act.

- (a) The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor's Work. Before the commencement of Work, the State shall advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, notify the State in writing about the conditions encountered, and take appropriate health and safety precautions.
- (b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.
- (c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor shall resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in a time as mutually agreed by the parties.
- (d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

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

Refrigeration and Air Conditioning: The Contractor shall comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

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

2.300 Deliverables

2.301 SOFTWARE

A list of the items of software the State is required to purchase for execution the Contract is attached. The list includes all software required to complete the Contract and make the Deliverables operable; if any additional software is required in order for the Deliverables to meet the requirements of this Contract, such software shall be provided to the State by Contractor at no additional charge (except where agreed upon and specified in a Statement of Work or Contract Change Notice). The attachment also identifies certain items of software to be provided by the State.

2.302 HARDWARE – DELETED NA



2.310 Software Warranties

2.311 PERFORMANCE WARRANTY

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of (90) ninety days. In the event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

2.312 NO SURREPTITIOUS CODE WARRANTY

The Contractor represents and warrants that no copy of licensed Software provided to the State contains or will contain any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code. Unauthorized Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

2.313 CALENDAR WARRANTY

The Contractor represents and warrants that all software for which the Contractor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

2.314 THIRD-PARTY SOFTWARE WARRANTY

The Contractor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Contractor shall provide in writing the name and use of any Third-party Software, including information regarding the Contractor's authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Contractor to use the Third-party Software.

**2.315 PHYSICAL MEDIA WARRANTY**

Contractor represents and warrants that each licensed copy of the Software provided by the Contractor is free from physical defects in the media that tangibly embodies the copy. This warranty does not apply to defects discovered more than (30) thirty days after that date of Final Acceptance of the Software by the State. This warranty does not apply to defects arising from acts of Excusable Failure. If the Contractor breaches this warranty, then the State shall be entitled to replacement of the non-compliant copy by Contractor, at Contractor's expense (including shipping and handling).

2.320 Software Licensing**2.321 CROSS-LICENSE, DELIVERABLES ONLY, LICENSE TO CONTRACTOR**

The State grants to the Contractor, the royalty-free, world-wide, non-exclusive right and license under any Deliverable now or in the future owned by the State, or with respect to which the State has a right to grant such rights or licenses, to the extent required by the Contractor to market the Deliverables and exercise its full rights in the Deliverables, including, without limitation, the right to make, use and sell products and services based on or incorporating such Deliverables.

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

The State grants to the Contractor, the royalty-free, world-wide, non-exclusive right and license under any Deliverable and/or Derivative Work now or in the future owned by the State, or with respect to which the State has a right to grant such rights or licenses, to the extent required by the Contractor to market the Deliverables and/or Derivative Work and exercise its full rights in the Deliverables and/or Derivative Work, including, without limitation, the right to make, use and sell products and services based on or incorporating such Deliverables and/or Derivative Work.

2.323 LICENSE BACK TO THE STATE – DELETED NA**2.324 LICENSE RETAINED BY CONTRACTOR – DELETED NA****2.325 PRE-EXISTING MATERIALS FOR CUSTOM SOFTWARE DELIVERABLES**

Neither Contractor nor any of its Subcontractors shall incorporate any preexisting materials (including Standard Software) into Custom Software Deliverables or use any pre-existing materials to produce Custom Software Deliverables if such pre-existing materials will be needed by the State in order to use the Custom Software Deliverables unless (i) such pre-existing materials and their owners are identified to the State in writing and (ii) such pre-existing materials are either readily commercially available products for which Contractor or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by the State) in the name of the State, or are materials that Contractor or its Subcontractor, as the case may be, has the right to license to the State and has licensed to the State on terms and conditions approved by the State prior to using such pre-existing materials to perform the Services.

2.330 Source Code Escrow – Deleted NA



Attachment 1 – Cost Tables

Table: Summary of the Project Cost (5 years)

No.	Project Cost(s)	Cost (\$)	Comments
A.	Software Licensing (includes COTS and any third party software) Give breakdown in Table 1	\$0.00	There is no incremental fee or charge owed by the State for the State to use ESKORT Selection, ESKORT Case Management and Tracking and ESKORT Audit Support, as such modules are in effect as of the Effective Date or as may be enhanced during the term of the Prime Contract, provided that such usage is limited to the Audit Division of the Department of Treasury within the State of Michigan and the Standard License Terms and Conditions included in Article 2 of this Contract.
B.	Maintenance and Support (help desk) Give breakdown in Table 1	\$1,216,424.00	
C.	Future Enhancements/Rate Card Give breakdown in Table 2	\$1,650,400.00	
Total Project Cost		\$2,866,824.00	



Table 1: Recurring Costs: Software License and Maintenance and Support

No.	Cost Categories	ESKORT Selection Cost (\$)	ESKORT Case Mgt. and Tracking Cost (\$)	ESKORT Audit Support Cost (\$)	Total (\$)
	Software license cost*				
	First Year	0	0	0	0
	Second Year	0	0	0	0
	Third Year	0	0	0	0
	Fourth Year	0	0	0	0
	Fifth Year	0	0	0	0
	Total Software License Recurring Costs – without option years				
	Option Year 1	0	0	0	0
	Option Year 2	0	0	0	0
	Software Maintenance and Support cost (may includes helpdesk)**				
	First Year	\$83,790	\$95,800	\$60,050	\$239,640
	Second Year	\$83,790	\$95,800	\$60,050	\$239,640
	Third Year	\$83,790	\$95,800	\$60,050	\$239,640
	Fourth Year	\$86,163	\$98,376	\$61,061	\$245,600
	Fifth Year	\$88,031	\$100,897	\$62,976	\$251,904
	Total Software Maintenance and Support Recurring Costs – without option years**	\$ 425,564	\$486,673	\$304,187	\$ 1,216,424
	Option Year 1	\$90,596	\$102,765	\$64,904	\$258,265
	Option Year 2	\$ 91,796	\$106,645	\$66,147	\$264,588
	Combined Total – without option years	\$425,564	\$486,673	\$304,187	\$1,216,424

*There is no incremental fee shown based on the comment set forth in the summary table above.

**The totals given for Maintenance and Support of each module of ESKORT Software for a given contract year are based upon the assumption that the State orders Maintenance and Support for all three modules of the ESKORT Software in that contract year. If the State elects to order Maintenance and Support for less than all three modules of the ESKORT Software in a given calendar year, Supplier reserves the right to re-price the charge for Maintenance and Support of the remaining modules of ESKORT Software, without regard to the annual amount set forth in the above table.



Table 2: Future Enhancements & legal mandates / Rate Card

Position Type	Year 1 Not to Exceed Hourly rate	Year 2 Not to Exceed Hourly rate	Year 3 Not to Exceed Hourly rate	Year 4 Not to Exceed Hourly rate	Year 5 Not to Exceed Hourly rate
Data Warehouse Project Manager	\$ 152	\$ 156	\$ 160	\$ 164	\$ 168
Data Warehouse Architect	\$ 168	\$ 173	\$ 178	\$ 183	\$ 188
Data Warehouse Data Designer/Modeler	\$ 147	\$ 151	\$ 155	\$ 159	\$ 163
Data Warehouse Developer Senior/Junior	\$ 142	\$ 146	\$ 150	\$ 154	\$ 158
Data Warehouse BI Analyst Senior/Junior	\$ 142	\$ 146	\$ 150	\$ 154	\$ 158
Data Warehouse Database Administrator	\$ 147	\$ 151	\$ 155	\$ 159	\$ 163
Data Warehouse BI Report Developer	\$ 142	\$ 146	\$ 150	\$ 154	\$ 158
Data Warehouse Help Desk Analyst	\$ 130	\$ 133	\$ 137	\$ 141	\$ 145
Subject Matter Expert	\$ 315	\$ 323	\$ 332	\$ 341	\$ 350
ESKORT System Specialist	\$ 197	\$ 202	\$ 207	\$ 213	\$ 219
ESKORT Trainers	\$ 197	\$ 202	\$ 207	\$ 213	\$ 219
Sub-Total - Blended Rate by year	\$ 156.40	\$ 160.60	\$ 164.90	\$ 169.40	\$ 173.90
Future Enhancement/Rate Card Estimated Cost by year (blended rate X 2000 hours per year)	\$ 312,800	\$ 321,200	\$ 329,800	\$ 338,800	\$ 347,800
Total Future Enhancements Estimated Cost	\$ 1,650,400				

***The above hourly rates shall in all events be exclusive of travel and living expenses, where such expenses shall not be reimbursable unless and then only to the extent set forth in a Change Request issued under the Contract.

Hourly rates are firm, fixed rates for the duration of the Contract. Travel and other expenses will not be reimbursed. The State will use the fully loaded hourly rates detailed above for each staff that will be used as fixed rates for responses to separate statements of work.

The State intends to establish funding for up to 10,000 hours over the life of the Contract for development. Actual funding for enhancements will occur on a yearly basis, and there is no guarantee as to the level of funding, if any, available to the project

Unless otherwise agreed by the parties, each Statement of Work will include:

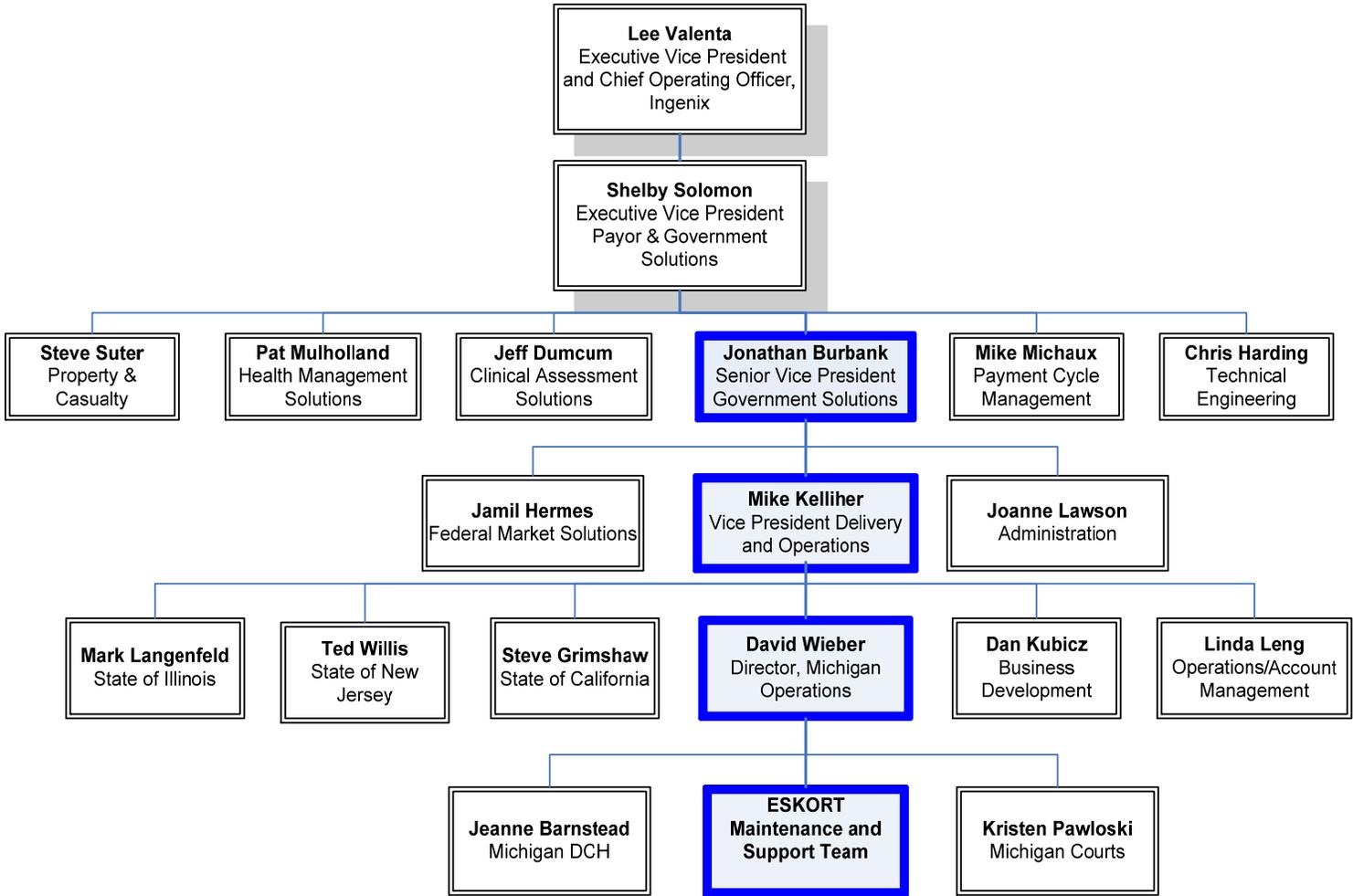
- a. Background
- b. Project Objective
- c. Scope of Work
- d. Deliverables
- e. Acceptance Criteria
- f. Project Control and Reports
- g. Specific Department Standards
- h. Payment Schedule
- i. Travel and Expenses
- j. Project Contacts
- k. Agency Responsibilities and Assumptions
- l. Location of Where the Work is to be Performed
- m. Expected Contractor Work Hours and Conditions

The parties agree that the Services/Deliverables to be rendered by Contractor using the future enhancements/rate card on this Contract will be defined and described in detail in separate Statements of Work. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a purchase order issued against this Contract.



Attachment 2 – Organization Chart

Organizations circled in blue represent the direct line of authority for the ESKORT Maintenance and Support Team up to Mr. Solomon.



Within the organizational structure shown above, Jonathan Burbank will have prime responsibility and final authority for the work.



Firm Name	Intracom IT-Services Denmark A/S (“Intracom”)
Address	Bregnerodvej 127 DK-3460 Birkerød Denmark
Contact Person	Søren Blom, Chief Operating Officer
Work to be Contracted	Intracom will provide the ESKORT Software Maintenance and, as required using the agreed upon Change Process, Time and Materials services to be provided by the ESKORT System Specialist and the ESKORT Trainers under subcontract to Ingenix.
Abilities of Subcontractor’s Organization	<p>Intracom is the author of the ESKORT Compliance Solution. They do the requirements definition, design, development, testing, and implementation of the ESKORT Compliance Solution for their customers around the world – either as prime contractors or subcontractors (as is the case with the Ingenix/Intracom relationship in the US market). In addition, Intracom provides technical project management for those aspects of an implementation project that relate directly to the ESKORT software components – as well as required consultation with respect to data interfaces, etc. when those are handled by State or other company personnel.</p> <p>Intracom is also responsible for the maintenance and support of the ESKORT Compliance Solution as installed at each of the customer locations, per the then current maintenance agreement between Intracom and their customers.</p>

Firm Name	Shadow Mountain Consulting LLC
Address	2843 E. Grand River Suite 154, East Lansing, MI 48823
Contact Person	Monty Bieber, President and Principal Consultant
Work to be Contracted	Monty Bieber will serve as the Business Manager resource for the ESKORT Maintenance project under subcontract to Ingenix.
Abilities of Subcontractor’s Organization	<p>Shadow Mountain Consulting provides the following scope of professional services:</p> <ul style="list-style-type: none"> ■ Design and delivery of relational database solutions (Experience with multiple database technologies including Teradata, Oracle, SQL Server, Informix and Ingres) ■ Project Management and/or Technical Leadership for large scale database and data warehousing implementation projects ■ Provides project direction and/or support in such roles as Solution Architect, Logical Modeler, Physical Modeler, Data Base Administrator, Business Intelligence Architect, Trainer and System Architect ■ Organizational counseling and support around Database Management, Data Governance and Data Warehouse Best Practices, including presentation preparation and delivery



Exhibit A – Standard License Agreement

This License Agreement (the “License Agreement”) is between the State of Michigan, Department of Treasury, Audit Division, as the end user of the Software Product defined in this License Agreement (the “Customer”) and Intracom IT-Services Denmark A/S (“Intracom”). After reading this License Agreement, if you, on behalf of the Customer, continue to use the Software Products defined herein, you will be deemed to have agreed to the terms and conditions of this License Agreement. If you do not agree, then you should cease any and all further use of the Software Products.

Subject to the Customer’s payment of the fees due for the licenses of the module/modules of the ESKORT Compliance Solution supplied (the “Software Product”), Intracom hereby grants the Customer, a non-exclusive, non-transferable license to use the Software Product subject to the terms and conditions as defined in this License Agreement.

The right to use the Software Product is restricted to the use by the Customer of the Software Products solely for its own internal business purposes. Unless otherwise agreed in relevant separate written agreement, the Customer will receive one (1) copy the Software Product on an appropriate medium, together with the necessary installation instructions and procedures. The Customer will be responsible for distribution of the Software Product within the Customer’s organization, subject to the limitations set forth in this License Agreement or in any separate written agreement between the Customer and either Intracom or Integris Inc., an Ingenix company (“Ingenix”), where Ingenix is Intracom’s supplier.

The Customer may copy the Software Product to the extent necessary for use in accordance with the distribution of the Software Product within the Customer organization and for back-up purposes. Further copying is not allowed.

The Customer may not in any way transfer the license, copies of the Software Product or any associated documentation, or in any other way make the Software Product and documentation available to any user outside of the agreed departments within the Customer’s organization or to any third parties. Furthermore, the Customer shall secure and protect the Software Product to the extent necessary to meet its license obligations hereunder including, but not limited to, taking any necessary action with those of its employees who are permitted to access the Software Product. In addition, the Customer undertakes to respect the full confidentiality of all information in, and relating to, the Software Product.

The Software Product contains the proprietary technology, know-how and trade secrets of Intracom and, as such, the Customer shall treat such as confidential information with at least the same level of care used to protect its own confidential information.

All title, rights and interest to the Software Product remain with Intracom. No rights, title or interest to the Software Product, including any modifications and updates thereto, is transferred to the Customer, except for the limited usage rights expressly provided for in this License Agreement.

The Customer shall not de-compile or reverse assemble the Software Product, or analyze, or otherwise examine the Software Product, including any hardware or firmware implementation of the Software Product for the purpose of reverse engineering or for the purpose of developing similar systems.

The license shall continue in perpetuity unless the Customer breaches any of the terms and conditions of this License Agreement and/or of any related written agreement between the Customer and either Intracom or Ingenix. It is agreed that the failure to make payment of any license fees is a breach of this License Agreement.

In case of breach, Intracom may terminate this License Agreement unless the Customer has remedied such breach within thirty (30) days after receipt of written notice thereof.

Upon termination of this License Agreement, the Customer shall destroy all copies of the Software Product and the documentation and ensure that Intracom receives written confirmation hereof.

CUSTOMER ACKNOWLEDGES READING THIS LICENSE AGREEMENT.



Glossary

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 Article 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	Michigan Department of Technology, Management and 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 Article 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.