



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 5
to
Contract Number 071B1300128

CONTRACTOR	Edifecs, Inc.
	1756 114th Ave SE
	Bellevue, WA 98004
	Brit Terrell
	512-963-1583
	britt.terrell@edifecs.com
	*****6419

STATE	Program Manager	Brian Gallup	DTMB
		517-241-7145	
		gallupb@Michigan.gov	
	Contract Administrator	Simon Baldwin	DTMB
		(517) 284-6997	
		BaldwinS@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Software Maintenance and Support				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
October 1, 2010	September 30, 2015	5 - 1 Year	September 30, 2016	
PAYMENT TERMS		DELIVERY TIMEFRAME		
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				
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	
\$2,030,214.31		\$ 369,780.73	\$2,399,995.04	

DESCRIPTION: Effective September 29, 2016, the State is exercising the second option year and is increased by \$369,780.73. Please note the Contract Administrator has been changed to Simon Baldwin. All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement, DTMB Procurement approval, and State Administrative Board approval on September 29, 2016.

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. 071B1300128
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Edifecs, Inc. 1756 114th Ave, SE Bellevue, WA 98004	Brit Terrell	Britt.terrell@edifecs.com
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(512) 963-1583	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Brian Gallup	517-241-7145	gallupb@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Whitnie Zuker	517-284-7030	zuckerw@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Software Maintenance and Support			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	5, 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	
\$1,660,433.58	\$369,780.73		\$2,030,214.31	

DESCRIPTION:

Effective October 1, 2015, this contract is hereby amended and increased by \$369,780.73, to support the first option year and to provide additional support per attached Change Notice 3, for the timeframe 10/1/15 – 9/30/16. New contract end date is September 30, 2016. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement, DTMB Procurement and the approval of the State Administrative Board on June 16, 2015.



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

Project Title: Edifecs, Healthcare Software Option Year 1	Period of Coverage: 10/01/15 - 9/30/16
Requesting Department: Michigan Department of Community Health (DCH)	Date: 03/23/15
Agency Project Manager: John Spitzley	Phone: 517-335-6612
DTMB Project Manager: Brian Gallup	Phone: 517-241-7145

Brief Description of Services to be provided:

Contract 071B1300128 – contract change notice (CCN) to increase the contract for the first one (1) year option of five (5) permissive under section 2.002 Options to Renew for ongoing maintenance and support for Edifecs Healthcare Software Licenses for time period of 10/01/15 – 09/30/16.

BACKGROUND:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires the Secretary of the Department of Health and Human Services (HHS) to adopt standards that covered entities (health plans, health care clearinghouses, and certain health care providers) must use when electronically conducting certain health care administrative transactions, such as claims, remittance, eligibility, and claims status requests and responses.

In order to continue submitting claims electronically, HIPAA mandated that the health care industry use standard formats for electronic claims and claims-related transactions; The Health Insurance Reform-Modifications to HIPAA Electronic Transaction Standards Final Rule, published on January 16, 2009, replaced the current versions of the standards with Version 5010.

The Michigan’s new Medicaid Management Information System (MMIS) called Community Health Automated Medicaid Processing System (CHAMPS) is used to validate the format & structure of inbound & outbound Electronic Data Interface (EDI) Transactions.

Contract 071B1300128 provides ongoing maintenance and support for the following Licenses required for CHAMPS to validate the format & structure of inbound & outbound Electronic Data Interface (EDI) Transactions:

- XEngine™ HealthCare Edition – HIPAA, HL7 and NCPDP
Validates transactions for syntax, semantics and custom business rules, while enabling splitting, routing, aggregation, enrichment of transactions and translation between multiple standards. Licenses include Development, Test, Staging, and Production
- SpecBuilder™ Healthcare Edition
SpecBuilder™ is a design-time tool that simplifies, reduces errors in and accelerates the design phase of healthcare information exchange.
- Ramp Management™ Health Care Edition
Ramp Management (RM) provides a branded, self-service portal for onboarding trading partners. It provides a best-practice approach to quickly and efficiently guide partners through every step of the onboarding and testing process.
- HIPAA Code-Sets Database Key
Code set validation is a requirement of Centers for Medicare & Medicaid (CMS).

PROJECT OBJECTIVE:

Exercise option year renewal one (1) for Edifecs for continued ongoing maintenance and support for Edifecs Healthcare Software Licenses for time period of 10/01/15 – 09/30/16.

SCOPE OF WORK:**Covered Software**

Contractor will provide software licensing and ongoing support and maintenance for:

- XEngine™ HealthCare Edition – HIPAA, HL7 and NCPDP
- SpecBuilder™ Healthcare Edition,
- Ramp Management™ Health Care Edition,
- HIPAA Code-Sets Database Key

Contractor must provide software maintenance and support services defined in this Section to the State for the Covered Software while the annual maintenance fee for the Current Release of the particular Covered Software is in effect and paid in full.

The State reserves the right to purchase additional software licenses, maintenance and support, training and proprietary services. Proprietary services to be drawn from this Contract will be dependent upon individual and mutually agreed upon statement(s) of work between Contractor and the State of Michigan. Once agreed to, 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.

Software Maintenance

Contingent upon the State's payment of its annual maintenance fees, Contractor must provide software maintenance for the installed version and on all future software updates and system enhancements applicable to system modules licensed to the State.

Contingent upon the State's payment of its annual maintenance fees, Contractor shall provide Upgrades to the standard version of the Covered Software at no additional cost to the State. Upgrades shall mean updated, upgraded, or revised versions of the Covered Software which may include error corrections and other enhancements that Contractor makes available to its customers at no additional charge. Upgrades shall not include any new releases which contain substantially new or different functionality.

Contingent upon the State's payment of its annual maintenance fees, Contractor will use reasonable efforts to correct any failure in the Covered Software identified by the State in writing. The Contractor must notify the State of any material errors or defects in the products licensed to the State, or made known to Contractor from any source during the Contract term that could cause the production of inaccurate, or otherwise materially incorrect, results and shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.

Software Support Services

Contractor must provide software support services for the Covered Software as described in this Section.

Contractor must provide a support telephone number to call help on the Covered Software. The support number shall be in operation during State business hours, 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, excluding State holidays.

Contractor must provide technical support from 8 a.m. to 5 p.m. EST; Monday through Friday with a minimum response time of 4 hours via a Contractor provided toll-free phone number. Internet support and e-mail to authorized state staff is also acceptable.

Call Center Disclosure - Contractor and/or all subcontractors involved in the performance of this Contract providing call or contact center services to the State must 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.

TASKS:

Per Contract 071B1300128 Agreement.

DELIVERABLES:

Deliverables will not be considered complete until the DTMB and DCH Project Manager has formally accepted

them. Deliverables for this project are described in the current contract agreement 071B1300128.

ACCEPTANCE CRITERIA:

Acceptance criteria are described per approved contract, 071B1300128.

SPECIFIC DEPARTMENT STANDARDS:

Agency standards, if any, in addition to DTMB standards:
Per Contract 071B1300128 Agreement.

PAYMENT SCHEDULE:

Payment will be made on an all invoices must include the purchase order number basis. DTMB will pay CONTRACTOR upon receipt of properly completed invoices which shall be submitted to the billing address on the State issued purchase order not more often than monthly. DTMB Contracts area will coordinate obtaining Agency Project Manager and DTMB Project Manager approvals. All invoices should reflect actual work completed by payment date, and must be approved by the Agency Project Manager 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 DCH Project Manager is:
John Spitzley, Director
Medicaid Payments Division
Bureau of Financial Management
Michigan Department of Community Health
Tel: 517-335-6612
SpitzleyJ1@michigan.gov

The designated DTMB Project Manager is:
Brian Gallup, State Administrative Manager
DTMB/Agency Services for DCH
Systems Development
Chandler Plaza/ 2nd Floor
300 East Michigan Ave.
Lansing, MI 48933
Tel: 517-241-7145
Fax: 517-373-3720
GallupB@michigan.gov

AGENCY RESPONSIBILITIES:

Per Contract 071B1300128 Agreement.

LOCATION OF WHERE THE WORK IS TO BE PERFORMED: /

Per Contract 071B1300128 Agreement.

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.

ATTACHMENT 1

Product	Quantity	Year 1 Fee (10/1/10 to 9/30/11)	Year 2 Fee (10/1/11 to 9/30/12)	Year 3 Fee (10/1/12 to 9/30/13)	Year 4 Fee (10/1/13 to 9/30/14)	Year 5 Fee (10/1/14 to 9/30/15)	Grand Total (Years 1-5)
XEngine Maintenance for Development license Healthcare	1	\$11,433.00	\$11,775.99	\$12,129.27	\$12,493.15	\$12,867.94	\$60,699.35
XEngine Test License- Maintenance Healthcare	1	\$18,293.42	\$18,842.22	\$19,407.49	\$19,989.71	\$20,589.40	\$97,122.24
XEngine Staging License- Maintenance Healthcare	1	\$18,293.42	\$18,842.22	\$19,407.49	\$19,989.71	\$20,589.40	\$97,122.24
XEngine Production License - Maintenance Healthcare	1	\$50,882.00	\$52,408.46	\$53,980.71	\$55,600.14	\$57,268.14	\$270,139.45
HIPPA Code Set Fees - Annual Fees	1	\$15,450.00	\$15,913.50	\$16,390.91	\$16,882.63	\$17,389.11	\$82,026.15
Ramp Management™ - Healthcare Edition	1	\$159,650.00	\$164,439.50	\$169,372.69	\$174,453.87	\$179,687.48	\$847,603.54
XEngine Translator – Maintenance (transfer from CNSI) (Pro-rated for Year-2 Fee)	1	\$0.00	\$25,600.00	\$40,170.00	\$41,375.10	\$42,616.35	\$149,761.45
Specbuilder Licenses – Qty – 3 (transfer from CNSI) (Pro-rated for Year-2 Fee)	3	\$0.00	\$5,550.00	\$12,360.00	\$12,730.80	\$13,112.72	\$43,753.52
Specbuilder Licenses – Qty – 1 (Pro-rated for year 4 fee)	1	\$0.00	\$0.00	\$5,500	\$1,045.45	\$5,660.19	\$12,205.64
	TOTAL:	\$274,001.84	\$313,371.89	\$348,718.56	\$354,560.56	\$369,780.73	\$1,660,433.58

Product	Quantity	Year 1 Fee (10/1/15 to 9/30/16)	Year 2 Fee (10/1/16 to 9/30/17)	Year 3 Fee (10/1/17 to 9/30/18)	Year 4 Fee (10/1/18 to 9/30/19)	Year 5 Fee (10/1/19 to 9/30/20)	Grand Total (Years 6-10)
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Development Environment – Maintenance	1	\$12,867.94	\$12,867.94	\$13,253.98	\$13,651.60	\$14,061.15	\$66,702.61
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Test Environment - Maintenance070.140	1	\$20,589.40	\$20,589.40	\$21,207.08	\$21,843.30	\$22,498.60	\$106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Staging Environment - Maintenance	1	\$20,589.40	\$20,589.40	\$21,207.08	\$21,843.30	\$22,498.60	\$106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Production Environment - Maintenance	1	\$57,268.14	\$57,268.14	\$58,986.18	\$60,755.76	\$62,578.43	\$296,856.65
HIPAA Code Set Fees - Annual Fees	1	\$17,389.11	\$17,389.11	\$17,910.78	\$18,448.10	\$19,001.54	\$90,138.64
Ramp Management™ Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	1	\$179,687.48	\$179,687.48	\$185,078.10	\$190,630.45	\$196,349.36	\$931,432.87
XEngine Translator Standard Edition Maintenance	1	\$42,616.35	\$42,616.35	\$43,894.84	\$45,211.68	\$46,568.04	\$220,907.26
SpecBuilder Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	3	\$13,112.72	\$13,112.72	\$13,506.10	\$13,911.28	\$14,328.62	\$67,971.44
SpecBuilder Standard Edition: HIPAA X12 Module	1	\$5,660.19	\$5,660.19	\$5,825.05	\$5,994.71	\$6,169.32	\$29,309.47
TOTAL:		\$369,780.73	\$369,780.73	\$380,869.19	\$392,290.18	\$404,053.66	\$1,916,774.50



**Amendment No. 5 to
Contract 071B1300128**

This Amendment No. 5 ("Amendment") is effective as of _____, 2015 ("Amendment Effective Date"), and pertains to and is made a part of Contract 071B1300128 dated October 1, 2010 ("Agreement") between Edifecs, Inc. ("Edifecs") and the State of Michigan ("Customer"). All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Agreement.

AMENDMENT TERMS

1. Subject to the terms of the Agreement, Customer and Edifecs hereby agree to amend the Agreement as follows:

- 1.1 Customer is exercising the Year 1 option (10/1/2015-9/30/2016) as set forth in the Price Table in Amendment 4.
- 1.2 As of the Amendment Effective Date, the contract amount is increased by \$369,780.73 to support the Year 1 option (10/1/2015-9/30/2016), for a total contract amount of \$2,030,214.31.
- 1.3 The first sentence of Section 2.001 is deleted in its entirety and replaced with the following:
"This Contract is for a period of six (6) years beginning 10/1/2010 through 09/30/2016."

2. Except as specifically set forth in this Amendment, all other terms and conditions of the Agreement, and all exhibits, schedules, addenda, and prior modifications thereto, remain in full force and effect and are hereby affirmed by both parties. In the event of any conflict between the Agreement and this Amendment, the terms of this Amendment will control. Customer agrees that the preprinted or other terms of any Customer purchase order, confirmation, or similar form, shall not alter or amend any provision of this Amendment or the Agreement, or any other agreements between Edifecs and Customer, or otherwise control, unless Edifecs and Customer both specify in writing that such terms shall control.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their respective duly authorized representatives set forth below, effective as of the Amendment Effective Date.

ACKNOWLEDGED AND ACCEPTED:
EDIFECs, INC.

ACKNOWLEDGED AND ACCEPTED:
STATE OF MICHIGAN

Signed By: _____

Signed By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

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. 071B1300128
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Edifecs, Inc. 1756 114 th Ave SE Bellevue, WA 98004	Brit Terrell	britt.terrell@edifecs.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	512-963-1583	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR				
BUYER	DTMB	Whitnie Zuker	517-284-7030	zuckerw@michigan.gov

CONTRACT SUMMARY:				
DESCRIPTION: Software Maintenance and Support				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
October 1, 2010	September 30, 2015	5, 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 type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:			ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	
\$5,500.00			\$1,660,433.58	

Effective November 19, 2014, this contract is hereby increased by \$5,500.00 to cover the SpecBuilder license fee purchased in 2013. The renewal cost was factored in Amendment 3 but not the initial cost of the license. As such, the pricing table that was in Amendment 3 has been modified per this Amendment 4 (see attached).

All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.



**Amendment No. 4 to
Contract 071B1300128**

This Amendment No. 4 ("Amendment") is effective as of November 19, 2014 ("Amendment Effective Date"), and pertains to and is made a part of Contract 071B1300128 dated October 1, 2010 ("Agreement") between Edifecs, Inc. ("Edifecs") and the State of Michigan ("Customer"). All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Agreement.

AMENDMENT TERMS

1. Subject to the terms of the Agreement, Customer and Edifecs hereby agree to amend the Agreement as follows:

1.1 The parties agree that the Price Table found in "Attachment 1 – Price Table" of the Agreement shall be deleted in its entirety and replaced with the Price Table attached hereto.

2. Except as specifically set forth in this Amendment, all other terms and conditions of the Agreement, and all exhibits, schedules, addenda, and prior modifications thereto, remain in full force and effect and are hereby affirmed by both parties. In the event of any conflict between the Agreement and this Amendment, the terms of this Amendment will control. Customer agrees that the preprinted or other terms of any Customer purchase order, confirmation, or similar form, shall not alter or amend any provision of this Amendment or the Agreement, or any other agreements between Edifecs and Customer, or otherwise control, unless Edifecs and Customer both specify in writing that such terms shall control.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their respective duly authorized representatives set forth below, effective as of the Amendment Effective Date.

ACKNOWLEDGED AND ACCEPTED:
EDIFECS, INC.

ACKNOWLEDGED AND ACCEPTED:
STATE OF MICHIGAN

Signed By: _____

Signed By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

ATTACHMENT 1

Product	Quantity	Year 1 Fee (10/1/10 to 9/30/11)	Year 2 Fee (10/1/11 to 9/30/12)	Year 3 Fee (10/1/12 to 9/30/13)	Year 4 Fee (10/1/13 to 9/30/14)	Year 5 Fee (10/1/14 to 9/30/15)	Grand Total (Years 1-5)
XEngine Maintenance for Development license Healthcare	1	\$11,433.00	\$11,775.99	\$12,129.27	\$12,493.15	\$12,867.94	\$60,699.35
XEngine Test License- Maintenance Healthcare	1	\$18,293.42	\$18,842.22	\$19,407.49	\$19,989.71	\$20,589.40	\$97,122.24
XEngine Staging License- Maintenance Healthcare	1	\$18,293.42	\$18,842.22	\$19,407.49	\$19,989.71	\$20,589.40	\$97,122.24
XEngine Production License - Maintenance Healthcare	1	\$50,882.00	\$52,408.46	\$53,980.71	\$55,600.14	\$57,268.14	\$270,139.45
HIPPA Code Set Fees - Annual Fees	1	\$15,450.00	\$15,913.50	\$16,390.91	\$16,882.63	\$17,389.11	\$82,026.15
Ramp Management™ - Healthcare Edition	1	\$159,650.00	\$164,439.50	\$169,372.69	\$174,453.87	\$179,687.48	\$847,603.54
XEngine Translator – Maintenance (transfer from CNSI) (Pro-rated for Year-2 Fee)	1	\$0.00	\$25,600.00	\$40,170.00	\$41,375.10	\$42,616.35	\$149,761.45
Specbuilder Licenses – Qty – 3 (transfer from CNSI) (Pro-rated for Year-2 Fee)	3	\$0.00	\$5,550.00	\$12,360.00	\$12,730.80	\$13,112.72	\$43,753.52
Specbuilder Licenses – Qty – 1 (Pro-rated for year 4 fee)	1	\$0.00	\$0.00	\$5,500	\$1,045.45	\$5,660.19	\$12,205.64
	TOTAL:	\$274,001.84	\$313,371.89	\$348,718.56	\$354,560.56	\$369,780.73	\$1,660,433.58

Product	Quantity	Year 1 Fee (10/1/15 to 9/30/16)	Year 2 Fee (10/1/16 to 9/30/17)	Year 3 Fee (10/1/17 to 9/30/18)	Year 4 Fee (10/1/18 to 9/30/19)	Year 5 Fee (10/1/19 to 9/30/20)	Grand Total (Years 6-10)
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Development Environment – Maintenance	1	\$12,867.94	\$12,867.94	\$13,253.98	\$13,651.60	\$14,061.15	\$66,702.61
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Test Environment - Maintenance070.140	1	\$20,589.40	\$20,589.40	\$21,207.08	\$21,843.30	\$22,498.60	\$106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Staging Environment - Maintenance	1	\$20,589.40	\$20,589.40	\$21,207.08	\$21,843.30	\$22,498.60	\$106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Production Environment - Maintenance	1	\$57,268.14	\$57,268.14	\$58,986.18	\$60,755.76	\$62,578.43	\$296,856.65
HIPAA Code Set Fees - Annual Fees	1	\$17,389.11	\$17,389.11	\$17,910.78	\$18,448.10	\$19,001.54	\$90,138.64
Ramp Management™ Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	1	\$179,687.48	\$179,687.48	\$185,078.10	\$190,630.45	\$196,349.36	\$931,432.87
XEngine Translator Standard Edition Maintenance	1	\$42,616.35	\$42,616.35	\$43,894.84	\$45,211.68	\$46,568.04	\$220,907.26
SpecBuilder Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	3	\$13,112.72	\$13,112.72	\$13,506.10	\$13,911.28	\$14,328.62	\$67,971.44
SpecBuilder Standard Edition: HIPAA X12 Module	1	\$5,660.19	\$5,660.19	\$5,825.05	\$5,994.71	\$6,169.32	\$29,309.47
	TOTAL:	\$369,780.73	\$369,780.73	\$380,869.19	\$392,290.18	\$404,053.66	\$1,916,774.50

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 10, 2013

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B1300128
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Edifecs, Inc. 2600 116 th Ave. NE, Suite 2000 Bellvue, WA 98004	Sue Powers	SueP@edifecs.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(425) 452-0630	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Whitnie Zuker	517-335-1277	zuckerw@michigan.gov
BUYER	DTMB	Whitnie Zuker	517-335-1277	zuckerw@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Software Maintenance and Support			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
October 1, 2010	September 30, 2015	5, 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 type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/>	<input type="checkbox"/>		
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$6,705.64		\$1,654,933.56		

Effective immediately, this contract is hereby increased by \$6,705.64. Please see attached amendment #3, Revised Price Table to include (1) additional spec builder license. 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 and DTMB Procurement approval.



**Amendment No. 3 to
Contract 071B1300128**

This Amendment No. 3 ("Amendment") is effective as of _____, 2013 ("Amendment Effective Date"), and pertains to and is made a part of Contract 071B1300128 dated October 1, 2010 ("Agreement") between Edifecs, Inc. ("Edifecs") and the State of Michigan ("Customer"). All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Agreement.

AMENDMENT TERMS

1. Subject to the terms of the Agreement, Customer and Edifecs hereby agree to amend the Agreement as follows:

1.1 The parties agree that the Price Table found in "Attachment 1 – Price Table" of the Agreement shall be deleted in its entirety and replaced with the Price Table attached hereto.

2. Except as specifically set forth in this Amendment, all other terms and conditions of the Agreement, and all exhibits, schedules, addenda, and prior modifications thereto, remain in full force and effect and are hereby affirmed by both parties. In the event of any conflict between the Agreement and this Amendment, the terms of this Amendment will control. Customer agrees that the preprinted or other terms of any Customer purchase order, confirmation, or similar form, shall not alter or amend any provision of this Amendment or the Agreement, or any other agreements between Edifecs and Customer, or otherwise control, unless Edifecs and Customer both specify in writing that such terms shall control.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their respective duly authorized representatives set forth below, effective as of the Amendment Effective Date.

ACKNOWLEDGED AND ACCEPTED:
EDIFECs, INC.

ACKNOWLEDGED AND ACCEPTED:
STATE OF MICHIGAN

Signed By: _____

Signed By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

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ATTACHMENT 1

Product	Quantity	Year 1 Fee (10/1/10 to 9/30/11)	Year 2 Fee (10/1/11 to 9/30/12)	Year 3 Fee (10/1/12 to 9/30/13)	Year 4 Fee (10/1/13 to 9/30/14)	Year 5 Fee (10/1/14 to 9/30/15)	Grand Total (Years 1-5)
XEngine Maintenance for Development license Healthcare	1	\$11,433.00	\$11,775.99	\$12,129.27	\$12,493.15	\$12,867.94	\$60,699.35
XEngine Test License-Maintenance Healthcare	1	\$18,293.42	\$18,842.22	\$19,407.49	\$19,989.71	\$20,589.40	\$97,122.24
XEngine Staging License-Maintenance Healthcare	1	\$18,293.42	\$18,842.22	\$19,407.49	\$19,989.71	\$20,589.40	\$97,122.24
XEngine Production License - Maintenance Healthcare	1	\$50,882.00	\$52,408.46	\$53,980.71	\$55,600.14	\$57,268.14	\$270,139.45
HIPPA Code Set Fees - Annual Fees	1	\$15,450.00	\$15,913.50	\$16,390.91	\$16,882.63	\$17,389.11	\$82,026.15
Ramp Management™ - Healthcare Edition	1	\$159,650.00	\$164,439.50	\$169,372.69	\$174,453.87	\$179,687.48	\$847,603.54
XEngine Translator – Maintenance (transfer from CNSI) (Pro-rated for Year-2 Fee)	1	\$0.00	\$25,600.00	\$40,170.00	\$41,375.10	\$42,616.35	\$149,761.45
Specbuilder Licenses – Qty – 3 (transfer from CNSI) (Pro-rated for Year-2 Fee)	3	\$0.00	\$5,550.00	\$12,360.00	\$12,730.80	\$13,112.72	\$43,753.52
Specbuilder Licenses – Qty – 1 (Pro-rated for year 4 fee)	1	\$0.00	\$0.00	\$0.00	\$1,045.45	\$5,660.19	\$6,705.64
TOTAL:		\$274,001.84	\$313,371.89	\$343,218.56	\$354,560.56	\$369,780.73	\$1,654,933.58

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Product	Quantity	Year 1 Fee (10/1/15 to 9/30/16)	Year 2 Fee (10/1/16 to 9/30/17)	Year 3 Fee (10/1/17 to 9/30/18)	Year 4 Fee (10/1/18 to 9/30/19)	Year 5 Fee (10/1/19 to 9/30/20)	Grand Total (Years 6-10)
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Development Environment - Maintenance	1	\$12,867.94	\$12,867.94	\$13,253.98	\$13,651.60	\$14,061.15	\$66,702.61
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Test Environment - Maintenance070.140	1	\$20,589.40	\$20,589.40	\$21,207.08	\$21,843.30	\$22,498.60	\$106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Staging Environment - Maintenance	1	\$20,589.40	\$20,589.40	\$21,207.08	\$21,843.30	\$22,498.60	\$106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Production Environment - Maintenance	1	\$57,268.14	\$57,268.14	\$58,986.18	\$60,755.76	\$62,578.43	\$296,856.65
HIPAA Code Set Fees - Annual Fees	1	\$17,389.11	\$17,389.11	\$17,910.78	\$18,448.10	\$19,001.54	\$90,138.64
Ramp Management™ Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	1	\$179,687.48	\$179,687.48	\$185,078.10	\$190,630.45	\$196,349.36	\$931,432.87
XEngine Translator Standard Edition Maintenance	1	\$42,616.35	\$42,616.35	\$43,894.84	\$45,211.68	\$46,568.04	\$220,907.26
SpecBuilder Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	3	\$13,112.72	\$13,112.72	\$13,506.10	\$13,911.28	\$14,328.62	\$67,971.44
SpecBuilder Standard Edition: HIPAA X12 Module	1	\$5,660.19	\$5,660.19	\$5,825.05	\$5,994.71	\$6,169.32	\$29,309.47
TOTAL:		\$369,780.73	\$369,780.73	\$380,869.19	\$392,290.18	\$404,053.66	\$1,916,774.50

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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. 1
 to
CONTRACT NO. 071B1300128
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Edifecs, Inc. 2600 116 th Ave. NE, Ste. 2000 Bellevue, WA 98004	Sue Powers	SueP@edifecs.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(425) 452-0630	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Whitnie Zuker	(517) 335-1277	zukerw@michigan.gov
BUYER:	DTMB	Reid Sisson	(517)241-1638	sissonr@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Software Maintenance and Support			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS	CURRENT EXPIRATION DATE
N/A	N/A	N/A	N/A
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 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, EFFECTIVE DATE OF CHANGE:	NEW EXPIRATION DATE:
Effective immediately, this Contract is hereby INCREASED by \$193,514.97. Please see attached Amendment 1: Revised Price Table.		
All other terms, conditions, specifications, and pricing remain the same.		
Per vendor agreement, DTMB Procurement approval, and the approval of the State Administrative Board dated September 13, 2012.		
VALUE/COST OF CHANGE NOTICE:	\$193,514.97	
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	\$1,648,227.97	

EDIFECS, INC.

Amendment No. 1 to

Contract 071B1300128

This Amendment No.1 (“Amendment”) is dated August 7, 2012 (“Amendment Effective Date”), and pertains to and is made a part of **Contract 071B1300128** dated October 1, 2010 (“Agreement”) between Edifecs, Inc. (“Edifecs”) and the State of Michigan (“Customer”). All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Agreement.

AMENDMENT TERMS

1. Subject to the terms of the Agreement, Customer and Edifecs hereby agree to amend the Agreement as follows:

1.1 The parties agree that the Price Table found in “Attachment 1 – Price Table” of the Agreement shall be deleted in its entirety and replaced with the Price Table attached hereto.

2. Except as specifically set forth in this Amendment, all other terms and conditions of the Agreement, and all exhibits, schedules, addenda, and prior modifications thereto, remain in full force and effect and are hereby affirmed by both parties. In the event of any conflict between the Agreement and this Amendment, the terms of this Amendment will control. Customer agrees that the preprinted or other terms of any Customer purchase order, confirmation, or similar form, shall not alter or amend any provision of this Amendment or the Agreement, or any other agreements between Edifecs and Customer, or otherwise control, unless Edifecs and Customer both specify in writing that such terms shall control.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their respective duly authorized representatives set forth below, effective as of the Amendment Effective Date.

ACKNOWLEDGED AND ACCEPTED:
EDIFECS, INC.

ACKNOWLEDGED AND ACCEPTED:
THE STATE OF MICHIGAN

Signed By: _____

Signed By: _____

Name: Sunny Singh

Name: _____

Title: CEO

Title: _____

Date Signed: October 4, 2016

Date Signed: _____

CONFIDENTIAL

Attachment 1 - Price Table



2600 116th Avenue NE, Suite 200
 Bellevue, WA 98004
 Phone: (425) 452-0630
 Fax: (425) 452-0626

**Edifecs Healthcare Software
 10-Year Maintenance Renewals Costs
 for the State of Michigan**

Product	Quantity	Year 1 Fee (10/1/10 to 9/30/11)	Year 2 Fee (10/1/11 to 9/30/12)	Year 3 Fee (10/1/12 to 9/30/13)	Year 4 Fee (10/1/13 to 9/30/14)	Year 5 Fee (10/1/14 to 9/30/15)	Grand Total (Years 1-5)
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Development Environment – Maintenance	1	11,433.00	11,775.99	12,129.27	12,493.15	12,867.94	60,699.35
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Test Environment - Maintenance070.140	1	18,293.42	18,842.22	19,407.49	19,989.71	20,589.40	97,122.24
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Staging Environment - Maintenance	1	18,293.42	18,842.22	19,407.49	19,989.71	20,589.40	97,122.24
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Production Environment - Maintenance	1	50,882.00	52,408.46	53,980.71	55,600.14	57,268.14	270,139.45
HIPAA Code Set Fees - Annual Fees	1	15,450.00	15,913.50	16,390.91	16,882.63	17,389.11	82,026.15
Ramp Management™ Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	1	159,650.00	164,439.50	169,372.69	174,453.87	179,687.48	847,603.53
XEngine Translator Standard Edition Maintenance (Pro-rated for Year-2 Fee)	1	N/A	25,600.00	40,170.00	41,375.10	42,616.35	149,761.45
SpecBuilder Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module (Pro-rated for Year-2 Fee)	3	N/A	5,550.00	12,360.00	12,730.80	13,112.72	43,753.52
TOTAL:		\$274,001.84	\$313,371.89	\$343,218.55	\$353,515.11	\$364,120.54	\$1,648,227.93

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Attach Attachment 1 - Price Table

**Edifecs Healthcare Software
10-Year Maintenance Renewals
Costs for the State of Michigan**

Product	Quantity	Option Year 6 Fee (10/1/15 to 9/30/16)	Option Year 7 Fee (10/1/16 to 9/30/17)	Option Year 8 Fee (10/1/17 to 9/30/18)	Option Year 9 Fee (10/1/18 to 9/30/19)	Option Year 10 Fee (10/1/19 to 9/30/20)	Grand Total (Years 6-10)
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Development Environment – Maintenance	1	12,867.94	12,867.94	13,253.98	13,651.60	14,061.15	66,702.61
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Test Environment - Maintenance070.140	1	20,589.40	20,589.40	21,207.08	21,843.30	22,498.60	106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Staging Environment - Maintenance	1	20,589.40	20,589.40	21,207.08	21,843.30	22,498.60	106,727.78
XEngine Server Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module Production Environment - Maintenance	1	57,268.14	57,268.14	58,986.18	60,755.76	62,578.43	296,856.65
HIPAA Code Set Fees - Annual Fees	1	17,389.11	17,389.11	17,910.78	18,448.10	19,001.54	90,138.64
Ramp Management™ Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	1	179,687.48	179,687.48	185,078.10	190,630.45	196,349.36	931,432.87
XEngine Translator Standard Edition Maintenance	1	42,616.35	42,616.35	43,894.84	45,211.68	46,568.04	220,907.26
SpecBuilder Standard Edition: HIPAA X12 Module, NCPDP Module, HL7 Module	3	13,112.72	13,112.72	13,506.10	13,911.28	14,328.62	67,971.45
	TOTAL:	\$364,120.54	\$364,120.54	\$375,044.14	\$386,295.47	\$397,884.34	\$1,887,466.04

CONFIDENTIAL

Attach Attachment 1 - Price Table

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

**NOTICE
OF
CONTRACT NO. 071B1300128
between
THE STATE OF MICHIGAN
and**

NAME & ADDRESS OF CONTRACTOR Edifecs, Inc. 2600 116th Ave. NE Ste 2000 Bellevue, WA 98004 chuck.stevens@edifecs.com	TELEPHONE (425) 452-0630 Chuck Stevens
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-3993 Dale N. Reif
Contract Compliance Inspector: Patty Bogard Software Maintenance and Support	
CONTRACT PERIOD: 5 yrs. + 5 one-year options From: October 1, 2010 To: September 30, 2015	
TERMS N/A	SHIPMENT N/A
F.O.B. N/A	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	
MISCELLANEOUS INFORMATION:	

TOTAL ESTIMATED CONTRACT VALUE: \$1,454,712.96

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Attach Attachment 1 - Price Table

Form No. DMB 234 (Rev. 1/96)
 AUTHORITY: Act 431 of 1984
 COMPLETION: Required
 PENALTY: Contract will not be executed unless form is filed

**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. 071B1300128
 between
 THE STATE OF MICHIGAN
 and**

NAME & ADDRESS OF CONTRACTOR		TELEPHONE (425) 452-0630 Chuck Stevens
Edifecs, Inc. 2600 116th Ave. NE Ste 2000 Bellevue, WA 98004 chuck.stevens@edifecs.com		CONTRACTOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-3993 Dale N. Reif
Contract Compliance Inspector: Patty Bogard Software Maintenance and Support		
CONTRACT PERIOD: 5 yrs. + 5 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
MISCELLANEOUS INFORMATION: The terms and conditions of this Contract are those of RFP-DR-084R0200120, 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: \$1,454,712.96		

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

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

FOR THE CONTRACTOR:	FOR THE STATE:
Edifecs, Inc.	
_____ Firm Name	_____ Signature
_____	_____
_____	_____
CONFIDENTIAL	

Attach Attachment 1 - Price Table

_____ Authorized Agent Signature Rakesh Garg _____ Authorized Agent (Print or Type) _____ Date	_____ Dale Reif, Buyer Name/Title IT Division _____ Division _____ Date
--	--

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

Buyer Name: Dale N. Reif
Telephone Number: (517) 373-3993
e-mail: Address: reifd@michigan.gov

Contract Number: 071B1300128

Michigan Department of Community Health

**XEngine™ HealthCare Edition
Software Maintenance and Support
Edifecs, Inc.**



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Article 1 – Statement of Work (SOW)

1.000 Project Identification/Scope

The purpose of this Contract is to provide software maintenance and software support for the Covered Software defined in Section 1.100. The Contract is for a firm fixed price and the terms are defined in Section 2.001 and 2.002.

1.100 Scope of Work and Deliverables

Covered Software

Contractor will provide software licensing and ongoing support and maintenance for:

- XEngine™ HealthCare Edition – HIPAA, HL7 and NCPDP
- SpecBuilder™ Healthcare Edition,
- Ramp Management™ Health Care Edition,
- HIPAA Code-Sets Database Key

Contractor must provide software maintenance and support services defined in this Section to the State for the Covered Software while the annual maintenance fee for the Current Release of the particular Covered Software is in effect and paid in full.

The State reserves the right to purchase additional software licenses, maintenance and support, training and proprietary services. Proprietary services to be drawn from this Contract will be dependent upon individual and mutually agreed upon statement(s) of work between Contractor and the State of Michigan. Once agreed to, 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.

Software Maintenance

Contingent upon the State's payment of its annual maintenance fees, Contractor must provide software maintenance for the installed version and on all future software updates and system enhancements applicable to system modules licensed to the State.

Contingent upon the State's payment of its annual maintenance fees, Contractor shall provide Upgrades to the standard version of the Covered Software at no additional cost to the State. Upgrades shall mean updated, upgraded, or revised versions of the Covered Software which may include error corrections and other enhancements that Contractor makes available to its customers at no additional charge. Upgrades shall not include any new releases which contain substantially new or different functionality.

Contingent upon the State's payment of its annual maintenance fees, Contractor will use reasonable efforts to correct any failure in the Covered Software identified by the State in writing. The Contractor must notify the State of any material errors or defects in the products licensed to the State, or made known to Contractor from any source during the Contract term that could cause the production of inaccurate, or otherwise materially incorrect, results and shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.

Software Support Services

Contractor must provide software support services for the Covered Software as described in this Section.

Contractor must provide a support telephone number to call help on the Covered Software. The support number shall be in operation during State business hours, 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, excluding State holidays.

Contractor must provide technical support from 8 a.m. to 5 p.m. EST; Monday through Friday with a minimum response time of 4 hours via a Contractor provided toll-free phone number. Internet support and e-mail to authorized state staff is also acceptable.



Call Center Disclosure - Contractor and/or all subcontractors involved in the performance of this Contract providing call or contact center services to the State must 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.

1.200 State Roles and Responsibilities

1.201 CONTRACT COMPLIANCE INSPECTOR

The Contract Compliance Inspector is responsible to monitor Contract activities on a daily basis.

Name	Agency/Division	Title
Patty Bogard	DTMB, Purchasing Operations - Contract Administrator Unit	Contract Administrator

1.202 PROJECT MANAGER

The Project Manager will oversee the project:

Name	Agency/Division	Title
Brian Gallup	DTMB, Agency Services for DCH	Project Manager

1.300 Compensation and Payment

1.301 COMPENSATION AND PAYMENT

The maintenance and support costs will be invoiced as a Firm Fixed Price per the attached Pricing Table – **see Attachment 1**. Contractor will submit properly itemized invoices to “Bill To” Address on the Purchase Order. Incorrect or incomplete invoices will be returned to Contractor.

Exception: The State will not pay for any travel expenses, including hotel, mileage, meals, parking, etc. and travel time. Contractor must obtain advanced written approval for reimbursement of any expenses.

1.302 TAX EXCLUDED FROM PRICE

Sales Tax: The State is exempt from sales tax for direct purchases. The Bidder's prices must not include sales tax. Purchasing Operations will furnish exemption certificates for sales tax upon request.

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



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 10/1/2010 through 9/30/2015. 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 five (5) additional one-year periods.

2.003 LEGAL EFFECT

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

Except as otherwise agreed in writing by the parties, the State shall not be liable for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract or Change Order has been approved by the State Administrative Board (if required), signed by all the parties and a Purchase Order against the Contract has been issued.

2.004 ATTACHMENTS & EXHIBITS

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

2.005 ORDERING

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

2.006 ORDER OF PRECEDENCE

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

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

2.007 HEADINGS

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



2.008 FORM, FUNCTION & UTILITY- DELETED NA

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 Department of Community Health (collectively, including all other relevant State of Michigan departments and agencies, the "State"). Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. The Purchasing Operations Contract Administrator for this Contract is:

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 COMPLIANCE INSPECTOR

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

Patty Bogard
Department of Technology, Management and Budget
Purchasing Operations - Contract Administrator Unit
Mason Building
530 West Allegan Street 2nd Floor
Lansing, MI 48909



2.023 PROJECT MANAGER

The following individual will oversee the project:

Brian Gallup, State Administrative Manager
Department of Technology, Management and Budget
Agency Services for DCH
Chandler Plaza, 2nd Floor
300 E. Michigan Avenue
Lansing, MI 48913

2.024 CHANGE REQUESTS

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.

(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:
Chuck Stevens
2600 116th Ave. NE Ste 200
Bellevue, WA 98004

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, or to (a) any corporation, partnership, limited liability company or other person or entity resulting from any merger or other reorganization to which it is a party; (b) any corporation, partnership, limited liability company, or other person or entity to which it may transfer all or substantially all of its assets or business existing at such time. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.



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

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

2.030 General Provisions

2.031 MEDIA RELEASES

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and Contract or project to which it relates shall not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the activities associated with the RFP and Contract are to be released without prior written approval of the State and then only to persons designated.

2.032 CONTRACT DISTRIBUTION

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

2.033 PERMITS

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

2.034 WEBSITE INCORPORATION

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

2.035 FUTURE BIDDING PRECLUSION – DELETED N/A

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.
- (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.

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.

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.
- (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 – DELETED NA

2.082 FACILITIES – DELETED NA

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 State shall provide at least ten (10) days notice to Contractor prior to initiating any background checks. 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 - DELETED N/A

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 20 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 20 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) 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.
- (c) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (d) It is qualified and registered to transact business in all locations where required.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i)
- (j) 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.
- (k) 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.

2.122 WARRANTY OF MERCHANTABILITY – DELETED NA

2.123 WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE – DELETED NA

2.124 WARRANTY OF TITLE – DELETED NA

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 software, or service supplied by the Contractor or its subcontractors, or the operation of the software, or service, or the use or reproduction of any documentation provided with the software, 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 software, 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 software, 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 software, 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) software developed based on written specifications of the State; (ii) use of the software 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 software 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) Deleted NA
- (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) deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.
- (b) If the State terminates this Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under this Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
- (c) Upon a good faith termination, the State may assume, at its option, any subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.158 RESERVATION OF RIGHTS

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

2.160 Termination by Contractor

2.161 TERMINATION BY CONTRACTOR

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



The Contractor may terminate this Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under this Contract, (ii) breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.160** before it terminates the Contract.

2.170 Transition Responsibilities – Deleted N/A

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 – DELETED NA

2.210 Governing Law

2.211 GOVERNING LAW

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

2.212 COMPLIANCE WITH LAWS

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

2.213 JURISDICTION

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

2.220 Limitation of Liability

2.221 LIMITATION OF LIABILITY

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

The Contractor's liability for damages to the State is limited to two times the value of the Contract or \$500,000 which ever is higher. The foregoing limitation of liability does not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

Except for claims arising out of a breach of the Contractor's intellectual property and confidentiality rights hereunder, 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 – DELETED NA

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)

The SLA set forth in Schedule 1 will apply with respect to Contractor's Software and Maintenance Services.

2.243 LIQUIDATED DAMAGES - DELETED N/A

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 – Deleted N/A

**2.260 Ownership – Deleted N/A****2.264 OWNERSHIP OF MATERIALS**

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

2.270 State Standards**2.271 EXISTING TECHNOLOGY STANDARDS**

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

2.272 ACCEPTABLE USE POLICY

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

2.273 SYSTEMS CHANGES

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

2.280 Extended Purchasing – Deleted N/A**2.290 Environmental Provision – Deleted N/A****2.300 Deliverables – Deleted N/A****2.310 Software Warranties****2.311 PERFORMANCE WARRANTY**

The Contractor represents and warrants that Deliverables, after Final Acceptance, when used according to their Documentation, will perform and operate in material 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 – Deleted N/A

2.330 Source Code Escrow – Deleted N/A



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 Section 2.110
Business Day	Whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
Blanket Purchase Order	An alternate term for Contract as used in the States computer system.
Business Critical	Any function identified in any Statement of Work as Business Critical.
Chronic Failure	Defined in any applicable Service Level Agreements.
Deliverable	Physical goods and/or commodities as required or identified by a Statement of Work
DTMB	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 Section 2.244.
Hazardous material	Any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).
Incident	Any interruption in Services.
ITB	A generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders
Key Personnel	Any Personnel designated in Article 1 as Key Personnel.
New Work	Any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Ozone-depleting substance	Any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydro chlorofluorocarbons
Post-Consumer Waste	Any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.
Post-Industrial Waste	Industrial by-products that would otherwise go to disposal and wastes generated after completion of a manufacturing process, but do not include internally generated scrap commonly returned to industrial or manufacturing processes.
Recycling	The series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.
Deleted – Not Applicable	Section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.
Reuse	Using a product or component of municipal solid waste in its original form more than once.
RFP	Request for Proposal designed to solicit proposals for services



Services	Any function performed for the benefit of the State.
Source reduction	Any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.
State Location	Any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
Subcontractor	A company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
Unauthorized Removal	Contractor's removal of Key Personnel without the prior written consent of the State.
Waste prevention	Source reduction and reuse, but not recycling.
Waste reduction and Pollution prevention	The practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.
Work in Progress	A Deliverable that has been partially prepared, but has not been presented to the State for Approval.
Work Product	Refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by this Contract.



SCHEDULE 1 - STANDARD MAINTENANCE AND SUPPORT SERVICES

1. Definitions.

- “Authorized Contact Persons” means up to two of Customer’s personnel designated by Customer in writing from time to time.
- “Error” means failure of any component of the Software to conform in any material respect to the Documentation or the warranties set forth in Section 6 of this Agreement.
- “Fix” means the repair or replacement of object or executable code versions of the Software to correct Errors. Edifecs may provide a Workaround in lieu of a Fix, in Edifecs’ sole discretion.
- “Maintenance Release” means a Software release implementing a Fix, or correcting other Edifecs-determined defects made generally available by Edifecs to its customers.
- “Regular Hours” means 8:00AM to 5:00PM Pacific Time Monday through Friday.
- “Severity 1 Error” means the Software contains an Error during production usage that renders Customer’s use of any material component of the Software impracticable or impossible. Examples of Severity 1 Errors include crash/hang with no auto-recovery; critical loss or corruption of data; installation/upgrade/migration failure; severe performance related issues that cause significant impact on Customer’s production systems; critical security issues causing unauthorized/preventing authorized access; major feature failure or major usability problems; and serious security issues.
- “Severity 2 Error” means an Error in the Software during production usage that has a serious adverse impact on the performance of the Software, but does not render Customer’s use of any material component of the Software impossible or impracticable. Examples of Severity 2 Errors include frequent crash/hang with auto recovery; and major performance related issues – Software is impacted but usable.
- “Severity 3 Error” means the Error does not have a serious adverse impact on the performance of the Software. Examples of Severity 3 Errors include pre-production installation/upgrade/migration failures; filter update issues (i.e., anti-spam, antivirus); feature failure or deviation from the Documentation; moderate usability problems; errors, warnings, performance issues or restarts not causing serious impact; and configuration changes or customization/branding issues.
- “Severity 4 Error” means a question that relates to use of the Software or configuration issues, or other issues not categorized as Severity 1, Severity 2 or Severity 3. Examples of Severity 4 Errors include user interface and navigation issues; all “how to” questions; configuration and usability issues; and root cause analysis or post-mortem of previous issues.
- “Workaround” means a change in the procedures followed or data supplied by Customer to avoid an Error without substantially impairing Customer’s use of the Software.

2. Support Services. Subject to the payment of the applicable License and Support Services Fees, Edifecs will provide the following Support Services for the Software:

- Technical Communication. Edifecs will staff a support center for technical communication with Customer. Customer may contact the support center regarding support of the Software by telephone, electronic mail, fax, postal mail, or courier service. Personnel are available during Regular Hours. After Regular Hours, calls to the support center will be routed to a voice mail service to take messages, which messages will be reviewed by support center personnel at the beginning of the next business day. Only Authorized Contact Persons may contact the support center.
- Maintenance Release. From time to time as Edifecs deems necessary or desirable, Edifecs will provide to Customer such Maintenance Releases of the Software that Edifecs, in its discretion, makes generally available without additional charge. Customer shall have the option of refusing any Maintenance Release.



- Modifications of the Software. Edifecs will review and consider Customer requests for modifications to the Software; however, Edifecs is under no obligation to incorporate those requests in future Maintenance Releases or upgrades of the Software. Any modification that Edifecs decides to incorporate and make generally available shall be made available to Customer under similar rates, terms and conditions.
- Certified Deployment Platform. Edifecs certifies hardware and software platforms for deployment of the Software. Edifecs will provide, upon request, a list of certified platforms. Use of the Software on a non-certified platform obviates Edifecs' responsibilities under this Schedule.
- Error Reporting. Customer may, at the Customer's discretion, report Errors to Edifecs. Errors must be reported, using an Error Report, to Edifecs through email to the email address assigned by Edifecs to Customer. Measurement of elapsed time, related to Edifecs' response, begins upon receipt of the Error Report. Measurement of elapsed time related to the delivery of fixes and/or workarounds stops upon transmittal of those fixes and/or workarounds from Edifecs.
- Error Report. An Error Report must contain, at a minimum, a description of the symptoms, a set of steps to perform to reproduce the Error, the expected outcome of the steps followed, and the actual outcome of the steps followed. In the event of Edifecs' inability to reproduce the Error as described by the Customer, Edifecs will close that Error Report. The Customer must submit a new Error Report with sufficient information so as to allow Edifecs to reproduce the Error. At Edifecs' discretion, an Error Report associated with a non-reproducible error may remain in an open state pending delivery of such materials as Edifecs deems necessary to adequately reproduce the error. Such materials may include, but are not limited to, full or partial dumps of Customer's database, transaction logs, and/or error logs. Upon request, Edifecs shall provide Customer with a report detailing the Error Reports received by Edifecs from Customer during the previous month, the current status of any such Error Report, and the length of time to resolve any such Error Report.
- Fix and Error Corrections. Edifecs will correct any Errors reported by Customer in its then-current unmodified release of the Software (or modifications to the Software performed by Edifecs or its agents or contractors) in accordance with the severity level mutually agreed to by Edifecs and Customer, according to the following schedule:
 - a. *For a Severity 1 Errors:* Edifecs will: (i) respond to Customer within one hour, indicating that Edifecs has received the report of an Error; (ii) employ continuous effort to provide Customer with a Fix or Workaround; (iii) notify Customer periodically, but no less frequently than every four hours of its progress in resolving Severity 1 Errors; and (iv) provide a Fix or a Workaround for Severity 1 Errors within eight hours of reproduction of Error.
 - b. *For a Severity 2 Errors:* Edifecs will: (i) respond to Customer within four hours, indicating that Edifecs has received the report of an Error; (ii) employ continuous efforts to provide Customer with a Fix or Workaround; (iii) notify Customer periodically, but no less frequently than every eight hours of its progress in resolving Severity 2 Errors; and (iv) provide a Fix for Severity 2 Errors within one business day of reproduction of Error.
 - c. *For Severity 3 Errors:* Edifecs will use commercially reasonable efforts to: (i) verify reported Severity 3 Errors within one business day, indicating that Edifecs has received the report of the Error; (ii) communicate the status of a reported Error to Customer when appropriate; and (iii) provide a Fix or a Workaround for Severity 3 Errors within one business week of reproduction of Error.
 - d. *For Severity 4 Errors:* Edifecs will (i) acknowledge receipt of the reported Error within two business days of the report; (ii) communicate the status of a reported Severity 4 Error to Customer every business day; and (iii) provide a Fix or Workaround within two business days.
- Customer Cooperation. Customer acknowledges that Edifecs may not be able to resolve an Error if Customer does not reasonably cooperate with and assist Edifecs in resolving the Error (including in replicating the Error, in retrieving and sharing database, workstation, server and log file data relating to the Error, and in providing Edifecs with access to Customer's servers, databases and all other aspects



of its operating environment as necessary for Edifecs to diagnose and resolve the Error). Customer is responsible for obtaining, operating, maintaining and supporting all equipment, services and other software necessary to operate the Software.

- Scope of Premium Support & Maintenance Service. Subject to the payment of the Premium Support and Maintenance Fees, Edifecs will provide Premium Support and Maintenance, defined as Standard Support and Maintenance plus on-call pager Support and Maintenance Services for Severity 1 Errors during all non-Regular Hours. Use of on-call pager Support does not release the Customer from their responsibilities regarding Error Reporting. Any use of on-call pager Support to report an error must be accompanied by an Error Report and must be delivered to Edifecs through Error Reporting.

- 3. Scope of Support.** Edifecs shall have no obligation to provide Support Services (including but not limited to Error correction) arising from (i) Customer's misuse or alteration of the Software except alterations of the Software by Edifecs or its contractors or agents or as otherwise contemplated by the Documentation, (ii) failure or fluctuation of electrical power, (iii) maintenance of the Software by anyone other than Edifecs or Edifecs' authorized representatives, contractors or agents, (iv) Customer's combining or merging the Software with any hardware or software not identified as compatible by Edifecs or otherwise contemplated by the Documentation, (v) use of the Software other than in accordance with the Documentation and the provisions of this Agreement, or (vi) Customer's provision to Edifecs of incorrect configuration directions or other information. Edifecs shall be obligated to comply with its response times and resolution commitments in this Agreement only with respect to Customer's production use of the Software: if Edifecs, in its sole discretion, elects to address Errors occurring in non-production use of the Software, then Edifecs will handle such Errors on a reasonable efforts basis. Edifecs' provision of Support Services and Maintenance Releases is conditioned on Customer being current on its Support Services Fees payments for all of the Software.



Attachment 1 - Price Table



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 Bellevue, WA 98004
 Phone: (425) 452-0630
 Fax: (425) 452-0626

**Edifecs Healthcare Software
 5-Year Maintenance Renewals Costs for
 the State of Michigan**

Product	Quantity	Year 1 Fee (10/1/10 to 9/30/11)	Year 2 Fee (10/1/11 to 9/30/12)	Year 3 Fee (10/1/12 to 9/30/13)	Year 4 Fee (10/1/13 to 9/30/14)	Year 5 Fee (10/1/14 to 9/30/15)	Grand Total (Years 1-5)
XEngine Maintenance for Development license Healthcare	1	11,433.00	11,775.99	12,129.27	12,493.15	12,867.94	60,699.35
XEngine Test License- Maintenance Healthcare	1	18,293.42	18,842.22	19,407.49	19,989.71	20,589.40	97,122.24
XEngine Staging License- Maintenance Healthcare	1	18,293.42	18,842.22	19,407.49	19,989.71	20,589.40	97,122.24
XEngine Production License - Maintenance Healthcare	1	50,882.00	52,408.46	53,980.71	55,600.14	57,268.14	270,139.45
HIPPA Code Set Fees - Annual Fees	1	15,450.00	15,913.50	16,390.91	16,882.63	17,389.11	82,026.15
Ramp Management™ - Healthcare Edition	1	159,650.00	164,439.50	169,372.69	174,453.87	179,687.48	847,603.53
TOTAL:		\$274,001.84	\$282,221.89	\$290,688.55	\$299,409.20	\$308,391.48	\$1,454,712.96