

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. 071B1300167**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Michigan Virtual University 3101 Technology Blvd, Suite G Lansing, MI 48910	Kirby Milton	k Milton@mivu.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(517) 324-5350 (517) 336-7787	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Susan Holland	517-241-3837	
BUYER	DTMB	Whitnie Zuker	517-373-3993	Kellyj11@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: <b>Web-based Training and Learning Management System</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 3, 2011	January 2, 2014	2, one year	January 1, 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 checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 year	Jan. 1, 2016
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$24,999.00		\$131,925.00		

Effective January 1, 2015, this contract is hereby extended to January 1, 2016, utilizing the last option year, per section 2.002. This Contract is also increased by \$24,999.00 to pay for annual maintenance. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.

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

August 30, 2013

**CHANGE NOTICE NO. 2**  
 to  
**CONTRACT NO. 071B1300167**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Michigan Virtual University 3101 Technology Blvd, Suite G Lansing, MI 48910	Kirby Milton	kmilton@mivu.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(517) 324-5350 (517) 336-7787	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Susan Holland	517-241-3837	
BUYER	DTMB	Joe Kelly	517-373-3993	Kellyj11@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: <b>Web-based Training and Learning Management System</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
January 3, 2011	January 2, 2014	2, one year	January 1, 2014
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 checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 year	Jan. 1, 2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$24,999.00		\$106,926.00		
Effective July 31, 2013, this contract is hereby extended to January 1, 2015, using a contract option year. Contract is also increased by \$24,999.00. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.				

May 15, 2012

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

**CHANGE NOTICE NO. 1**

To

**CONTRACT NO. 071B1300167**

Between

**THE STATE OF MICHIGAN**

And

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Michigan Virtual University 3101 Technology Blvd, Suite G Lansing, MI 48910	Kriby Milton	<a href="mailto:kmilton@mivu.com">kmilton@mivu.com</a>
	TELEPHONE/FAX	CONTRACTOR #, MAIL CODE
	(517) 324-5350 (517) 336-7787	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	<b>DTMB</b>	Susan Holland	(517) 241-3837	
BUYER:	DTMB	Joe Kelly	(517) 373-3993	<a href="mailto:kellyj11@michigan.gov">kellyj11@michigan.gov</a>

INITIAL CONTRACT SUMMARY:			
DESCRIPTION: <b>Web-based Training and Learning Management System</b>			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 years	January 3, 2011	January 2, 2014	2, one year
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MI DEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

DESCRIPTION OF CHANGE NOTICE:	
OPTION EXERCISED: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	IF YES, NEW EXPIRATION DATE:
<p><b>Effective immediately, this contract is hereby INCREASED by \$6,930.00. Please also note that the buyer has been changed to Joe Kelly. All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement and DTMB Procurement approval.</b></p>	
VALUE/COST OF CHANGE NOTICE:	\$6,930.00
ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	\$81,927.00



**STATE OF MICHIGAN**  
**DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET**      **January 12, 2011**  
**PURCHASING OPERATIONS**  
**P.O. BOX 30026, LANSING, MI 48909**  
 OR  
**530 W. ALLEGAN, LANSING, MI 48933**

**NOTICE**  
**OF**  
**CONTRACT NO. 071B1300167**  
**between**  
**THE STATE OF MICHIGAN**  
**And**

Fax: 517.336.7787

NAME & ADDRESS OF CONTRACTOR  <b>Michigan Virtual University</b> <b>3101 Technology Blvd., Suite G</b> <b>Lansing, MI 48910</b>  Email: <a href="mailto:kmilton@mivu.org">kmilton@mivu.org</a>	TELEPHONE 517.324.5350 <b>Kirby Milton</b> CONTRACTOR NUMBER/MAIL CODE  BUYER/CA (517) 373-1455 <b>Laura Gyorkos</b>
Contract Compliance Inspector: Susan Holland (517) 241-3837 <p style="text-align: center;"><b>Web-based Training and Learning Management System</b></p>	
CONTRACT PERIOD: 3 yrs. + 2 one-year options    From: <b>January 3, 2011</b> To: <b>January 2, 2014</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**TOTAL ESTIMATED CONTRACT VALUE:    \$74,997.00**

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

**CONTRACT NO. 071B1300167**  
**between**  
**THE STATE OF MICHIGAN**  
**And**

Fax: 517.336.7787

NAME & ADDRESS OF CONTRACTOR  <b>Michigan Virtual University</b> <b>3101 Technology Blvd., Suite G</b> <b>Lansing, MI 48910</b>  Email: <a href="mailto:kmilton@mivu.org">kmilton@mivu.org</a>	TELEPHONE 517.324.5350 <b>Kirby Milton</b> CONTRACTOR NUMBER/MAIL CODE  BUYER/CA (517) 373-1455 <b>Laura Gyorkos</b>
Contract Compliance Inspector: Susan Holland (517) 241-3837 <p style="text-align: center;"><b>Web-based Training and Learning Management System</b></p>	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: <b>January 3, 2011</b> To: <b>January 2, 2014</b>	
TERMS  <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT  <p style="text-align: center;"><b>N/A</b></p>
F.O.B.  <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM  <p style="text-align: center;"><b>N/A</b></p>
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are those of ITB #07110200142, this Contract Agreement and the vendor's quote dated July 8, 2010. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</b>  <b>Estimated Contract Value: \$74,997.00</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. #07110200142. Orders for delivery will be issued directly by the Department of State through the issuance of a Purchase Order Form.

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

<b>FOR THE CONTRACTOR:</b> Michigan Virtual University <hr/> Firm Name  <hr/> Authorized Agent Signature Kirby Milton, VP Operations <hr/> Authorized Agent (Print or Type)  <hr/> Date	<b>FOR THE STATE:</b> <hr/> Signature Laura Gyorkos, Buyer <hr/> Name/Title IT Division <hr/> Division  <hr/> Date
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**STATE OF MICHIGAN  
Department of Management and Budget  
Purchasing Operations**

Contract No. 071B1300167  
**Web-based Training and Learning Management System**  
Department of State  
Bureau of Elections

Buyer Name: Laura L. Gyorkos  
Telephone Number: 517-373-1455  
E-Mail Address: [gyorkosl@michigan.gov](mailto:gyorkosl@michigan.gov)



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**DEFINITIONS**

Days	Means calendar days unless otherwise specified.
24x7x365	Means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
Additional Service	Means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Audit Period	See Section 2.110
Business Day	Whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
Blanket Purchase Order	An alternate term for Contract as used in the States computer system.
Business Critical	Any function identified in any Statement of Work as Business Critical.
Chronic Failure	Defined in any applicable Service Level Agreements.
Deliverable	Physical goods and/or commodities as required or identified by a Statement of Work
DMB	Michigan Department of 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.



## Article 1 – Statement of Work (SOW)

### 1.000 Project Identification

#### **1.001 Project Request**

The purpose of this contract is to provide access to and support for the Department of State (DOS) branded portal as a sub-domain of an existing Web-based Learning Management System (LMS) for a period of three (3) years from the date of contract. The purpose of this implementation is to enable the Bureau Of Elections (BOE) to:

- 1) Use Lectora authoring software to create Web-based courses.
- 2) Receive consultation and advice on course development, content and delivery.
- 3) Generate course management reports and track user activity and progress.
- 4) Ensure vendor retention of all course and user data in a secure environment to be easily accessed by authorized Department staff and users as defined by the Department.
- 5) Ability to expand the number of users beyond 3,000.

This collaboration is a continuation of the Department's on-going efforts to provide high quality Web-based training courses as a compliment to the current face-to-face training method.

#### **1.002 Background**

In 2008 the Department entered into Phase One of business collaboration with a **Michigan Virtual University (MVU)** to develop and deliver a Web-based pilot course to approximately 500 county, city and township election officials entitled "Maintaining Order at the Polls." In October 2008, the pilot course was launched and made available via the vendor's Web-based portal.

The Department is ready to move forward with Phase Two of this project which calls for access and support for a Secretary of State (SOS) branded portal as a sub-domain of an existing Web-based Learning Management System (LMS) for a period of three (3) years from the date of contract with the possibility of two, one year options.

One of the primary missions of the Department is to provide training to county, city, township, and village election officials on the provisions of Michigan election law. Currently, all training courses offered by the Department are conducted utilizing a traditional, face-to-face method. The long-term goal of this project is to provide Michigan's election officials with a variety of high-quality Web-based training courses that are designed to provide instruction on the provisions of Michigan election law and applicable procedures which are designed to ensure the proper administration of elections. Web-based training will be offered as a complement to the face-to-face training method. The Department will continue to offer face-to-face training on a number of election related topics.

The Web-based courses will be accessed by county, city, township and village election officials who are responsible for the administration of elections. While the successful completion of most course offerings will be mandatory, a number of optional courses will also be offered. Users will fall into the following categories:

- 1) May have little or no experience with Web-based training.
- 2) May manage many other demanding responsibilities.
- 3) May see mastering and accessing a new training format as less of a priority.

The LMS must provide the Department and users the ability to self register within the LMS, self enroll in course offerings and regularly monitor course work progress. In addition, the LMS must provide comprehensive course and user reporting and administrative functions, performance reports and status reports showing credits earned by users.



## **1.100 Scope of Work and Deliverables**

### **1.101 In Scope**

The contractor must provide the following services in the development of the Learning Management System in order to facilitate web based training for Election Officials. The project consists of the following:

- Application Design/Development
- Implementation/Hosting
- Training
- Documentation
- Maintenance and Support
  - Help Desk
  - Technical Support
- Other
  - Reserve bank of hours for future enhancements and/or legislative mandates

### **A. General Requirements**

The Department of State's required solution is for the contractor to provide and host a fully featured, internet based Learning Management System (LMS) which will enable the creation, delivery, tracking and reporting of high-quality Web-Based courses and resources. In addition, the Department requires the LMS to host the delivery of courses and resources in a Department of State branded sub-domain for the location of all courses provided by the Department and utilized by the public.

Since 2003 the Michigan Department of Education (MDE) and the *Michigan Virtual University*<sup>®</sup> (MVU<sup>®</sup>) have been working collaboratively on a multi-year partnership to plan, develop and implement an online system of professional development for Michigan's teachers and educators called *Michigan LearnPort*<sup>®</sup>. In 2007, after a nationwide RFP process, *Michigan LearnPort* launched a new robust learning management system (LMS) provided by its vendor-partner Meridian KSI, located in Chantilly, Virginia. We currently serve more than 50,000 user account and offer over 300 courses to Michigan's K-12 community. These high-quality courses, tools and resources are available to Michigan organizations as well. *Michigan LearnPort* is confident it can support the Bureau of Elections in its online learning needs through the provision of the following tools and services.

- Application Design/Development in the online learning environment;
- Implementation/Hosting of a branded subdomain of the LMS, *Michigan LearnPort*;
- Training & Documentation related to the LMS;
- Maintenance and Technical Support on an ongoing basis through the contract duration;
- Help Desk support for users; and
- Reserve bank of hours for future enhancements and/or legislative mandates.

### **B. Specific Requirements**

The LMS shall meet the following, at a minimum:

1. The contractor will provide a secure LMS system for the Department to use. The contractor will provide and maintain a highly secure and reliable LMS infrastructure with technical support service. Features to be included in the LMS system are as follows:
  - a. The LMS will be hosted at the contractor's site. *Michigan LearnPort* is hosted here in Lansing, Michigan, in a commercial data center. The Bureau's branded subdomain, as an element of the core domain, will also be housed here in the Lansing data center.
  - b. The LMS will provide the Department with the ability to create a course and download the course into the LMS system.



LMS does provide the ability to create a course using the Build a New Course functionality in the Administrative Tools area. Many users find course building software such as Lectora or Articulate easier and more flexible to use. The functionality to download courses is also available in the Administrative Tools area.

- c. The LMS will provide the Department with the ability to create a course that will allow users to take quizzes and tests within the LMS system.

Course building software such as Lectora or Articulate enable the development of quizzes and tests. *Michigan LearnPort* has the Test Creator functionality available in the Administrative Tools area.

- d. The LMS will provide the Department with the ability to track the following:

*Michigan LearnPort* provides more than 40 standard reports.

- a. The total number of users registered.  
Information is presented in the standard report, Registered Users.
  - b. The users who have not taken a course.  
No standard report in the LMS provides this information. Depending on the size of a subdomain's user base, this information could be deduced by comparing course enrollments to the existing user base. However, in addition to the 40+ standard reports, the LMS enables reporting using custom SQL statements. Other reports do identify users who have enrolled in a course but not started a course.
  - c. The users who have taken a course.  
This information is available in the standard report, Summary Course Progress.
  - d. The users quiz results from the course.  
In *Michigan LearnPort*, assuming proper configuration of the learning object, four standard reports provide this information:
    1. An individual user's My Test Performance report.
    2. The Managers Report – Users Test Performance report
    3. The Organization Report – Users Test Performance report
    4. The Domain Report – Users Test Performance report
  - e. The user's accumulative activity within the LMS from the initial registration.  
An individual's Development Record, or 'transcript,' is available for all users. Site administrators can access it through the Administrative Tools area.
  - f. The user's accumulative scores from all courses.  
An individual's Development Record, or 'transcript,' is available for all users. It contains the Test Scores information.
  - g. The number of times a user has taken a course.  
An individual's Development Record, or 'transcript,' is available for all users. It contains every single course a user has taken.
- e. The LMS will provide the Department with the ability of unlimited users to access the course housed within the LMS system.  
*Michigan LearnPort* allows unlimited course access. Conversely, course access can be limited using the Wait-listing feature.
  - f. The LMS will provide the Department with the ability to upload content created using Lectora, Word, Power Point, Flash, HTML, and Adobe PDF's.  
The LMS does not provide the Department with the ability to **create** content using Lectora, Word, Power Point, Flash, HTML, and Adobe PDF's. However, Lectora, Word, Power Point, Flash, HTML, and Adobe PDFs are all allowable content types the LMS can house.



- g. The LMS will provide the Department with the ability to host audio files within the course. Audio files can be housed in the LMS in the Audio & Video Presentations area. Courses also can contain audio files.
- h. The LMS will provide the Department with the ability to house documents for resources as they relate to a course.  
*Michigan LearnPort* can house documents in the Documents area, they can be linked directly within a course, or they can reside in the LMS's Community Rooms.
- i. The LMS will provide the Department with the ability to house documents as ongoing resources unrelated to courses.  
*Michigan LearnPort's* collaboration tool, Community Rooms, supports this functionality.
- j. The LMS will provide the Department with the ability to launch real-time online seminars. Michigan LearnPort can enable users to register for and access real-time online courses.
- k. The LMS will provide the Department with the ability to select limited attendance for a course. The Batch Enrollment tool allows a Site Administrator the ability to add only selected users to a specific course.
- l. The LMS will provide the Department with the ability to create groups of users for attendance for specific courses.  
The LMS enables the creation of training groups who can be enrolled by group.
- m. The LMS will provide the Department with the ability to use reports to track courses, certificates, lessons, quizzes, tests and users.  
Refer to items d.a. through d.g. above.
- n. The LMS will provide the Department with the ability to view and export the reports.  
The 40+ standard reports in *Michigan LearnPort* are viewable by a variety of roles in the LMS. That a general user can see fewer than 10 reports, while a Site Administrator sees more than 40. Reports are printable and export to Excel, PDF and XML.
- o. The LMS must be hosted on a secure web-portal. .  
Currently, no features in the LMS prevent access by non-authorized users. We encourage guest enrollment. The Department could elect to remove unauthorized users.
- p. The LMS must be SCORM or AICC compliant.  
*Michigan LearnPort* hosts SCORM- and AICC-compliant courses.
- q. The LMS must meet or exceed 99% accessibility and operability 24/7/365.  
Michigan LearnPort routinely achieves 99% uptime 24/7/365, excluding scheduled maintenance windows.
- r. The contractor will provide sufficient bandwidth at the hosting facility to accommodate all routine traffic plus some percentage of spike activity.  
The MVU's data center, hardware and software currently operating *Michigan LearnPort* has virtually unlimited capacity to expand to support the Department's user-base of more than 3,000 users. Some bandwidth limitations on the part of users (e.g., users who have dial-up access) are out of the control of *Michigan LearnPort*.
- s. The contractor will provide upgrades to the LMS system as available.  
System upgrades are a standard part of the of *Michigan Virtual University's* agreement with our vendor partner, Meridian KSI. As such, all users have access to upgrades.



2. The LMS system and developed courses will be hosted by the contractor and will provide for up to 3,000 users to complete the Department's courses within a specific time frame. Increases to the user base beyond 3,000 will be mutually agreed to by both parties.

The LMS and courses will be hosted on the contractor's server. The courses must be completed within a specific time frame ranging from 1 – 30 days. The LMS will provide the Department the ability to access, create, update and maintain all courses. In addition, the Department will be creating a series of courses that flow together. As a result, the LMS needs to be able to track the users through a series of courses.

*Michigan LearnPort* has no known restrictions on the number of users it may service in the LMS.

Consequently, no restrictions—other than best practice—exist on the Department to serve as many users as it may wish. However, in our experience, we would not be able to serve beyond 3,000 users in a real-time (i.e., 1-30 day long) course. With planning, the LMS could accommodate additional users.

Courses may have start and end date limits, or no limits at all. Courses may have user limits, or no user limits at all. Courses may be instructor-led or self-paced.

In terms of tracking users through a series of courses, *Michigan LearnPort* has a curriculum feature that would allow the described functionality.

3. The contractor will implement a Department branded sub-domain in the existing LMS.

The branded sub-domain must be able to provide a specific branded header, designed by the Department of State, which will be present at the entry into the LMS system for all Department users. In addition, the branded header needs to be carried through to all screens utilized for courses and available resources provided by the Department.

The Department will have the ability to apply a specific branded header graphic of predetermined dimension on the main LMS welcome/login page, as well as a Department logo graphic of predetermined dimension in the upper-left-most corner of the LMS on all internal pages. The appearance of courses and other resources, including the branded header, is dependent on the development of each individual resource and not a function of the LMS, per se.

4. The contractor will provide training, consultations and ongoing support to the Department.

The contractor will provide clear identification and delineation of roles and responsibilities for day to day services. In addition, initial training will be outlined and provided to ensure self-sufficiency in:

- A) The management of the branded sub-domain within the LMS.  
As part of the fee for service on this project Michigan LearnPort staff will provide an in-service on key elements of managing the Department's subdomain. A training agenda for that session or sessions can be reviewed in advance to ensure the Department's needs are met.
- B) Administrative responsibilities including establishment of staff access levels and authority.  
These topics will be discussed in the training cited above in A.
- C) Implementation strategies including user registration and course and resource posting and management.  
These topics will be discussed in the training cited above in A.
- D) Web-based learning best practices.  
In addition to information on this topic already provided, this topic will naturally be reviewed as part of any follow on course design and development work.
- E) Running of canned reports.  
These topics will be discussed in the training cited above in A.



- F) Creation of new reports.  
In Michigan LearnPort, new reports can be created by writing SQL statements. Provision of such support is outside the scope of Michigan LearnPort's services. However, we will train you how to post and view new SQL-created reports.
- G) Instructional design and development.  
Michigan Virtual University houses a talented product development team, including instructional designers, a media manager and project managers. We would replicate our process for the design and development of the successful course for the Bureau of Elections, "Maintaining Order at the Polls." See Attachment A, Price Proposal for additional information on these services.
- H) The tracking of user course status for a specific course and for all courses utilized by the user.  
This information is available on a per-user basis in their development record, which can also be viewed by Site Administrators. Three standard reports provides some form of this information: Summary Report – Course Progress; Summary Report – Organizational Progress; and Summary Report – User Progress.

In addition, ongoing support for the duration of the contract will be provided for the following items:

- I) The management of the branded sub-domain within the LMS.
- J) Administrative responsibilities including establishment of staff access levels and authority.
- K) Implementation strategies including user registration and course and resource posting and management.
- L) Web-based learning best practices.
- M) Running of canned reports.
- N) Creation of new reports.
- O) Instructional design and development.
- P) The tracking of user course status for a specific course and for all courses utilized by the user.
- Q) A user help desk for users accessing courses and resources.
- R) Upgrades to the LMS system.

For items I., J., K., M., N. and P., the purpose of the project and the training provided is to enable the Department to become self-sufficient in their operations of the subdomain. Michigan LearnPort staff will be able to consult on questions for the duration of the project.

For items L. and O., *Michigan Virtual University* staff will be available as for-fee consultants for the duration of the project.

For item Q., a user help desk will be available for the duration of the project. See item 1.104.I.5 below for specific information about the *Michigan Virtual University* help desk services.

For item R., System upgrades are a standard part of the of *Michigan Virtual University's* agreement with our vendor partner, Meridian KSI. As such, all users have access to upgrades.

### **C. Time Line**

Access to LMS must be completed no later than sixty days from the start date of the contract. The branding of the Department's sub-domain's implementation timeline must be outlined and agreed upon by the Department and contractor within the sixty days after the contract start date.. Training on the LMS must be outlined and agreed upon by the Department and the contractor within the sixty days after the contract start date. Coordination between the contractor and Department will be critical.

We submit the high-level Draft Plan below, which has been developed without the benefit of understand the Department's specific needs. Changes are likely after learning more.

#### **Planning Phase, Days 0 to 60**

Deliverables in this phase include planning, review of training agenda and approvals of implemented subdomain.

**Implementation Phase, Days 61 to 120**

Deliverables here entail assisting the Department's day-to-day operations in support of users and content. Training would also be delivered early in this phase. Content development discussions and planning will likely begin in this phase.

**Testing & Confirmation Phase, Days 121 to 150**

Deliverables here entail ensuring the Department's subdomain operates as expected, confirming a successful implementation, as well as the Department's ability to support its users and content to the level required. Content development will likely begin in this phase.

**Maintenance Phase, Days 151 to 330**

The Department's self-sufficient operation continues in this phase. Mid-project review occurs in this phase. Content development continues in this phase.

**Evaluation & Review Phase, Days 331 to 365**

Deliverables here entail planning for next year, reviewing Lessons Learned and completing content development and implementation.

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

**1.102 Out Of Scope**

Training on election law, forms and election procedures are outside the scope of this contract. Training election officials on election law is outside of the scope of this contract.

**The \$24,999 annual fee offered in MVU's response pays for the delivery of a branded subdomain in an existing LMS. The contractor identifies the following items as out-of-scope for this project: customizations of the learning management system, integrations of the LMS with other Department systems, and training/consulting beyond what is explicitly identified herein.**

**1.103 Environment**

Contractor shall abide by all State of Michigan applicable laws and regulations. Contractor shall develop and maintain an effective information security program tailored to the complexity of its operations, and require, by contract, service providers that have access to its customer information to take appropriate steps to protect the security and confidentiality of this information. The Contractor's officers and employees are bound by the policies and procedures of Contractor.

*MVU has a very detailed privacy policy already in place at*

*<http://www.mivu.org/PrivacyPolicy/tabid/178/Default.aspx> which is applicable to this contract*

**1.104 Work And Deliverable**

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

The contractor will provide services as described in 1.101 "In Scope." The Department requires the ability to continually create, edit, post and remove Web-based training courses within the SOS branded sub-domain of the existing LMS. The training courses offered will be designed to meet the mandatory and optional training objectives of the Department as a compliment to the current face-to-face training method.

**I. Deliverable(s)**

1. To provide a hosted LMS system (meeting minimum requirements outlined in Section 1.101(B)) accessible by the department within 30 days of the awarding of the contract. See the Preliminary Project plan for additional details.



2. To train the Department on how to post a course to the LMS within 60 days of the contract start date. To begin the training of designated Department staff on the posting of courses on the SOS branded sub-domain within 60 days following the creation of the sub-domain.

Posting of a course is an approximately two-hour block in the Administrator Training set of topics. We propose two half-day trainings earlier and later in this phase to allow for practice and development of relevant questions by the trainee(s).

3. To implement a SOS branded sub-domain of an existing LMS within 60 days of the contract start date, or upon agreement between the Department and Contractor. Final implementation will be indicated by planning documents agreed upon by the contractor and the Department.

See item 1 above. *Michigan LearnPort* will deliver the subdomain in 60 days, pending agreement with schedule.

4. To enable the launch of the branded sub-domain to the user community no later than 120 days from the date of contract start date.

See item 1 above. *Michigan LearnPort* will deliver the subdomain in 60 days, pending agreement with schedule. Launch to the user community is a Department-dependent task that *Michigan LearnPort* can support by meeting agreed upon requirements, but cannot lead.

5. To provide and maintain a user help desk staffed by qualified personnel familiar with the existing LMS, SOS sub-domain, server, and associated infrastructure. The help desk will be open during normal business hours and, at a minimum, shall be available to accept and respond to support calls Monday through Friday, from 8:00 a.m. to 5:00 p.m. EST. Extended hours of operation will be provided at no additional charge to the Department or SOS user community as needed to respond to reported service interruptions, disaster recovery plan implementation and other events as mutually agreed upon by the Department and contractor throughout the course of the contract.

Michigan Virtual University offers a help desk staffed by trained service providers. The toll-free number for the Help Desk is 888.889.2840. Email help is also available at [mivuhelp@mivu.org](mailto:mivuhelp@mivu.org).

The hours of operation appear below. No extended hours beyond our standard hours cited below will be available. Emergencies and contingencies like the ones noted above will be handled on a case-by-case basis by project personnel, per discussions and planning with the Department.

Monday through Friday, 7 a.m. to Midnight  
 Sunday: 5 p.m. to 9 p.m.  
 Saturday: No service

Users who contact the Help Desk during closed hours have their voice message logged and they will be responded to during the next scheduled hours.

6. To meet with designated Department staff on a quarterly basis to evaluate the status of project goals. The contractor will also meet with designated Department staff on a bi-annual basis to explore technical advancements and the possible acquisition and implementation of new Web-based authoring or supporting products as enhancements to existing tools and products.

MVU agrees to the quarterly and bi-annual meetings as discussed above, .

7. To participate in additional meetings as may be required at the discretion of the Department.

Project staff will endeavor to attend all meetings the Department requires, barring work, schedule or cost constraints that make their attendance impracticable.



8. To maintain LMS system in working order as required in the Specific Requirements Article 1.101 B.

As of June 30, 2010, *Michigan LearnPort* serves more than 58,000 user accounts, offers more than 300 courses and numerous other resources to their user community. We continue to record 99% uptime (outside of scheduled maintenance windows) and routinely apply updates and enhancements when they become available to ensure full operation of the LMS for all users.

9. Contractors must provide a training document within 60 days from the contract start date outlining steps and processes to accomplish the minimum training requirements as listed below:

Deliverable(s)

- A. Training the Department within 60 days to post courses of the execution of the contract.
- B. Training must ensure the ability of designated Department staff to post, offer and manages courses and participant records within the branded sub-domain within the LMS.
- C. The management of the branded sub-domain within the LMS.
- D. Administrative responsibilities including establishment of staff access levels and authority.
- E. Implementation strategies including user registration and course and resource posting and management.
- F. Web-based learning best practices.
- G. Running of canned reports.
- H. Creation of new reports.
- I. Instructional design and development.
- J. The tracking of user course status for a specific course and for all courses utilized by the user.

*Michigan LearnPort* staff will provide an in-service on key elements of managing the Department's subdomain. Training agendas for that session or sessions can be reviewed in advance to ensure the Department's needs are met.

Training shall include upgrades and new versions to the system that affect end-user functionality at no additional cost to the State. (e.g. classroom or online training, training flier, release features, etc.)

Training is provided in a variety of formats for product installation, use, and administration for a variety of levels (e.g. basic, advanced, refresher, etc.)

10. Contractor must provide training manual documentation on how the LMS system functions. All training manuals, training plans and other documentation provided become the property of the State. Training documents requested are as follows:
  - a. A minimum of two (2) copies of the following documentation in an electronic format, online and in hard copy will be provided:
    1. User and Technical Manuals - On-line and Hard Copy
    2. Data Element Dictionary
    3. Operations Manual

*Michigan LearnPort* will share all *relevant* system documentation that supports the Department's objectives. In order to preserve paper and costs, we will provide documentation in electronic format, as some manuals of interest to the department could exceed 100 pages.

All documentation we have and can provide to the Department reflects the out-of-the-box condition of the LMS. Significant customizations to the functionality have been made in the last three years of operation. No documentation beyond the standard, out-of-the-box documentation can be provided. Similarly, we have a data dictionary that reflects the out-of-the-box data tables.

As the system is upgraded, updated documentation will be provided.



11. Contractor must provide maintenance of LMS system and servers. Additional detail regarding system maintenance requirements is outlined in Requirements Section II(A).

12. The contractor may be requested by the department to provide course material coordination. This may involve pulling training material together into a pre-determined format used for on-line training presentations. The Contractor is not responsible for the content.

*Michigan Virtual University* houses a talented product development team, including instructional designers, a media manager and project managers. We would replicate our process for the design and development of the successful course for the Bureau of Elections, "Maintaining Order at the Polls." See Attachment A, Price Proposal for additional information on these for-fee services.

## II. Requirements

### A. Technical/General System Requirements

#### *System Availability*

Contractors must provide specifications on system availability and operability as it relates to the following at a minimum.

1. The LMS must meet or exceed 99% accessibility and operability 24/7/365.
2. The contractor will provide sufficient bandwidth at the hosting facility to accommodate all routine traffic plus some percentage of spike activity.

Michigan LearnPort routinely achieves 99% uptime 24/7/365, excluding scheduled maintenance windows.

The MVU data center, hardware and software currently operating *Michigan LearnPort* has virtually unlimited capacity to expand to support the Department's user-base of more than 3,000 users. Some bandwidth limitations on the part of users (e.g., users who have dial-up access) are out of the control of *Michigan LearnPort*.

#### *System Security*

Contractors must complete steps and processes to ensure system security regarding the following items at a minimum within 30 days of the contract start date.

1. To ensure the security of all files and data, including user enrollment information contained within the LMS and or SOS sub-domain and agrees that such files and data will not be released or sold to the public or to other entities at anytime before, during or after the expiration of the contract.

For items 1 and 2, please see Michigan Virtual University's privacy policy at

<http://www.mivu.org/PrivacyPolicy/tabid/178/Default.aspx>.

As part of our company's disaster recovery plan, Michigan Virtual University routinely backs up activity and stores hard copies of the back ups in a remote location to ensure timely restoration.

2. To provide and maintain a highly secure reliable infrastructure supported by experienced technical staff. The contractor will make all reasonable efforts to bring about the timely correction of any and all reported problems affecting the LMS, SOS branded sub-domain and or server.

Please see item #1.



3. Must have a disaster recovery plan in place.

MVU has and will maintain a disaster recovery plan for the duration of the contract.

#### *Future Upgrades*

Contractors must complete the following steps and processes to accomplish future upgrades regarding the following items throughout duration of the contract.

1. To make available at no charge, all new releases and bug fixes to the existing LMS and infrastructure throughout the course of the contract.

*Michigan LearnPort* will make available at no charge service pack updates and bug fixes to the existing LMS.

2. To ensure that the existing LMS and branded sub-domain and future upgrades are compatible with common industry standard internet providers and operating software used by the SOS user community.

*Michigan LearnPort* will advise the State of any known compatibility issues in a proactive manner,

## **B. Functional Requirements**

#### *LMS Reporting Features*

The State requires the LMS to provide a series of reports at a minimum. The minimum reports required are as follows.

1. Calendar Reports
  - a. Provide current course and calendar information.
  - b. Provide scheduling status of facilities.
  - c. Provide information and calendars for instructors.
2. Competency Management
  - a. Provide organizational proficiency data within a competency area.
  - b. Provide data on competencies and their related scores by user.
3. Content Reports
  - a. Provide data on courses and content items by rating.
  - b. Provide data on site survey results.
  - c. Provide data on current site topics and associated content.
4. Mandatory Training Reports
  - a. Provide data on user progress in assigned courses during specified training periods for users in specified domains.
  - b. Provide data on report progress in assigned courses by date range.
  - c. Provide data on current status of users assigned to required courses.
  - d. Provide data on current status of users assigned to required courses and their recurrence period.
  - e. Provide data on user progress in assigned courses by date range.
5. User Related Training Reports
  - a. Provide a user's development record date.
  - b. Provide data on user's progress in assigned courses by date range.
  - c. Provide data about tests a user has taken.
  - d. Provide data on courses and curricula that a user has started and/or completed.
6. Professional Development
  - a. Provide data on user's professional development seat hours.



7. Test Reports
  - a. Provide data on test performance for users in specified domains.
  - b. Provide data on test performance for a manager's direct reports.
  - c. Provide data on test performance of users by organization.
  - d. Provide data on items within SCORM-conformant test linked to online or classroom courses.
8. Course Related Training Reports
  - a. Provide data on course survey results.
  - b. Provide data on course-specific records by course or user.
  - c. Provide data on user's progress in a curriculum.
  - d. Provide data on course progress for users in a domain.
  - e. Provide profile or development record data for users who report directly to a manager.
  - f. Provide data on course progress for a manager's direct reports.
  - g. Provide data on course progress made by users in an organization.
  - h. Provide data on training and performance records of users by organization.
  - i. Provide summary of user's course progress by organization.
  - j. Provide data on users who have started/completed courses by organization.
  - k. Provide data on course activity for users by organization.
9. User reports.
  - a. Provide data on users in a domain and how they are assigned.
  - b. Provide data on users assigned to an organization.
  - c. Provide data on recent user access.
  - d. Provide data on users registered by organization.
  - e. Provide data on users who have accessed the site filtered by date range.

The LMS provides every one of these reports, as accessed by a user with Site Administrator privileges. A general user could not access all of these reports.

### **1.200 Roles and Responsibilities**

#### **1.201 Contractor Staff, Roles, and Responsibilities**

The State reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the Department of State.

The Contractor shall not change the Project Manager during the first 180 days of the Contract. After the first 180 days of the Contract, the contractor shall not remove or reassign Key Personnel without the Department of State's prior written approval. In addition, Key Personnel shall not be removed or reassigned until they have completed all of their planned and assigned responsibilities in connection with performance of the contractor's obligations under this contract. The contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the Department of State may be considered by the Department of State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel shall be replaced for reasons beyond the reasonable control of the contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

The contractor may also avoid a material breach if it removes Key Personnel with the approval of the Contract Compliance Inspector and have the Contract Compliance Inspector's approval of replacement Key Personnel. Assignment of new Key Personnel without prior approval of the Contract Compliance Inspector will still be deemed unsatisfactory and subject to contract cancellation.

Below are the State's requires the following to ensure smooth implementation and good communication throughout the term of the contract.

1. The contractor will designate a Contractor Project Manager.

Elizabeth Elliott



Project Manager  
 Michigan Virtual University  
 3101 Technology Blvd., Suite G  
 Lansing, MI 48910  
 Phone: 517.664.5467  
 Fax: 517.336.7787  
 Email: [eelliott@mivu.org](mailto:eelliott@mivu.org)

2. The Contractor Project Manager shall serve as the single point of contact and shall be responsible for all communications related to the status of contract deliverables including possible delays, issues or complications and shall work closely with the State Project Manager.
3. The Contractor Project Manager shall provide weekly written updates on the status of contract deliverables throughout the first 120 days from the date of contract award. Weekly status reports containing accomplishments, next steps, risks and solutions will be submitted via email to the Department's designee.
4. The Contractor Project Manager will maintain bi-weekly telephone contact with designated Department staff on the status of contract deliverables throughout the length of the contract. Bi-weekly telephone calls for status will be made to the Department's designee.
5. The Contractor Project Manager shall escalate project issues, project risks and other concerns to designated Department staff and shall propose/suggest options and alternatives for consideration.

These considerations will be standard elements of routine status reporting, as described above.

6. The contractor will identify the members of the project team who will be responsible for completing the various tasks and requirements as described under 1.104 "Work and Deliverable" of this contract. A detailed description of each of the various tasks that each team member is responsible for performing will be included in the contractor proposal. The list of team members and work descriptions shall be updated by the contractor as needed throughout the course of the contract.

#### **Technical Lead**

Deliverables 1, 2, 3, 4, 5, 6, 8, 9, 10, 11

Jason Marentette, Michigan LearnPort LMS Administrator, 517.324.5375, [jasonm@mivu.org](mailto:jasonm@mivu.org)

#### **Technical Support**

Deliverables 1, 3, 5, 8, 10, 11

Jim Bell, Michigan LearnPort LMS Specialist, 517.324.5389, [jbelle@mivu.org](mailto:jbelle@mivu.org)

#### **Instructional Design Team**

Deliverable 12

Peter Arashiro, Instructional Design & Systems Manager, 517.324.5351, [parashiro@mivu.org](mailto:parashiro@mivu.org)

New Hire, Instructional Designer, TBD

David Young, Instructional Designer, 517.664.5461, [dyoung@mivu.org](mailto:dyoung@mivu.org)

Brandon Bautista, Digital Media Manager, 517.324.5383, [bbautista@mivu.org](mailto:bbautista@mivu.org)

#### **Project Manager**

All Deliverables

See item 1 above.

7. The contractor shall provide contact information for the Contractor Project Manager and members of the project team to include office phone numbers, email addresses and cell phone numbers, if applicable, and the physical location of the office or other designated place that each is assigned to work throughout the course of the contract.

Information is provided above. All Michigan Virtual University staff work from the identified location.



8. The contractor understands and agrees that all time, materials, travel and or travel expenses incurred by the contractor are the financial responsibility of the contractor.

**A. Contractor Staff**

The Contractor will identify a Single Point of Contact (SPOC). The duties of the SPOC shall include, but not be limited to:

- supporting the management of the Contract,
- facilitating dispute resolution, and
- advising the State of performance under the terms and conditions of the Contract.

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

Kirby Milton  
VP Operations  
MVU Contracting Officer  
Single Point of Contact  
Michigan Virtual University  
3101 Technology Blvd., Suite G  
Lansing, MI 48910  
Phone: 517.324.5350  
Fax: 517.336.7787  
Email: [kmilton@mivu.org](mailto:kmilton@mivu.org)

The contractor must submit a letter of commitment for Key Personnel, signed by the identified resource, stating their commitment to work for the contractor/subcontractor on this project contingent on award of the bid. If the identified personnel are currently assigned to a State project the contractor must provide a letter signed by the State Project Manager releasing the individual from the project upon execution of the contract.

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

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

- *Project Manager: Elizabeth Elliott, see 1-6 above*

**The Contractor will provide a project manager/technical lead** to interact with the designated personnel from the State to insure a smooth transition to the new system. The project manager/technical lead will coordinate all of the activities of the Contractor personnel assigned to the project and create all reports required by State. The Contractor's project manager/technical lead responsibilities include, at a minimum:

- Manage all defined Contractor responsibilities in this Scope of Services.
- Manage Contractor's subcontractors, if any
- Develop the project plan and schedule, and update as needed
- Serve as the point person for all project issues
- Coordinate and oversee the day-to-day project activities of the project team
- Assess and report project feedback and status
- Escalate project issues, project risks, and other concerns
- Review all project deliverables and provide feedback



- Proactively propose/suggest options and alternatives for consideration
- Utilize change control procedures
- Prepare project documents and materials
- Manage and report on the project’s budget

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

See above for all role assignments requested.

**B. On Site Work Requirements**

**1. Location of Work**

Contractors will work at their location of employment.

**2. Hours of Operation:**

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

**3. Travel:**

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

**4. Additional Security and Background Check Requirements:**

**MVU conducts internal background checks on all their employees,**

**1.202 State Staff, Roles, And Responsibilities**

The single point of contact with the Bureau of Elections with respect to contract issues is:

**Contract Compliance Inspector: Susan Holland, Department Analyst**  
 Department of State  
 Bureau of Elections  
 430 W. Allegan St., 1<sup>st</sup> Floor  
 Lansing, MI 48918  
 Phone: (517) 241-3837  
 Email: hollands3@michigan.gov

**1.300 Project Plan**

**1.301 Project Plan Management**

**Preliminary Project Plan**

Project Plan Overview

**Preliminary Implementation Plan and Schedules**

The Contractor’s team will develop an implementation plan and ongoing plan for the LMS system with the State.

Following is the breakdown of expected tasks –



- A. Project Kick-off
  - 1. Introduction meeting with the State and Contractor's teams.
- B. Initiation and Planning
  - 1. Timeline to implement LMS system.
  - 2. Timeline to implement SOS Branded portal.
- C. Training
  - 1. Timeline to provide complete training on use of the LMS. (Phase I)
  - 2. Additional training to be provided once training is complete. (Phase II)
- D. Reporting
  - 1. Timeline to provide instruction on using existing reports and creating new reports.
- E. Ongoing Services

### **Orientation Meeting**

Upon 7 calendar days from contract start date, the Contractor will be required to attend an orientation meeting to discuss the content and procedures of the Contract. The meeting will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Contractor. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

### **Performance Review Meetings**

The State will require the Contractor to attend monthly meetings, at a minimum, to review the Contractor's performance under the Contract. The meetings will be held in Lansing, Michigan, or by teleconference, as mutually agreed by the State and the Contractor. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

The Contractor has provided a Preliminary Project Plan, including necessary time frames and deliverables for the various stages of the project and the responsibilities and obligations of both the Contractor and the State.

Note: A Final Project Plan will be required as stated in Article 1, Section 1.301 (C) Project Control.

- 1. In particular, the Final Project Plan will include:
  - a. A description of the deliverables to be provided under this contract.
  - b. Target dates and critical paths for the deliverables.
  - c. Identification of roles and responsibilities, including the organization responsible. Contractor is to provide a roles and responsibility matrix.
  - d. The labor, hardware, materials and supplies required to be provided by the State in meeting the target dates established in the Preliminary Project Plan.
  - e. Internal milestones
  - f. Task durations



**PRELIMINARY PROJECT PLAN**

**Planning Phase, Days 0 to 60 (1/3/2011 to 3/4/2011)**

This phase include planning, review of training agenda and approvals of implemented subdomain

Task	Duration	Organization	Deliverables	MVU Staff
Orientation Meeting	1 D	MVU + DOS	Deliverable 1	Project Manager
Project Kickoff	1D	MVU + DOS	Deliverable 1	Technical Lead, Technical Support, Project Manager
Planning	15 D	MVU + DOS	Deliverable 1	Technical Lead, Project Manager
Training Agenda Review and Approval	5 D	MVU	Deliverable 2, 9	Technical Lead, Project Manager
Provision of documentation	1 D	MVU	Deliverable 10	Technical Lead, Project Manager
Implement subdomain	0 D	MVU	Deliverable 3	Technical Lead,
Ongoing reporting	3 D	MVU	All	Project Manager
Performance Review Meeting 1	1 D	MVU + DOS	Deliverable 6 + All	Project Manager
Additional Meetings	1 D	MVU + DOS	Deliverable 7	Project Manager

**Implementation Phase, Days 61 to 120 (3/5/2011 to 5/3/2011)**

This phase entails assisting the Department's day-to-day operations in support of users and content. Training would also be delivered early in this phase. Content development discussions and planning will likely begin in this phase.

Task	Duration	Organization	Deliverables	MVU Staff
Open Help Desk services	0 D	MVU	Deliverable 5	Technical Lead
Assess subdomain	59 D	DOS	Deliverable 3	
Deliver training	2 D	MVU	Deliverable 2	Technical Lead
1 <sup>st</sup> Quarterly Meeting	1 D	MVU+DOS	Deliverable 6 + All	Project Manager
Subdomain User & Content Pilot	15 D	MVU + DOS	All	Project Manager
Ongoing reporting	3 D	MVU	All	Project Manager
Performance Review Mtg 2, 3	2 D	MVU + DOS	All	Project Manager
Additional Meetings	1 D	MVU + DOS	Deliverable 7	Project Manager
Ongoing maintenance	59 D	MVU	Deliverable 8, 11	Technical Lead

**Testing & Confirmation Phase, Days 121 to 150 (5/4/2011 to 6/2/2011)**

This phase entails ensuring the Department's subdomain operates as expected, confirming a successful implementation, as well as the Department's ability to support its users and content to the level required. Content development, as needed, will likely begin in this phase.

Task	Duration	Organization	Deliverables	MVU Staff
Confirm subdomain operations	29 D	MVU+DOS	Deliverable 1, 3	Technical Lead, Project Manager
Subdomain launch to community	0 D	DOS	Deliverable 4	
Ongoing reporting	3 D	MVU	All	Project Manager
Performance Review Mtgs 4, 5	2 D	MVU + DOS	All	Project Manager
Additional Meetings	1 D	MVU + DOS	Deliverable 7	Project Manager
Ongoing maintenance	29 D	MVU	Deliverable 8, 11	Technical Lead

**Maintenance Phase, Days 151 to 330 (6/3/2011 to 11/29/2011)**

The Department's self-sufficient operation continues in this phase. Mid-project review occurs in this phase. Content development, as needed, continues in this phase.

Task	Duration	Organization	Deliverables	MVU Staff
Subdomain operating	179 D	DOS		
Mid project review meeting	1 D	MVU + DOS	All	Technical Lead, Project Manager
Ongoing reporting	3 D	MVU	All	Project Manager



Performance Review Mtgs 6-11	6 D	MVU + DOS	All	Project Manager
2 <sup>nd</sup> Quarterly Meeting	1 D			
3 <sup>rd</sup> Quarterly Meeting	1 D	MVU + DOS	Deliverable 6 + All	Project Manager
Additional Meetings	1 D	MVU + DOS	Deliverable 7	Project Manager
Ongoing maintenance	179 D	MVU	Deliverable 8, 11	Technical Lead

**Evaluation & Review Phase, Days 331 to 365 (11/30/2011 to 1/3/2012)**

Deliverables here entail planning for next year, reviewing Lessons Learned and completing content development and implementation.

Task	Duration	Organization	Deliverables	MVU Staff
Subdomain operating	34 D	DOS		
Lessons Learned Review	1 D	MVU + DOS	All	Project Manager
Planning for next year	15 D	MVU + DOS	All	Project Manager
Ongoing reporting	3 D	MVU	All	Project Manager
Performance Review Mtg 12	1 D	MVU + DOS	All	Project Manager
4th Quarterly Meeting	1 D	MVU + DOS	Deliverable 6 + All	Project Manager
Additional Meetings	1 D	MVU + DOS	Deliverable 7	Project Manager
Ongoing maintenance	34 D	MVU	Deliverable 8, 11	Technical Lead

**Item 1.d. – Department Labor, Hardware, Materials and Supplies**

The Department should be prepared to attend meetings and provide information to Michigan Virtual University in a timely manner. A subdomain administrator will be needed by the Department to operate, support and report on activity in the subdomain. Graphics from the Department in required formats and sizes will be needed to enable the Technical Lead to apply them to the branded subdomain. Because the Department already owns Lectora, no other materials, hardware or supplies are believed to be required.

**Project Control**

1. The Contractor will carry out this project under the direction and control of MDOS, Bureau of Elections.
2. Within 15 working days of the Contract start date, the Contractor will submit to the State project manager(s) for final approval of the project plan. This project plan must be in agreement with Article 1, Section 1.104 Work and Deliverables, and must include the following:
  - The Contractor’s project organizational structure.
  - The Contractor’s staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
  - The project work breakdown structure (WBS) showing sub-projects, activities and tasks, and resources required and allocated to each.
  - The time-phased plan in the form of a graphic display, showing each event, task, and decision point in the WBS.
3. The Contractor will manage the project in accordance with the State Unified Information Technology Environment (SUITE) methodology, which includes standards for project management, systems engineering, and associated forms and templates which is available at <http://www.michigan.gov/suite>
  - a. Contractor will use an automated tool for planning, monitoring, and tracking the Contract’s progress and the level of effort of any Contractor personnel spent performing Services under the Contract. The tool shall have the capability to produce:
    - Staffing tables with names of personnel assigned to Contract tasks.
    - Project plans showing tasks, subtasks, deliverables, and the resources required and allocated to each (including detailed plans for all Services to be performed within the next 30 calendar days, updated semi-monthly).
    - Updates must include actual time spent on each task and a revised estimate to complete.
    - Graphs showing critical events, dependencies and decision points during the course of the Contract.
  - b. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State standards.



Michigan Virtual University understands the need for the submission of a final project plan and will submit it to the State Project Managers in 15 working days per the requirements.

The contractor shall carry out the terms of the contract under the direction and control of the Michigan Department of State Personnel identified as the Contract Compliance Inspector in Section 2.022.

- A. Although there will be continuous liaison with the Contractor team, the Contract Compliance Inspector will meet every two weeks, or as required, with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.
- B. The Contractor will submit brief written **monthly** summaries of progress which 1) outlines the work accomplished during the reporting period; 2) outlines work to be accomplished during the subsequent reporting period; 3) lists problems, real or anticipated, which should be brought to the attention of the Department of State's project director and 4) notifies the State of any significant deviation from previously agreed-upon work plans until the project is completely rolled out and the State is functioning independently.
- C. The Contractor's Project Manager shall provide weekly written updates to the Contract Compliance Inspector, in a mutually agreed upon format, on the status of contract deliverables throughout the first 120 days and/or completion of the SOS Branded Domain beginning with the awarding of the contract.
- D. The Contractor's Project Manager shall provide quarterly project summaries evaluating the status of the deliverables and the project goals. These summaries will be reviewed in a meeting with the Department's staff.
- E. The Contractor's Project Manager shall meet with designated Department staff on a bi-annual basis to explore technical advancements and the possible acquisition and implementation of new Web-based authoring or supporting products as enhancements to existing tools and products.
- F. The contractor, Contractor Project Manager and project team shall participate in additional meetings with designated Department staff as may be required at the discretion of the Department.
- G. Within fifteen days following execution of the contract, the qualified Contractor will submit a work plan to the Department of State Contract Compliance Inspector for final approval. The final plan shall include the following:
  1. The Contractor's organizational structure for this project.
  2. The Contractor's project plan for rollout of the LMS system. This will minimally include the following:
    - a. Timeline for implementation of the LMS.
    - b. Timeline for Phase I training of LMS.
    - c. Timeline for Phase II training of LMS. (Ongoing training support following initial training of LMS.)
    - d. Timeline for updates and meetings for Year 1 of the contract.
  3. The Contractor's staffing table with names and title of personnel assigned to the project as detailed in Section 1.031, Contractor Staff Roles and Responsibilities.

The Contractor understands the role of the Contract Compliance Inspector and will –

Submit brief written monthly progress summaries;

Submit a work plan to the State Contract Compliance Inspector for final approval within the first month following contract executing;

Follow the Departments' prescribed reporting and compliant resolution process; and

Provide Business Reports, as appropriate and available.



See above Preliminary Project Plan that includes elements specified in A. through G. above.

### **1.302 Reports**

The Contractor will need to provide updates regarding status on a regular basis. The Department would like the following reporting methods to assist in status updates.

- A. The Contractor will submit brief written **monthly** summaries of progress which 1) outlines the work accomplished during the reporting period; 2) outlines work to be accomplished during the subsequent reporting period; 3) lists problems, real or anticipated, which should be brought to the attention of the Department of State's project director and 4) notifies the Department of any significant deviation from previously agreed-upon work plans until the project is completely rolled out and the Department is functioning independently.
- B. The Contractor's Project Manager shall provide weekly updates to the Contract Compliance Inspector, in a mutually agreed upon format, on the status of contract deliverables throughout the first 120 days and/or completion of the SOS Branded Domain beginning with the awarding of the contract.

See above Preliminary Project Plan that include elements specified in A and B above.

### **Reporting and Complaint Resolution**

The Contractor's Project Manager shall inform the Department of State's Contract Compliance Inspector on a per occurrence basis of any hardware or software system error occurrences that will affect the function of the SOS LMS domain. All such errors shall be fully analyzed and documented as to their cause, effect and remedy. Please outline in detail the reporting and resolution process.

As has been our track record with the Department, Michigan Virtual University will make every effort to address the rare system error in a responsive, timely matter, specifically within a short number of hours when warranted and possible, that meets the Department's needs. However, because all issues are different and their nature cannot be anticipated or understood in advance, we cannot identify one criterion that will apply to all situations.

Substantive errors will be documented including their resolution and reported to the Department as part of the ongoing reporting processes.

### **Telephone Support**

The Contractor shall provide and maintain a user help desk staffed by qualified personnel familiar with the existing LMS, SOS sub-domain, server, and associated infrastructure. The help desk will be open during normal business hours and, at a minimum, shall be available to accept and respond to support calls Monday through Friday, from 8:00 a.m. to 5:00 p.m. EST.

Michigan Virtual University offers a help desk staffed by trained service providers. The toll-free number for the Help Desk is 888.889.2840. Email help is also available at [mivuhelp@mivu.org](mailto:mivuhelp@mivu.org).

The hours of operation appear below. No extended hours beyond our standard hours cited below will be available. Emergencies and contingencies like the ones noted above will be handled on a case-by-case basis by project personnel, per discussions and planning with the Department.

Monday through Friday, 7 a.m. to Midnight

Sunday: 5 p.m. to 9 p.m.

Saturday: No service

Users who contact the Help Desk during closed hours have their voice message logged and whereupon it will be responded to during the next scheduled hours.

## **1.400 Project Management**

### **1.401 Issue Management**

*Reporting Issues/Problems and the Escalation*



Contractors must provide a document outlining steps and processes to accomplish the reporting of issues regarding the following items at a minimum.

1. To escalate problems reported to the help desk to senior technical/engineering staff as necessary, and then to higher management and/or senior management to ensure timely resolution.

Problem reports will originate at the help desk. Issues needing escalation are immediately reported to the Technical Lead/Michigan LearnPort LMS Administrator. A timely response varies widely depending on the nature of the problem reported. Based on ongoing help desk reporting, the vast majority of reports are resolved in less than one day.

2. To immediately notify the Department of system problems reported by the SOS user community or by LMS customers at other locations which may impact the SOS sub-domain and or deliverables. In addition, the contractor will provide daily updates on the status of the reported problems and the timelines established to bring about the correction of such problems.

As has been our track record with the Department, Michigan Virtual University will make every effort to address all errors in a responsive, timely matter, specifically within a short number of hours when warranted and possible, that meets the Department's needs. However, because all issues are different and their nature cannot be anticipated or understood in advance, we cannot identify one criterion that will apply to all situations.

All updating will be handled through routine reporting channels. In almost all instances, daily reporting is unnecessary and impracticable.

3. To notify the Department within 1 month of planned outages scheduled maintenance interrupting access to sub-domain during peak times, 1 week during non-peak times.

This information is always available on the main login page of Michigan LearnPort and scheduled well in advance and at times that typically do not impact peak activity times.

4. To notify the Department of any material errors or defects in the deliverables known, or made known to the contractor from any source during the term of the contract that has or will disrupt access to and or corrupt data/files within the SOS sub-domain and shall immediately initiate corrective action.

As has been our track record with the Department, Michigan Virtual University will make every effort to alert the Department of errors or defects that could affect the operation of the Department's subdomain when we are aware of that possibility. However, there is no way for any service provider to know for certain what issues may or may not impact service delivery in advance. Moreover, in some instances corrective action may not be undertaken due to the imposition of costs or concurrent negative impacts on the elements of the LMS. We will endeavor to keep the Department abreast of any issue that represents a risk to the success of this collaborative project.

An issue is an identified event that if not addressed may affect schedule, scope, quality, or budget.

The Contractor shall maintain an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State's Project Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resources assigned responsibility for resolution



- Resolution date
- Resolution description

Issues shall be escalated for resolution from level 1 through level 3, as defined below:

- Level 1 – Business leads
- Level 2 – Project Managers
- Level 3 – Executive Subject Matter Experts (SME's)

Michigan Virtual University will maintain an issue log containing the elements above and report on their status as part of routine reporting channels. The escalation levels will be

- Level 1 – Help Desk/User Community/Department
- Level 2 – Technical Lead
- Level 3 – Project Manager

#### **1.402 Risk Management**

A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the project.

The Contractor is responsible for establishing a risk management plan and process, including the identification and recording of risk items, prioritization of risks, definition of mitigation strategies, monitoring of risk items, and periodic risk assessment reviews with the State.

A risk management plan format shall be submitted to the State for approval within twenty (20) business days after the effective date of this contract. The risk management plan will be developed during the initial planning phase of the project, and be in accordance with the State's PMM methodology. Once both parties have agreed to the format of the plan, it shall become the standard to follow for the duration of the contract. The plan must be updated bi-weekly, or as agreed upon.

The Contractor shall provide the tool to track risks. The Contractor will work with the State and allow input into the prioritization of risks.

The Contractor is responsible for identification of risks for each phase of the project. Mitigating and/or eliminating assigned risks will be the responsibility of the Contractor. The State will assume the same responsibility for risks assigned to them.

Michigan Virtual University will maintain a risk log containing the elements above and report on their status as part of routine reporting channels.

#### **1.403 Change Management**

Change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract.

If a proposed contract change is approved by the Agency, the Contract Administrator will submit a request for change to the Department of Management and Budget, Purchasing Operations Buyer, who will make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request. If the DMB Purchasing Operations Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Purchasing Operations Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Contractors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.**

The Contractor must employ change management procedures to handle such things as "out-of-scope" requests or changing business needs of the State while the migration is underway.

The Contractor will employ the change control methodologies to justify changes in the processing environment, and to ensure those changes will not adversely affect performance or availability.



While changes are not anticipated in this project, *Michigan Virtual University* will use standard change control methodologies to manage changes to ensure those changes will not adversely affect the success outcome of this project.

### **1.500 Acceptance**

#### **1.501 Criteria**

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

The Department of State will work with the Contractor to confirm that all deliverables have been completed in accordance with agreed upon plans and contractual terms.

#### **1.502 Final Acceptance**

The Department of State will work with the Contractor to confirm that all deliverables have been completed in accordance with agreed upon plans and contractual terms.

### **1.600 Compensation and Payment**

#### **1.601 Compensation and Payment**

##### **Proposal Pricing**

For authorized Services and Price List, see Attachment A.

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

**Price Term: Prices quoted are firm for the entire length of the contract.**

##### **Tax Excluded from Price**

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

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

##### **Method of Payment**

Except for Year 1, payment on this contract will be made on an annual basis. In Year 1, there will be two payments: the first 50% payment will be made within 60 days of the contract start date (early March, 2011), to coincide with the launch of the MDOS-branded sub-domain (i.e., availability of sub-domain to MDOS). The remaining 50% will be paid within 180 days of the contract start date (early July, 2011). In subsequent years, the annual payment will be made in early March. Payments will be made within 30 days upon receipt of invoice from MVU.

##### **Travel**

The State will not pay for any travel expenses, including hotel, mileage, meals, parking, etc. Travel time will not be reimbursed.

If Contractor reduces its prices for any of the software or services during the term of this Contract, the State shall have the immediate benefit of such lower prices for new purchases. Contractor shall send notice to the State's MDIT Contract Administrator with the reduced prices within fifteen (15) Business Days [or other appropriate time period] of the reduction taking effect.



### Statements of Work and Issuance of Purchase Orders

- Unless otherwise agreed by the parties, each Statement of Work will include:
  1. Background
  2. Project Objective
  3. Scope of Work
  4. Deliverables
  5. Acceptance Criteria
  6. Project Control and Reports
  7. Specific Department Standards
  8. Payment Schedule
  9. Travel and Expenses
  10. Project Contacts
  11. Agency Responsibilities and Assumptions
  12. Location of Where the Work is to be performed
  13. Expected Contractor Work Hours and Conditions
  
- The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract. Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.

### Invoicing

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

- Contract number;
- Purchase Order number
- Contractor name, address, phone number, and Federal Tax Identification Number;
- Description of milestones completed as identified in Attachment A;
- Date(s) of delivery and/or date(s) of installation and set up;
- Total invoice price; and
- Payment terms, including any available prompt payment discount.

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

### 1.602 Holdback

Deleted – Not Applicable

### 1.070 Additional Requirements

Reserved



## **Article 2, Terms and Conditions**

### **2.000 Contract Structure and Term**

#### **2.001 Contract Term**

The Contract is for a period of 3 years with 2- one year options beginning **January 3, 2011 through January 2, 2014**. All outstanding Purchase Orders must also expire upon the termination (cancellation 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, will remain in effect for the balance of the fiscal year for which they were issued.

#### **2.002 Options to Renew**

The 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 2 additional 1 year periods.

#### **2.003 Legal Effect**

Contractor shall show acceptance of this Contract by signing two copies of the Contract and returning them to the Contract Administrator. 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 assumes no liability for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against 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 will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order 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 will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of the Contract, which may be modified or amended only by a formal Contract amendment.



## **2.007 Headings**

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

## **2.008 Form, Function & Utility**

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

## **2.009 Reformation and Severability**

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

### **2.010 Consents and Approvals**

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

## **2.011 No Waiver of Default**

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

## **2.012 Survival**

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

### **2.020 Contract Administration**

## **2.021 Issuing Office**

This Contract is issued by the Department of Management and Budget, Purchasing Operations and Department of State, Bureau of Elections (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:

Laura Gyorkos  
Buyer Specialist  
Purchasing Operations  
Department of Management and Budget  
Mason Bldg, 2nd Floor  
PO Box 30026  
Lansing, MI 48909  
[GyorkosL@michigan.gov](mailto:GyorkosL@michigan.gov)  
517.373.1455

## **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:

**Susan Holland, Department Analyst**

Department of State  
Bureau of Elections  
430 W. Allegan St., 1<sup>st</sup> Floor  
Lansing, MI 48918  
Phone: (517) 241-3837  
Email: hollands3@michigan.gov

**2.023 Project Manager**

Deleted – Not Applicable

**2.024 Change Requests**

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

If the 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, and before commencing performance of the requested activities, that it believes the requested activities 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, not New Work.

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the Statements of Work, then before performing such services or providing such deliverables, the Contractor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Contractor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section.

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

(1) **Change Request at State Request**

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

**2.025 Notices**

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

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

Contractor:  
 Kirby Milton  
 VP Operations  
 MVU Contracting Officer  
 Single Point of Contact  
 Michigan Virtual University  
 3101 Technology Blvd., Suite G  
 Lansing, MI 48910  
 Phone: 517.324.5350  
 Fax: 517.336.7787  
 Email: [kmilton@mivu.org](mailto:kmilton@mivu.org)

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 written notice.



## **2.027 Relationship of the Parties**

The relationship between the State and Contractor is that of client and independent contractor. No agent, employee, or servant of Contractor or any of its Subcontractors must be or must be deemed to be an employee, agent or servant of the State for any reason. Contractor will 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 must act reasonably and in good faith. Unless stated otherwise in the Contract, the parties will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

## **2.029 Assignments**

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

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

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

## **2.030 General Provisions**

### **2.031 Media Releases**

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

### **2.032 Contract Distribution**

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

### **2.033 Permits**

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

### **2.034 Website Incorporation**

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



### **2.035 Future Bidding Preclusion**

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

### **2.036 Freedom of Information**

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 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 will 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 must show verification of measurable progress at the time of requesting progress payments.

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

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties 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**

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

### **2.044 Invoicing and Payment – In General**

- (a) Each Statement of Work issued under this Contract 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 will 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 will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.
- (c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.
- (d1) All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department



of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

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

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

#### **2.045 Pro-ration**

To the extent there are any 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 will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract 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 will be made by electronic fund transfer (EFT).

### **2.050 Taxes**

#### **2.051 Employment Taxes**

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

#### **2.052 Sales and Use Taxes**

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



## **2.060 Contract Management**

### **2.061 Contractor Personnel Qualifications**

All persons assigned by Contractor to the performance of Services under this Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and must be fully qualified to perform the work assigned to them. Contractor must include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of 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 will 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 will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.
- (d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.
- (e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 business days before redeploying non-Key Personnel, who are dedicated to primarily to the Project, to other projects. If the State does not object to the redeployment by its scheduled date, the Contractor may then redeploy the non-Key Personnel.

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

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



#### **2.064 Contractor Personnel Location**

All staff assigned by Contractor to work on the Contract will perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel will, 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 will 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 will not interfere or jeopardize the safety or operation of the systems or facilities. The State acknowledges that Contractor's time schedule for the Contract is very specific and 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 will 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 will provide the Services/Deliverables directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor will 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 must 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 will consider Contractor to be the sole point of contact with regard to all contractual matters under this Contract, including payment of any and all charges for Services and Deliverables.

##### **2.072 State Consent to delegation**

Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Purchasing Operations has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any



Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted for a time agreed upon by the parties.

### **2.073 Subcontractor bound to Contract**

In any subcontracts entered into by Contractor for the performance of the Services, Contractor 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 will 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 will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. A list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract is attached.

### **2.074 Flow Down**

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

### **2.075 Competitive Selection**

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

## **2.080 State Responsibilities**

### **2.081 Equipment**

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

### **2.082 Facilities**

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



## **2.090 Security**

### **2.091 Background Checks**

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

All Contractor personnel will 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 will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will 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 will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by 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 – Not Applicable

## **2.100 Confidentiality**

### **2.101 Confidentiality**

Contractor and the State each acknowledge that the other possesses and will continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor must mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below), which is marked confidential, restricted, proprietary, or with a similar designation. "Confidential Information" of the State must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under 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 will each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party will 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 will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

### **2.104 No Implied Rights**

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

### **2.105 Respective Obligations**

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

## **2.110 Records and Inspections**

### **2.111 Inspection of Work Performed**

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

### **2.112 Examination of Records**

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



### **2.113 Retention of Records**

Contractor must maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, 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 must be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

### **2.114 Audit Resolution**

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

### **2.115 Errors**

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

## **2.120 Warranties**

### **2.121 Warranties and Representations**

The Contractor represents and warrants:

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



otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

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

**2.122 Warranty of Merchantability**

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

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

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

**2.124 Warranty of Title**

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

**2.125 Equipment Warranty**

Deleted – Not Applicable



**2.126 Equipment to be New**

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

**2.127 Prohibited Products**

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against 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](http://www.michigan.gov/dleg).

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

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

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



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

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

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

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

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

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

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

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

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

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

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

**2.132 Subcontractor Insurance Coverage**

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the



coverage required in this Section. Subcontractor(s) must fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

### **2.133 Certificates of Insurance and Other Requirements**

Contractor must furnish to DMB Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **The Contract Number or the Purchase Order Number must be shown on the Certificate Of Insurance To Assure Correct Filing.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insured under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

## **2.140 Indemnification**

### **2.141 General Indemnification**

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

### **2.142 Code Indemnification**

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

### **2.143 Employee Indemnification**

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



## **2.144 Patent/Copyright Infringement Indemnification**

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

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

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

## **2.145 Continuation of Indemnification Obligations**

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

## **2.146 Indemnification Procedures**

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

- (a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.
- (b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain



control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

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

### **2.150 Termination/Cancellation**

#### **2.151 Notice and Right to Cure**

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

#### **2.152 Termination for Cause**

- (a) The State may terminate this contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State
- (b) If this Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources limited to the remaining contract value,. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under this Contract
- (c) If the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.
- (d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

#### **2.153 Termination for Convenience**

The State may terminate this Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in 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 cause must cease on the effective date of the termination.

#### **2.154 Termination for Non-Appropriation**

- (a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under 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 the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.
- (c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

#### **2.155 Termination for Criminal Conviction**

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

#### **2.156 Termination for Approvals Rescinded**

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

#### **2.157 Rights and Obligations upon Termination**

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



at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under this Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

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

### **2.158 Reservation of Rights**

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

### **2.160 Termination by Contractor**

#### **2.161 Termination by Contractor**

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

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

### **2.170 Transition Responsibilities**

#### **2.171 Contractor Transition Responsibilities**

Reserved.

#### **2.172 Contractor Personnel Transition**

Reserved.

#### **2.173 Contractor Information Transition**

Reserved

#### **2.174 Contractor Software Transition**

Reserved

#### **2.175 Transition Payments**

Reserved

#### **2.176 State Transition Responsibilities**

Reserved

### **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 2.150**. 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 2.130**.

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

The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract must be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of 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 must be deemed to be a termination for convenience under **Section 2.153**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this Section.

## **2.190 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 must be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting 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 in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(2) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will 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 will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.



(4) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under Section 2.193.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

### **2.193 Injunctive Relief**

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

### **2.194 Continued Performance**

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

## **2.200 Federal and State Contract Requirements**

### **2.201 Nondiscrimination**

In the performance of 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 must not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of 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 must comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor must comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see <http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html>.

### **2.204 Prevailing Wage**

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this Contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the



Michigan Department of Labor and Economic Development, Wage and Hour Bureau, schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

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

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

### **2.210 Governing Law**

#### **2.211 Governing Law**

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

#### **2.212 Compliance with Laws**

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

### **2.220 Limitation of Liability**

#### **2.221 Limitation of Liability**

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of 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.

### **2.230 Disclosure Responsibilities**

#### **2.231 Disclosure of Litigation**

Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or



any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements 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 will 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 must make the following notifications in writing:
  - (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DMB Purchasing Operations.
  - (2) Contractor must also notify DMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
  - (3) Contractor must also notify DMB Purchase Operations within 30 days whenever changes to company affiliations occur.

### **2.232 Call Center Disclosure**

**Deleted – Not Applicable**

### **2.233 Bankruptcy**

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

- (a) the Contractor files for protection under the bankruptcy laws;
- (b) an involuntary petition is filed against the Contractor and not removed within 30 days;
- (c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;
- (d) the Contractor makes a general assignment for the benefit of creditors; or
- (e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under 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 must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

### **2.240 Performance**

#### **2.241 Time of Performance**

- (a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.



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

#### **2.242 Service Level Agreement (SLA)**

- (a) SLAs will be completed with the following operational considerations:
  - (1) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
  - (2) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
  - (3) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.
  - (4) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:
    - (i) Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
    - (ii) Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.
- (b) Chronic Failure for any Service(s) will be defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service will not affect any tiered pricing levels.
- (c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.
- (d) All decimals must be rounded to two decimal places with five and greater rounding up and four and less rounding down unless otherwise specified.

#### **2.243 Liquidated Damages**

Deleted – Not Applicable

#### **2.244 Excusable Failure**

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



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

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

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

### **2.250 Approval of Deliverables**

#### **2.251 Delivery of Deliverables**

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

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

#### **2.252 Contractor System Testing**

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



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

### **2.253 Approval of Deliverables, In General**

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

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

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

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

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

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

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



## **2.254 Process for Approval of Written Deliverables**

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

## **Process for Approval of Custom Software Deliverables**

Reserved

## **2.256 Final Acceptance**

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

## **2.260 Ownership**

### **2.261 Ownership of Work Product by State**

The State owns all United States and international copyrights, trademarks, patents or other proprietary rights for all course content uploaded to the LMS. .

### **2.262 Vesting of Rights**

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

### **2.263 Rights in Data**

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



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

#### **2.264 Ownership of Materials**

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

#### **2.270 State Standards**

##### **2.271 Existing Technology Standards**

Reserved

##### **2.272 Acceptable Use Policy**

Reserved

##### **2.273 Systems Changes**

Reserved

#### **2.280 Extended Purchasing**

##### **2.281 MiDEAL**

Deleted – Not Applicable

##### **2.282 State Employee Purchases**

Deleted – Not Applicable

#### **2.290 Environmental Provision**

##### **2.291 Environmental Provision**

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

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



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

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

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

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

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

### **2.300 Deliverables**

#### **2.301 Software**

Reserved

**2.302 Hardware**

Reserved

**2.303 Equipment to be New**

Reserved

**2.304 Equipment to be New and Prohibited Products**

Reserved

**2.310 Software Warranties****2.311 Performance Warranty**

Reserved

**2.312 No Surreptitious Code Warranty**

Reserved

**2.313 Calendar Warranty**

Reserved

**2.314 Third-party Software Warranty**

Reserved

**2.315 Physical Media Warranty**

Reserved

**2.320 Software Licensing****2.321 Cross-License, Deliverables Only, License to Contractor**

Reserved

**2.322 Cross-License, Deliverables and Derivative Work, License to Contractor**

Reserved

**2.323 License Back to the State**

Reserved

**2.324 License Retained by Contractor**

Reserved

**2.325 Pre-existing Materials for Custom Software Deliverables**

Reserved

**2.330 Source Code Escrow****2.331 Definition**

Reserved

**2.332 Delivery of Source Code into Escrow**

Reserved

**2.333 Delivery of New Source Code into Escrow**

Reserved

**2.334 Verification**

Reserved

**2.335 Escrow Fees**

Reserved



**2.336 Release Events**

Reserved

**2.337 Release Event Procedures**

Reserved

**2.338 License**

Reserved

**2.339 Derivative Works**

Reserved

2.400 Other Provisions

**2.411 Forced Labor, Convict Labor, or Indentured Servitude Made Materials**

Bidder represents and certifies that, to the best of its knowledge and belief no foreign (outside of the U.S.) made equipment, materials, or supplies, will be furnished to the State under any resulting Contract, that have been produced in whole or in part by forced labor, convict labor, or indentured servitude.

\_\_\_\_\_ (Initial)

**2.421 Knowledge of Child Labor for Listed End Products**

- (a) "Forced or indentured child labor" means all work or service:
  - (i) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
  - (ii) Performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.
  
- (b) *Listed end products.* The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

Listed End Product	Listed Country of Origin

(c) *Certification.* The State will not make award to a Bidder unless the Bidder, by checking the appropriate block, certifies to one of the following:

- ( ) The Bidder will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.
  
- ( ) The Bidder may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The Bidder certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture the end product. On the basis of those efforts, the Bidder certifies that it is not aware of any the use of child labor.

\_\_\_\_\_ (Initial)



**Attachment A, Price Proposal**

YEAR	DESCRIPTION OF WORK	ASSOCIATED COST
1	<p><b><u>START UP</u></b></p> <p><b><u>Deliverable 1:</u></b> To provide a hosted LMS system (meeting minimum requirements outlined in Section 1.101(B)) accessible by the department within 60 days of the contract start date.</p> <p><b><u>Deliverable 2:</u></b> To train Department on how to post a course to the LMS and SOS Branded Sub Domain.</p> <p><b><u>Deliverable 3:</u></b> To implement a SOS branded sub-domain of an existing LMS within 60 days of the contract start date.</p> <p><b><u>Deliverable 4:</u></b> To launch the sub domain no later than 120 days from the contract start date.</p> <p><b><u>Deliverable 5:</u></b> To provide and maintain a user help desk staffed by qualified personnel familiar with the existing LMS, SOS sub-domain, server, and associated infrastructure.</p> <p><b><u>Deliverable 6:</u></b> To meet with designated Department staff on a quarterly basis to evaluate the status of project goals.</p> <p><b><u>Deliverable 7:</u></b> To participate in additional meetings as may be required at the discretion of the Department.</p> <p><b><u>Deliverable 8:</u></b> To maintain LMS system in working order as required in the Specific Requirements Article 1.101 B.</p> <p><b><u>Deliverable 9:</u></b> To provide training documents within 60 days from the contract start date.</p> <p><b><u>Deliverable 10:</u></b> To provide training manual documentation on the LMS.</p> <p><b><u>Deliverable 11:</u></b> To provide maintenance of LMS system and server.</p>	<p>\$ <u>24,999</u></p> <p><i>Price above shall include all deliverables listed Article I; 1.104 "Work and Deliverable"</i></p>



**Attachment A, Price Proposal**

YEAR	DESCRIPTION OF WORK	ASSOCIATED COST
2	<p><b>MAINTENANCE</b></p> <p><b>Deliverable 11:</b> To provide maintenance of LMS system and server.</p> <p>(As defined in Article I; 1.104 "Work and Deliverable" )</p>	+ \$ <u>24,999</u>
3	<p><b>MAINTENANCE</b></p> <p><b>Deliverable 11:</b> To provide maintenance of LMS system and server.</p> <p>(As defined in Article I; 1.104 "Work and Deliverable" )</p>	+ \$ <u>24,999</u>
<b>TOTAL CONTRACT COST</b>		<b>= \$ <u>74,997</u></b>

If option years are exercised:

YEAR	DESCRIPTION OF WORK	ASSOCIATED COST
4	<p><b>MAINTENANCE</b></p> <p><b>Deliverable 11:</b> To provide maintenance of LMS system and server.</p> <p>(As defined in Article I; 1.104 "Work and Deliverable" )</p>	\$ <u>24,999</u>
5	<p><b>MAINTENANCE</b></p> <p><b>Deliverable 11:</b> To provide maintenance of LMS system and server.</p> <p>(As defined in Article I; 1.104 "Work and Deliverable" )</p>	\$ <u>24,999</u>

If additional training is requested by the State in addition to the requirements listed in Article 1, 1.104 "Work and Deliverable", please indicate additional associated cost below:

PER HOUR	DESCRIPTION OF WORK	ASSOCIATED COST
1	TRAINING (Provide additional training as needed by the Department)	\$ <u>100</u> per hour



**Attachment A, Price Proposal**

If services are requested by the State as listed in Article 1, 1.104 “Work and Deliverable #12”, please indicate additional associated cost below:

PER HOUR	DESCRIPTION OF WORK	ASSOCIATED COST
1	MATERIAL COORDINATION (Provide course material coordination services as need by the Department)	\$ <u>150</u> per hour

If the contract is awarded, *Michigan Virtual University* will prepare and present 3 annual invoices of \$24,999 each on the anniversary of the contract award. Additional approved work outside of the LMS delivery will be invoiced on a quarterly basis.

As a nonprofit organization, *Michigan Virtual University* is not able to offer any additional discounts for early payment because proposal pricing offered to the Department already incorporates significant and substantial discounting.