



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

CONTRACT CHANGE NOTICE

Change Notice Number **3**

to

Contract Number **071B1300386**

CONTRACTOR	QED Financial Systems INC
	10,000 Sagamore Drive, Suite 10201
	Marlton, NJ 08053
	Carl Fischer
	856-797-1200
	fischer@qedfs.com
*****1482	

STATE	Program Manager	David Conarton	DTMB-IT
		517-335-3697	
		conartond@michigan.gov	
	Contract Administrator	Jarrod Barron	DTMB
		(517) 284-7045	
		BarronJ1@michigan.gov	

CONTRACT SUMMARY				
Q2 INVESTMENT ACCOUNTING & PORTFOLIO MGT				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
August 18, 2011	September 14, 2014	2 - 1 Year	September 17, 2017	
PAYMENT TERMS		DELIVERY TIMEFRAME		
		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	September 17, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,213,126.94	\$111,500.00	\$2,324,626.94		

DESCRIPTION

Effective September 6, 2016, this Contract is increased by \$111,500.00 to fund the SIGMA interface work outlined in the attached Statement of Work (SOW). All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement, DTMB Procurement approval and State Administrative Board approval on August 18, 2015.

Remaining Ad Board approved funds for SIGMA Interface work: \$38,500.00

FOR THE CONTRACTOR:

QED INFORMATION SYSTEMS INC

Company Name

Authorized Agent Signature

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Signature

William Pemble, IT Division Director

Name and Title

DTMB Procurement

Agency

Date

SIGMA Interface Statement of Work (SOW)

I. Background

The SIGMA system will impact all areas of State business operations, from payroll and purchasing, to payment of suppliers, disbursement of grant funding and processing of unemployment, financial aid and child support. The system must interface with each of the applications managing these process areas, as well as those utilized for payment processing and revenue generating applications. To successfully implement the required functionality and realize projected efficiencies of SIGMA, the interfaces must be in established, tested and fully implemented. The State does not have resources with the necessary technical ability and bandwidth to accomplish the transition independently. Thus contract change notices will be processed for those interfaces which can be managed through existing contracts and staff augmentation resources will be obtained through bids completed under the pre-qualification program.

II. Environment / IT Standards

III. Project Objective

Successfully design and implement necessary interfaces between existing systems and SIGMA for continued and improved operations and business processes throughout the state.

IV. Scope of Work

The State of Michigan is implementing a new statewide accounting system (SIGMA) to replace their current accounting system (MAIN). Currently, MISTO BOI uses Q2 to generate a G/L extract (a text file of investment accounting transactions) that is submitted to the current system (MAIN) for upload to Michigan's State G/L system via the State's secure FTP (SFTP) site.

The purpose of this project is to map Q2's G/L transaction-level data to the SIGMA defined JVIN9 format, enabling the XML formatted extract to be uploaded to SIGMA. The extract shall be delivered to a location to be specified by BOI, who will validate the extract and submit for upload to SIGMA.

- One (1) G/L Extract
- One (1) report based on MISTO BOI's received and approved specifications
- Neither the extract nor the report will be available for UAT prior to September 30, 2016
- QED shall require that MISTO BOI provide and approve the following deliverables within 5 days from the issuance of the purchase order. If any of the following deliverables are not received, the project timeline will need to be re-evaluated and potentially modified
 - G/L Chart of Accounts
 - Mappings of Q2 G/L transactions to the Michigan G/L accounts by asset class
 - Definition of G/L journal entry rule set
- Training it out of scope with this request. If assistance is needed beyond the scope identified, a Change Request will be issued at the rates identified in the pricing sheet below.
- Core Software Bugs identified that fall within the scope of the project shall be corrected during the testing phases of the project (i.e. End to End or User

Acceptance), at no additional charge

- If defects are determined to be out of scope with this request, a Change Request will be issued at the rates indicated in the pricing sheet to fix out of scope defects.
- Additional reporting requirements shall require a separate proposal
- Weekly written status reports will be sent to the MISTO BOI leadership and the Treasury SIGMA project manager

MISTO BOI shall provide quality and accurate data, templates, specification documents and other information as deemed necessary to allow QED to properly perform the Services to be provided under this Statement of Work (SOW). Any additional services or rework required by QED that might result in delays, due to inaccurate, incomplete, delayed or poor quality data, templates, specification documents or other information as requested by QED will be considered out of scope of the Services described herein and may be subject to additional fees on a time and materials basis based on QED's current prevailing rates.

Project Plan Tasks and Timelines

Upon mutual agreement and signoff of this proposal, QED shall complete a detailed Project Plan. QED has been informed of the SIGMA timeline and target dates listed below.

- QED will assign a Business Analyst to begin Requirement Review 5 days from the issuance of the purchase order
- Design Document sent to the State of Michigan – *(Signed PO + 30days)
- Code and Unit Test completion – 60 days from the date of a signed PO and MISTO BOI's delivery of all data, templates and specification documents required by QED in a complete and accurate condition.
- Schema Validation Completion –15 business days from Completion of Code and Unit Test
- End to End Test with SIGMA – BOI/Q2 will enter into testing with SIGMA the first cycle available after Schema Validation is complete
- Support End to End Test – November 2016 – February 2017
- Support User Acceptance Test – February 2017 – August 2017

a. Deliverables

List specific interface(s) to be covered by this change request (provide task detail in table below):

Interface financial transactions for Bureau of Investments (BOI) by vendor QED (071B1300386)

- b. Acceptance Criteria – List in **Requirements column** for Milestone Acceptance & Signoff row, and identify those authorized to signoff in **Acceptance/Signoff Column**.
- c. Cost/Price Model – List in table, **Hours, Rate, Total and Total Payment** Columns.
- b. Project Contacts – Should all be listed on iTRAC, either in contact fields, description fields or on an attached document.
- c. Agency Responsibilities and Assumptions – Identify in **State Staff and Roles** columns.
- d. Contractor Staff – Numbers, **roles, anticipated hours, and duration by task and total** columns below.

V. Terms and Conditions

Were agreed upon in the signed Contract or issued PO, they are not modified with every change notice. There should be no terms and conditions attached to the Change requests in iTRAC, only this SOW document with a completed and approved iTRAC request.

Project Plan:

Tasks & Deliverables	Requirements	Anticipated Completion Date	State Staff	State Staff Hours	Contractor Staff	Role	Hours	Rate	Total	Acceptance / Signoff	Total Payment
Project Management	<ul style="list-style-type: none"> Weekly Status Reports Weekly Status Meetings Internal Weekly Meetings Project Communication & Time Management 	Through Project Completion				Project Manager for Vendor	60	\$400/Hr	\$24,000	<ul style="list-style-type: none"> Weekly Written Status Reports Bi-Weekly Conference Status Calls 	\$24,000
Milestone 1 – Design and Business Requirements		October 28, 2016								Business Design Document signed by BOI Business Owner and SIGMA Agency Implementation Lead (AIL)	
<ul style="list-style-type: none"> Analyze business requirements and define project scope 	<ul style="list-style-type: none"> Meet with business owner to gather requirements 					Business Analyst	25	\$440/Hr	\$10,000		\$11,000
<ul style="list-style-type: none"> Preparation of design documents for development 	<ul style="list-style-type: none"> Business Requirements Document 					Business Analyst	10	\$440/Hr	\$4,000		\$4,400
<ul style="list-style-type: none"> Report specifications for MISTO reporting requirements 	<ul style="list-style-type: none"> Business Requirements Document 					Business Analyst	10	\$440/Hr	\$4,000		\$4,400

Tasks & Deliverables	Requirements	Anticipated Completion Date	State Staff	State Staff Hours	Contractor Staff	Role	Hours	Rate	Total	Acceptance / Signoff	Total Payment
Milestone 2 – Development		November 30, 2016								Sample File from unit testing. reviewed by BOI business owner and SIGMA Agency Implementation Lead (AIL)	
• Analysis of design Document	• Business Analyst reviews specifications with Developer					Developer	10	\$400/Hr	\$4,000		\$4,000
• Develop Statewide GL interface incorporating all mapping and coding rules specified by MISTO	• JVIN9 formatted XML file					Developer	60	\$400/Hr	\$24,000		\$24,000
• Develop Reports	• Required Reports					Developer	20	\$400/Hr	\$8,000		\$8,000
Milestone 3 – Testing		December 16, 2016								Sample File from unit testing validated through the SIGMA DataStage tool.	
• Business Analyst	• Record defects and report to MISTO					Business Analyst	15	\$440/Hr	\$6,600		\$6,600
• Developer	• Fix defects and report to MISTO					Developer	10	\$400/Hr	\$4,000		\$4,000
Test Environment Setup	• Create environment for delivery of the GL Extract • Environment Testing • Creation of test scripts	October 28, 2016				Technology Engineer	15	\$440/Hr	\$6,600	Sample File from unit testing validated through the SIGMA DataStage tool.	\$6,600
Defect Support Through E2E and UAT Testing	• Defect correction identified in End to End or User Acceptance Testing							\$0/Hr	No Additional Charge		No Additional Charge
Totals							*235 Not to		*\$97,000 Not to		*\$97,000 Not to

Additional Services Not Included in this SOW	Training						Exceed	\$400/hr	Exceed		Exceed
	Defect fixes outside the scope of this SOW							\$400/hr			

QED has

provided an estimate of 235 hours for this effort at a billing rate of \$400 to \$440 per hour. QED will invoice for actual hours at the actual resource rate but not to exceed \$400 to \$440 per hour or \$97,000 for the scope. If this projects exceeds the estimated hours and costs, and upon mutual agreement, the estimated hours can be modified via a formal Change Notice.

Prices are based on time and materials and fixed hourly rates for the resources provided. The projected totals are not to exceed rates.

If additional items are needed that are outside the scope of this request, a mutually agreed upon Change Request will be issued between the State of Michigan and QED at the rates identified above.

Tasks & Deliverables	Requirements	Anticipated Completion Date	State Staff	State Staff Hours	Contractor Staff	Role	Hours	Rate	Total	Acceptance / Signoff	Total Payment
Support/ Maintenance Q2 G/L Transaction Action File (Maintenance 15% of Non-Recurring Costs)	Fixing defects detected in SIGMA End to End and UAT test cycles					Business Analyst / Developer				As outlined in SOW	\$14,500

Annual maintenance charges for the Q2 G/L Transaction Extract File will be 15% of the actual costs of this project. The annual maintenance charges are currently estimated at \$14,500 based on the costs per the project plan above. This amount will be paid through 9/17/2017.

Maintenance charges will commence when the State of Michigan has reviewed, approved and provided QED written notification of acceptance of the in scope G/L Extract and one report for this statement of work. The State of Michigan will provide notification within 45 days of the G/L Extract and/or one report being used in a production capacity.

Definitions, Acronyms, and Abbreviations

- Michigan – State of Michigan
- MISTO – Michigan Department of Treasury
- BOI – Bureau of Investments

- QED – QED Financial Systems, Inc. (Broadridge Financial Solutions, Inc.)
- SIGMA – New Statewide Accounting System
- Q2 – QED Investment Accounting Platform
- G/L – General Ledger
- JVIN – New File Format
- UAT – User Acceptance Testing

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

CHANGE NOTICE NO. 2
 to
CONTRACT NO. 071B1300386
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
QED Financial Systems 10,000 Sagemore Drive, Suite 10201 Marlton, NJ 08053	Anthony Castile	castile@QEDFinancialSystems.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	(856) 797-1200	1482

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	David Conarton	(517) 335-3697	conartond@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Jarrod Barron	(517) 284-7045	barronj1@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Q2 Investment Accounting & Portfolio Mgt			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 18, 2011	September 17, 2014	(3) 1-Year Options	September 17, 2015
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	2 Years	<input type="checkbox"/>		September 17, 2017
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,630,872.10		\$582,254.84	\$2,213,126.94	

DESCRIPTION: Effective September 18, 2015, this Contract is exercising the two (2) remaining option years and is increased by \$582,254.84. This change requires a total of \$765,975.44; \$582,254.84 value added and \$183,720.60 remaining funds. Effective September 18, 2015, the following amendment is hereby incorporated into this Contract per attached Statement of Work. Please note the Contract Administrator has been changed to Jarrod Barron. All other terms, conditions, specifications, and pricing remain the same, per Contractor and Agency agreement, DTMB Procurement approval and State Administrative board approval on September 10, 2015.



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

Project Title: QED Financial Systems – (2) Option Years and Transfer Hosting to Vendor’s Servers	Period of Coverage: 09/18/2015 – 09/17/2017
Requesting Department: Department of Treasury	Date: 08/19/2015
Agency Project Manager: Kristen Robel	Phone: (517) 636-6815
DTMB Contract Administrator: Jarrod Barron	Phone: (517) 284-7045

Brief Description of Services to be provided:

QED Financial Systems currently hosts, maintains, and supports their QED-Q2 Software on State of Michigan servers. This change will take the hosting of this Software from SOM servers to the vendor’s servers. This change will be cost saving to the State of Michigan, given the anticipated need to purchase two Oracle UNIX Servers to continue hosting of this software internally. This change will also exercise the two (2) remaining option years and lock in pricing at a 6% increase from the State hosted alternative.

BACKGROUND:

The Michigan Department of Treasury, Bureau of Investments (BOI) is responsible for the investing activities of the State of Michigan Retirement Systems (SMRS), the general fund of the State, and various trust and agency funds such as the Lottery and Michigan Education Trust.

PROJECT OBJECTIVE:

The Department of Treasury requests moving the QED-Q2 Software from State of Michigan servers to the vendor’s servers for the remaining two (2) option years of this Contract.

SCOPE OF WORK/TASKS:

Implementation of the QED-Q2 Software on the vendor’s servers will require

- Upgrade to the most current version of the QED platform and testing/validating the conversion of data into the new software release.
- Provisioning of computing resources in QED’s datacenters for the production implementation of Treasurer’s Office’s QED platform.
- Conversion and staging of existing interfaces with the Treasurer’s Office’s investment business for continued operation from the QED datacenters.
- Quality assurance and parallel operation testing of the QED platform from QED’s datacenters.

Estimating based on the deployment process and understanding of the requirements for this effort, full functionality is expected two (2) months from acceptance.

DELIVERABLES:

Deliverables will not be considered complete until the Agency Project Manager has formally accepted them. Deliverables for this project include a fully operational system hosted in the vendor's cloud containing all the functionality currently existing in the State's hosted environment.

**ACCEPTANCE CRITERIA:
CONTINUOUS REQUIREMENTS**

- External and internal electronic communications, interfaces, system functionality, and reporting applications.
- General ledger interfaces with the Michigan Administrative Information Network (MAIN).
- Interface to Bloomberg, FactSet, Wilshire or other systems.
- Licensee and Company agree that additional interfaces with other systems, such as a Cash Management System, additional investment data vendors or service providers, etc. if required by Licensee and outside of the scope of this agreement, will not be a development deliverable within the time constraints of this Agreement.
- Position and transaction reconciliation interfaces to custodial bank.
- Support Depository Trust & Clearing Corporation (DTCC) interface.

MINIMUM SYSTEM ACCOUNTING FUNCTIONALITY

The system will provide functionality as listed below:

1. Pooled/unit fund accounting.
2. Accounting for equity swap derivatives.
3. Accounting for limited partnerships on the equity basis.
4. Cash management from transaction to pool levels.
5. Allow client to open and close accounting periods.
6. Recognize investment transactions on effective date and provide AIMR compliance performance measurement, while recognizing accounting transactions in current open period.
7. Account for investments using average cost.
8. Ability to support, on demand, AIMR compliant performance measurement.
9. Derivative strategies have input, accounting and reporting requirements unique to the State of Michigan Retirement Systems. The requirements are:
 - a. Linking the two or more individual security components that comprise specific lots/slices within each strategy;
 - b. Unique data elements to link, account and report for that investment type;
 - c. Potentially new transaction types unique to each strategy, and those used elsewhere in the system.
 - d. Development of customized screens to facilitate the data input, processing and reporting functions.
10. Accounting for complex international equity swaps, consisting of the following:
 - a. Purchase of a Long position in a Real LIBOR Floating Rate Note for Local and Quanto.
 - b. Purchase of Accrued Interest for Local and Quanto.
 - c. Interest Received/Paid on the Long LIBOR Floating Rate Note for Local and Quanto.
 - d. Interest Paid/Received on the Swap Agreements are attached to the Long LIBOR floating rate note for Local and Quanto
 - e. Opening of a Swap Agreement for Local and Quanto using Long Synthetic Futures Trading functionality.
 - f. Increase/decrease the notional amount on the Swap Agreement for Local and Quanto using Long Synthetic Futures Trading functionality.
 - g. Sale of a Long position in a Long LIBOR Floating Rate Note for Local and Quanto.
 - h. Record the gain/loss on the sale of the Long LIBOR Floating Rate Note for Local and Quanto.
 - i. Close of a Swap Agreement for Local and Quanto utilizing Long Synthetic Futures Trading functionality.
 - j. Record the gain/loss on the close of the Swap Agreement for Local and Quanto utilizing Long Synthetic Futures Trading functionality.
 - k. Linking all the above transactions for an International Equity Swap position for Local and Quanto.
 - l. Valuating the International Equity Swap position for Local and Quanto using client supplied prices.

International Equity Swap position transactions should be entered in a single integrated transaction process. Transaction defined fields would be used to enter the transactions. User define fields would not be used to enter the transactions.

11. Synthetic Equity Derivatives, consisting of the following:
 - a. Opening of Long Future contracts position.
 - b. Record the commission paid on the purchase of the Long Future contracts position.
 - c. The daily mark to market of the Long Future contracts.
 - d. Open additional contracts or close a portion of Long Future contracts before they mature.
 - e. Purchase of a Short Term Security.
 - f. Price the Short Term Security.
 - g. Close of the Long Future Contract position.
 - h. Linking all the above transactions for a Synthetic Equity Derivative position.
 - i. Valuating the Synthetic Equity Derivative position using client supplied prices.
Synthetic Equity Derivative transactions to be entered in a single integrated transaction process. Transaction defined fields would be used to enter the transactions. User defined fields would not be used to enter the transactions.
12. Synthetic Cash Derivative - contain one "Short" Futures position, a matching equity portfolio, and cash. The Futures position is designated as a Hedge against an equity portfolio. The accounting for a Synthetic Equity Derivative will consist of the following transactions:
 - a. Opening of a "Short" Future Contract position.
 - b. Purchase of a matching Equity portfolio.
 - c. Transfer of Cash.
 - d. Record the commission paid on the purchase of the Short Futures contracts position.
 - e. The daily mark to market of the Short Futures contracts.
 - f. Open additional contracts or close a portion of Short Futures contracts before they mature.
 - g. Close of the Short Futures Contract position.
 - h. Equity portfolio are transferred to portfolio corresponding to the investment strategy.
 - i. Transfers generate realized gain or loss.
 - j. Linking all the above transactions for a Synthetic Equity Derivative position.
 - k. Valuating the Synthetic Cash Derivative position-using client supplied prices.
Synthetic Cash Derivative transactions to be entered in a single integrated transaction process. Transaction defined fields would be used to enter the transactions. User define fields would not be used to enter the transactions.
13. Limited Partnership Customization Requirements: Two distinct types of transactions are required to account for limited partnership investments on the equity basis of accounting. These are transactions with cash offset and non-cash transactions.
These transaction types may consist of multiple debits or credits. Development of customized self-balancing screens or screens to facilitate the data collection and input, processing and reporting functions are needed. In addition, management, legal or consulting fees are paid to most limited partnerships. The establishment of unique transaction types would facilitate reporting for these activities.
 - a. Cash Adjustments for limited partnerships consist of the following transactions:
 - 1) The receipt of cash on all transactions.
 - 2) An increase to shares and cost/book value through capital contributions.
 - 3) A decrease of shares and cost/book value along with a realized gain/loss from a stock distribution.
 - 4) A decrease of shares and cost/book value through a return of capital.
 - 5) A decrease of shares and cost/book value through a return of capital along with income and/or realized gain.
 - 6) A decrease of shares and cost/book value through a return of capital along with negative income and/or realized gain.
 - 7) A decrease of shares and cost/book value through a return of capital along with negative income and/or realized loss.
 - 8) A decrease of shares and cost/book value through a return of capital along with income and/or realized loss.
 - 9) A return of income and/or realized gain without a decrease of shares and cost/book value.
 - 10) A return of income and/or realized loss without a decrease of shares and cost/book value.

- 11) A return of realized gain with negative income without a decrease to shares and cost/book value.
 - 12) A return of realized gain only without an increase to shares and cost/book value.
 - 13) A return of income only without an increase to shares and cost/book value.
- b. Non-cash basis adjustments for limited partnerships consist of the following transactions:
- 1). An increase to shares and cost/book value offset by income and/or realized gain.
 - 2). An increase to shares and cost/book value offset by income and realized loss.
 - 3). An increase to shares and cost/book value offset by negative income and realized gain.
 - 4). A decrease to shares and cost/book value offset by negative income and/or realized loss.
 - 5) A decrease to shares and cost/book value offset by negative income and realized gain.
 - 6) A decrease to shares and cost/book value offset by income and realized loss.
- c. Management fee transactions for limited partnerships consist of the following transactions:
- 1) Reduction in cash to record the management fee expense.
 - 2) A decrease of shares and cost/book value through return of capital along with management fee expense.
 - 3) A return of income and/or realized gain without a decrease of shares and cost/book value but with management fee expense.
 - 4) A decrease of shares and cost/book value through a return of capital and/or positive or negative income with or without realized gain or loss and management fee expense.
 - 5) An adjustment to reduce the management fee expense and repost the correct amount.
 - 6) An increase in cash through an adjustment to the management fee expense.

Implementation

The Contractor shall provide services to implement the application, including

Data conversion

Data migration (may include transition of business operations to the new application)

Configuration

Customization

Interfaces/Integration

Contractor must provide appropriate system interfaces/integration to the following applications:

Name of application: Bloomberg AIM Plus

Owner of application (if external to the agency)

Details of interface: FTP; Flat File (if determined by the other application)

Name of application: State Street

Owner of application (if external to the agency)

Details of interface: FTP; Flat File (if determined by the other application)

Name of application: FactSet

Owner of application (if external to the agency)

Details of interface: FTP; Flat File (if determined by the other application)

Testing (user, system)

System Security

On award of the contract, the Contractor shall comply with State and Federal statutory and regulatory requirements, and rules; National Institute of Standards and Technology (NIST) publications; Control Objectives for Information and Related Technology (COBIT); all other industry specific standards; national security best practices and all requirements herein. The Contractor must perform annual testing of all security control requirements to determine they are working as intended.

Security Risk Assessments

The Contractor will be required to conduct assessments of risks and identify the damage that could result from unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the Department of Treasury. Security controls should be implemented based on the potential risks. The Contractor shall ensure that reassessments occur whenever there are significant modifications to the information system and that risk assessment information is updated.

The Contractor must develop a "security threat matrix" identifying safeguards that will be incorporated to mitigate security threats that could arise when an organization handles data. This matrix shall include the following components 1) targeted system/process, 2) results expected, 3) security threat, 4)

mitigation strategy, 5) probability of occurrence and 6) identify any residual threat remaining. The security threat matrix will be developed on award of the contract.

Certification and Accreditation

As the part of the Department of Treasury's system certification and accreditation process, the Contractor shall:

- Ensure a security risk assessment has been performed and is used as part of the certification and accreditation process.
- Obtain certification and accreditation prior to deployment of or significant modifications to an information system which affects a contractual relationship with Treasury.
- Verify data ownership, accountability, and all other security control requirements are established for each affected information system.
- Ensure State of Michigan- and Treasury-specific statutory and regulatory requirements and industry-specific security standards are met.
- Maintain information system security controls in compliance with State of Michigan and Treasury policies and guidelines, information technology standards, and best practices.
- Ensure security controls approved during accreditation are implemented and maintained as necessary throughout the system life cycle.
- Monitor critical security controls continuously to determine the extent to which controls are implemented correctly, operating as intended, and producing desired results.
- Provide security assessment reports (i.e., internal security control review or SAS70 audit reports) performed by an independent agent (internal or external auditors), remediation or planned actions to Treasury.

Data Security

The Contractor has the responsibility to protect the confidentiality, integrity, and availability of State of Michigan data that is generated, accessed, modified, transmitted, stored, disposed, or used by the system, irrespective of the medium on which the data resides and regardless of format (such as in electronic, paper or other physical form).

The Contractor shall:

1. Process the personal data in accordance with the personal data protection laws of the State of Michigan and the United States.
2. Have in place appropriate technical and organizational internal and security controls to protect the confidential and sensitive data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected. Technical and organizational security controls must be implemented that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, presented by the processing.
3. Provide secure and acceptable methods of transmitting personal, confidential or sensitive information over telecommunication devices such as data encryption (128 bit minimum), Secure Socket Layer (SSL), dedicated leased line or Virtual Private Network (VPN).
4. Have in place procedures so that any third party it authorizes to have access to the personal data, including subcontractors, will respect and maintain the confidentiality, integrity, and availability of the data.
5. Process the personal, confidential and sensitive data only for purposes described in the contract.
6. Identify to the Department of Treasury a contact point within its organization authorized to respond to enquiries concerning processing of the personal, confidential or sensitive data, and will cooperate in good faith with the Department.
7. Not disclose or transfer the personal, confidential or sensitive data to a third party unless it is approved under this contract.
8. Not use data transferred by the Department of Treasury as a result of this contract for marketing purposes.

Media Protection

The Contractor shall implement measures to provide physical and environmental protection and accountability for tapes, diskettes, printouts, and other media containing Department of Treasury's personal, confidential and sensitive information to prevent the loss of confidentiality, integrity, or

availability of information including data or software, when stored outside the system. This can include storage of information before it is input to the system and after it is output.

The Contractor shall ensure that only authorized users have access to information in printed form or on digital media removed from the information system, physically control and securely store information media, both paper and digital, restrict the pickup, receipt, transfer, and delivery of such media to authorized personnel.

Media Destruction and Disposal

The Contractor shall sanitize or destroy information system digital media containing personal, confidential or sensitive information before its disposal or release for reuse to prevent unauthorized individuals from gaining access to and using information contained on the media.

Personal, confidential or sensitive information must be destroyed by burning, mulching, pulverizing or shredding. If shredded, strips should not be more than 5/16-inch, microfilm should be shredded to affect a 1/35-inch by 3/8-inch strip, and pulping should reduce material to particles of one inch or smaller.

Disk or tape media must be destroyed by overwriting all data tracks a minimum of three times or running a magnetic strip over and under entire area of disk at least three (3) times. If the CD, DVD or tape cannot be overwritten it must be destroyed in an obvious manner to prevent use in any disk drive unit and discarded. Hand tearing, recycling, or burying information in a landfill are unacceptable methods of disposal. Electronic data residing on any computer systems must be purged based on retention periods required by the Department of Treasury.

Access Control

Each Contractor must provide Treasury with a list of all employees working under the contract. The list must be updated and provided to the Department of Treasury prior to any contractual staff being authorized to access information and information resources. Access to information, including test data must be limited to approved employees.

The Contractor must limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems) and to the types of transactions and functions that authorized users are permitted to exercise. Access must be immediately removed when a staff changes job duties or leaves the employment.

Automatic user logons are prohibited. Device-to-device logons must be secured (preferably using client certificates or password via tunneled session). For certain implementations, source restrictions (sign-on can occur only from a specific device) provide a compensating control, in addition to the ID and password. Authentication information (e.g., a password or PIN) must never be disclosed to another user or shared among users.

The authentication process is limited to three (3) unsuccessful attempts and must be reinstated by the authorized personnel (preferably the System security Administrator). User accounts should be systematically disabled after 90 days of inactivity and must be deleted after 1 year of inactivity.

Identification and Authentication

The Contractor shall provide a secure identification and authentication methodology for users accessing the system and restrict use of a user ID only to the assigned users. This method of identification/authentication can be comprised of biometric techniques such as retinal scan, voice, signature and hand geometry or PINS, strong passwords. On award of the contract, the Department of Treasury will provide the password requirements.

Separation of Duties

The Contractor must adequately separate functions so that an individual does not control all critical stages of a process. In the case where functions cannot be fully separated, mitigating and compensating controls must be established. The Contractor must ensure:

No one person shall have complete control over any transaction from initialization to completion.

Duties are appropriately separated by analyzing their operations, identifying incompatible duties and assigning these duties to two or more individuals or organizational groups.

Separation between operational, development and test systems is maintained to reduce the risk of unauthorized changes or access to operational software or data.

Separation between production development and testing activities is maintained.

Change Control

Contractors who support Treasury applications and systems are responsible for:

Ensuring a business owner's written approval is received prior to any scheduled change(s) to source code or data.

Communicating to the business owner the implementation date and when the change would begin affecting information technology processes for each scheduled change.

Communicating scheduled changes at least bi-weekly to the business owner to ensure change reviews occurred satisfactorily.

Communicating all unscheduled changes to the business owner immediately and obtaining post change written approval.

Preparing detailed system specifications.

Documenting and reviewing test plans and test results.

Audit Logs

The Contractor must (i) create, protect, and retain information system audit log records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate information system activity, and (ii) ensure that the actions of individual information system users can be uniquely traced to those users so they can be held accountable for their actions.

The Contractor shall observe the following guidelines regarding system auditing:

1. Audit log record should contain the following:
 - Date and time of the event
 - Subject identity
 - Type of event
 - How data changed
 - Where the event occurred
 - Outcome of the event.
2. System alerts if audit log generation fails.
3. System protects audit information from unauthorized access.
4. Audit record should be reviewed by individuals with a "need to know" on a regular basis.
5. Audit logs are retained for sufficient period of time.

Physical and Environmental Security

The Contractor shall have established physical and environmental security controls to protect systems, the related supporting infrastructure and facilities against threats associated with their physical environment.

The Contractor shall have established environmental protection for magnetic and other media from fire, temperature, liquids, magnetism, smoke, and dust.

The Contractor shall control all physical access points to facilities containing information systems (except those areas within the facilities officially designated as publicly accessible), review physical security logs periodically, investigate security violations or suspicious physical access activities, and initiate remedial actions.

The Contractor shall periodically review the established physical and environmental security controls to ensure that they are working as intended.

Disaster Recovery Plan

The Contractor shall collaborate with Department of Technology, Management and Budget to develop, document, implement, modify, and test disaster recovery plans designed to ensure the availability of Department of Treasury's data in the event of an adverse impact to the system due to a natural or man-made emergency or disaster event.

Security Awareness Training

The Contractor must ensure that their staff having access to Treasury information are made aware of the security risks associated with their activities and of applicable laws, policies, and procedures related to security, and ensuring that personnel are trained to carry out their assigned information security related duties.

Contracted employees must obtain Department of Treasury provided security awareness training. (On-line training to be identified by the Contract Compliance Inspector).

PROJECT CONTROL AND REPORTS:

Per Contract 071B1300386 Agreement

SPECIFIC STANDARDS:

N/A

ENTERPRISE IT SECURITY POLICY AND PROCEDURES:

<http://www.michigan.gov/documents/dmb/1210.32.pdf>

http://www.michigan.gov/documents/dmb/1325_193160_7.pdf

http://www.michigan.gov/documents/dmb/1335_193161_7.pdf

http://www.michigan.gov/documents/dmb/1340_193162_7.pdf

AGENCY SPECIFIC TECHNICAL ENVIRONMENT:

N/A

PAYMENT SCHEDULE:

1. The \$28,000.00 for PaaS Platform Staging, Configuration, and Testing will be paid in one lump sum, after the formal acceptance of all deliverables outlined in this Statement of Work.
2. All other annual fees, listed below, will be paid in equal monthly installments.

New Cost Table		
	Year 5	Year 6
License and Maintenance	\$295,256.31	\$308,019.13
PaaS License and Hosting Production	\$36,000.00	\$37,800.00
PaaS License and Hosting DR	\$18,000.00	\$18,900.00
Paas Platform Staging, Configuration, Testing	\$28,000.00	\$0.00
Training On-Site	\$12,000.00	\$12,000.00
Total Annual Cost	\$389,256.31	\$376,719.13
Total		\$765,975.44

EXPENSES:

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

PROJECT CONTACTS:

The designated Agency Project Manager is:

Kristen Robel

Treasury

(517) 636-6815

robek@michigan.gov

The designated DTMB Project Manager is:

David Conarton

DTMB/Infrastructure Services

(517) 335-3697

conartond@michigan.gov

The DTMB Contract Administrator for this project is:

Jarrod Barron

Michigan Department of Technology, Management and Budget

Constitution Hall

525 W. Allegan Street

Lansing, MI 48933

517-284-7045

barronj1@michigan.gov

AGENCY RESPONSIBILITIES:

Per Contract 071B1300386 Agreement

LOCATION OF WHERE THE WORK IS TO BE PERFORMED:

Work to be performed remotely

PROJECT SCHEDULE:

The following Project schedule outlines the timeframes for transition of the QED-Q2 system from State of Michigan servers to QED Financial system’s hosting solution.

	Resp.	Est. Compl. Date.	Deliverable
1			Project Objectives
2			Objective of this project is to convert and upgrade the existing deployment of the Michigan Department of the Treasury, Bureau of Investments, Q2 Investment Platform (client owned equipment) model, which is supported within a local hosting facility with equipment procured and owned by MISTO, to a full QED Platform as a Service (PaaS) support model.
3			With the transition to PaaS deployment, QED will deploy and manage the QED platform for MISTO as a service from our secure datacenter facilities. This will enable MISTO staff to access the QED platform across the Internet via secure communication protocols provided by the Oracle Secure Global Desktop while eliminating the need for MISTO to replace current or future hardware supporting their implementation.
4			QED will, under the terms of the service level agreement, ensure that the QED platform remains available to MISTO staff, conduct upgrades of the QED software as they are made available, manage and monitor secure network connectivity to the QED datacenters and maintain the computing environments to support the needs of the Michigan Department of Treasury business by providing a production environment for the MISTO's QED solution.
5			QED manages and maintains a computing environment that provides for continuous and efficient support of MISTO operations.
6			Standard system backup and recovery services for the QED platform.
7			
8			Project Management
9	Rob Piontek	09/15/15	Signed Proposal.
10	Marc Conley	09/17/15	Kick Off Meeting
11	Marc Conley	09/18/15	Contact List - Provided to MISTO
12			
13			Weekly Status Meetings
14	Marc Conley	09/24/15	Create Project Status Report - Will be distributed prior to each project status meeting.
15	Marc Conley	10/01/15	Weekly Status Meeting every Thursday at 2:00pm EDT
16	Marc Conley	10/08/15	Weekly Status Meeting every Thursday at 2:00pm EDT
17	Marc Conley	10/15/15	Weekly Status Meeting every Thursday at 2:00pm EDT
18	Marc Conley	10/22/15	Weekly Status Meeting every Thursday at 2:00pm EDT
19	Marc Conley	10/29/15	Weekly Status Meeting every Thursday at 2:00pm EDT
20	Marc Conley	11/05/15	Weekly Status Meeting every Thursday at 2:00pm EDT
21	Marc Conley	11/12/15	Weekly Status Meeting every Thursday at 2:00pm EDT
23	Marc Conley	09/21/15	Identify Project Milestones.
24	Marc Conley	09/21/15	Setup Change Control Process.

25	Marc Conley	09/21/15	Set up procedures to identify, track, and communicate changes in scope.
26			
27			Create Technical ASP Environments For Implementation, Testing, and Production
28	Marc Conley	09/30/15	Complete Client check list and provide to Rod Melvin.
29	Marc Conley	09/30/15	Change Q\$LICENSEE in QCONFIG for new Region.
30	QED IT	09/30/15	Deploy MISTO' ASP Platform as Service from QED's secure data center facility.
31	QED IT	09/30/15	Stage and Configure MISTO' PaaS Region on QED's Reading Servers.
32	QED IT	09/30/15	Build out new zone on server - to be named ClientXX. SGD ASP region will be test region during implementation and will become production at go live.
33	QED IT	09/30/15	Sun Microsystems Secure Global Desktop Access Gateway
34	QED IT	09/30/15	QED Investment Accounting Foundation
35	QED IT	09/30/15	QBI Business Intelligence Software - QBI Report Server, Report Portal, and Report Studio
36	QED IT	09/30/15	Q2DataMart
37	QED IT	09/30/15	Q2 Data Store
38	QED IT	09/30/15	QED Data Delivery Services
39			
40			MISTO Infrastructure Update Requirements
41	QED	09/30/15	QED to explore firewall compatibility at MISTO for software services; migrate custom reports.
42	MISTO	09/30/15	MISTO to install compatible web browsers Internet Explorer 11, Firefox, Google Chrome, to support Oracle Secure Global Desktop.
43	MISTO	09/30/15	MISTO to install SFTP client functionality (WinSCP) to support file transfers between the SGD Cloud Q2 Environment and the MISTO Network.
44			
45			Upgrade ClientXX ASP Region to latest release of Q2 for implementation and testing.
46	QED IT	09/30/15	Upgrade ClientXX ASP Region with latest release of Q2 First Q 2015 2015.1 or later.
47	Client Support	09/30/15	Unit test upgrade functionality.
48	Client Support	09/30/15	Regression test upgrade functionality.
49	QED IT	09/30/15	Copy all user home directories (current and 'Ex' users so all is available if needed), the current system databases and all custom files and historical archives. Once client has access to the system Client and users will be able to validate that everything was moved and available as expected.
50			
51			Implement Market Data Interfaces as per contract
52	QED IT	09/30/15	IDC Pricing/Corporate Actions
53			
54			Client Disaster Recovery Environment
55	QED IT	09/30/15	Provide QED Standard Disaster Recovery Service - Warm Site

			Level T+1
56			
57			Configure environment for user licenses
58	QED IT	10/02/15	The format of the user logon ID's for access to the SGD region is standardized across the client base. The format for the setup of a user logon is the first 7 letters of the user's last name plus the first letter in their first name.
59	Marc Conley	10/02/15	MISTO users will be setup and tested on the new web based Q2 Region.
60	Marc Conley	10/02/15	Marc C. will FAX the user ID's and Passwords to the designated individual and FAX location as soon as systems unit testing is complete at QED.
61	QED IT	10/02/15	Q2 Standard Seat Licenses - xx
62	QED IT	10/02/15	QBI Standard Seat Licenses - xx (Currently not using QBI)
63	QED IT	10/02/15	QBI Report Studio Seat Licenses - xx
64	QED IT	10/02/15	QBI Direct Access Licenses -
65	QED IT	10/02/15	Obtain User Names from MISTO
66	QED IT	10/02/15	Q2 Staff Licenses - 3
67			
68			Configure and deploy SGD ClientXX implementation and test region.
69	MISTO	10/02/15	Provide list of active MISTO users to be set up on new SGD by QED IT.
70	QED IT	10/02/15	Provide access to MISTO users. Url, user logon, and user password information provided to MISTO.
71	Marc Conley	10/02/15	FAX user list to MISTO
72	Marc Conley	10/02/15	Call MISTO with user passwords.
73	MISTO	10/02/15	Install latest version of Java required on MISTO desktops. Version 8 Update 31.
74	MISTO	10/02/15	Test SGD and Q2 Logon Functionality.
75			
76			WINS CP Implementation
77	QED IT	10/09/15	For WINS CP - Firewall rules to allow and control the access from the MISTO network to the ClientXX system will be put in place. MISTO to test. User should use the same access credentials (username & password) that they use to access Q2 for QWinSCP access. MISTO will test access to the WINS CP functionality.
78	MISTO	10/09/15	MISTO to provide a range of public facing IP Addresses that their internal user pc's are using to communicate with the cloud.
79	QED IT	10/09/15	Communicate public facing IP Addresses to Direct Link for server update.
80	Marc Conley	10/09/15	SGD PaaS Client Users Guide - to be sent to MISTO.
81	QED IT	10/09/15	Respond to any questions regarding WCSP Access
82	Implementation	10/09/15	Quality Assurance test - SGD Test Environment
83			
84			Extract current production files from MISTO's current production region, replicate, and migrate to ClientXX SGD Test region.

85	QED IT	10/16/15	Qlibraries
86	QED IT	10/16/15	Tables
87	QED IT	10/16/15	Confirm validity of data transfer via the reconciliation of control totals.
88	QED IT	10/16/15	Load current production system Q2 files to the PaaS ClientXX - ASP SGD region. (Accessible through SSH).
89	QED IT	10/16/15	Validate integrity of data being loaded.
90			
91			Testing - End to End Systems Testing QED
92	Client Support	10/23/15	QED - UNIT Test Q2 Basic System Functionality
93	Client Support	10/23/15	Basic System Functionality and End to End Process Testing on Q2
94			
95			Report Testing - Unit Test QED
96	Client Support	10/23/15	QED Standard Reports
97	Client Support	10/23/15	Custom and User Defined Reports
98	Client Support	10/23/15	Visual QED Reports
99	Client Support	10/23/15	Document Results
100			
101			Convert and Stage Existing interfaces
102			Conversion and staging of existing interfaces with the MISTO's investment business for continued operation from the QED datacenters.
103			Install External Interface Functionality on New Region
104	QED IT	10/23/15	Pricing
105	QED IT	10/23/15	Scripts
106	QED IT	10/23/15	Client Applications
107			
108			Test External Interface Functionality on New Region
109	Client Support	10/23/15	Pricing
110	Client Support	10/23/15	Scripts
111	Client Support	10/23/15	Client Applications
112	Client Support	10/23/15	Visual QED Reports to be migrated to new region
113			
114			MISTO - UAT - Q2 System Functionality
115	MISTO	10/23/15	Basic System Functionality and End to End Process Testing on Q2.
116	MISTO	10/23/15	Regression Test Custom Functionality.
117	MISTO	10/23/15	MISTO - To notify QED of any discrepancies between MISTO Test and Production regions.
118			
119			MISTO - UAT - Reports
120	MISTO	10/23/15	QED Standard Reports
121	MISTO	10/23/15	Custom and User Defined Reports
122	MISTO	10/23/15	Visual QED Reports
123	MISTO	10/23/15	Document Results
124	MISTO	10/23/15	MISTO - To notify QED of any discrepancies between MISTO Test and Production regions.

125	Rob Piontek	10/23/15	Rob will investigate report processing parameters.
126			
127			Training - Time Table to be discussed with MISTO
128	Marc Conley	10/15/15	Provide user Manuals to MISTO
129	Marc Conley	10/15/15	Time table for WebEx training: Reconciliation of Cash and Positions, New Reporting Capabilities
130			
131			Stage QED Production Environment - Test Region with latest release of Q2 will become the MISTO production region. System Refresh
132	QED IT	WE 11/20	Extract current production files from MISTO's current production region, replicate, and migrate to SGD ClientXX Production Region.
133	MISTO	WE 11/20	MISTO will back up MISTO production files on Evening of mm/dd/yyyy
134	QED IT	WE 11/20	Qlibraries
135	QED IT	WE 11/20	Tables
136	Client Support	WE 11/20	Confirm validity of data transfer via the reconciliation of control totals.
137	Client Support	WE 11/20	Validate integrity of data being loaded.
138	QED IT	WE 11/20	Refresh MISTO New SGD ClientXX region with current Client Production files and convert databases to the release format. MISTO will notify QED 2:00EST on mm/dd that all users are out of the system, and the production files data refresh process can be initiated.
139	QED IT	WE 11/20	QED will load current production files into MISTO ClientXX production region.
140	MISTO	WE 11/20	QED IT will require a complete copy of the old MISTO production system backup sent to QED.
141			
142			Printing and User Logon's
143	MISTO IT	11/23/15	Set up SGD printing at MISTO. Instructions provided from QED IT.
144	MISTO	11/23/15	UAT at MISTO.
145	MISTO	11/23/15	Quality Assurance test - SGD Printing Environment.
146	Client Support	11/23/15	Problems with printing individual reports can be discussed with Client Support
147	Client Support	11/23/15	Test standard Q2 functionality.
148	Client Support	11/23/15	Test custom Q2 functionality.
149			
150	QED IT		Place ClientXX Environment in live production.
151	MISTO/QED	11/23/15	Go live date
152	MISTO/QED	11/23/15	Project Completion - Close Down
153	Marc Conley	11/23/15	Inform QED Financial Administration that Client is in live production.

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

June 11, 2014

CHANGE NOTICE NO. 1
 to
CONTRACT NO. 071B1300386
 between
THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
QED Financial Systems 10,000 Sagamore Drive, Suite 10201 Marlton, NJ 08053	Anthony Castile	Castile@QEDFinancialSystems.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(856) 797- 1200	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	David Conarton	(517) 335-3697	conartond@michigan.gov
BUYER	DTMB	Barb Suska	(517) 284-7026	Suskab2@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Q2 Investment Accounting & Portfolio Mgt			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 18, 2011	September 17, 2014	3 one year	September 17, 2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N
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	September 17, 2015
VALUE/COST OF CHANGE NOTICE:			ESTIMATED REVISED AGGREGATE CONTRACT VALUE:	
\$343,721.50			\$1,630,872.10	

Effective immediately, this Contract is utilizing the first option year and is INCREASED by \$343,721.50. Pricing is from Attachment A -Cost Table for year 4. The new end date is September 17, 2015. The buyer has been changed to Barb Suska.

.All other terms, conditions, pricing and specifications remain the same. Per vendor and agency agreement, DTMB Procurement approval and the approval of the State Administrative Board on June 10, 2014.

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET **January 31, 2012**
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
 OR
530 W. ALLEGAN, LANSING, MI 48933

NOTICE
OF
CONTRACT NO. 071B1300386
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR QED Financial Systems 10,000 Sagamore Drive, Suite 10201 Marlton, NJ 08053 Email: Castile@QEDFinancialSystems.com	TELEPHONE (856) 797-1200 Anthony Castile CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-3993 Joe Kelly
Contract Compliance Inspector: David Conarton (517) 335-3697 <p style="text-align: center;">Q2 Investment Accounting & Portfolio Mgt</p>	
CONTRACT PERIOD: 3 yrs. + 3 one-year options From: September 18, 2011 To: September 17, 2014	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
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;">N/A</p>	
MISCELLANEOUS INFORMATION:	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 07111300222. Orders for delivery will be issued directly by the Department of Technology, Management and Budget through the issuance of a Purchase Order Form.

TOTAL ESTIMATED CONTRACT VALUE: \$1,287,150.60

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. 071B1300386
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR QED Financial Systems 10,000 Sagemore Drive, Suite 10201 Marlton, NJ 08053 Email: Castile@QEDFinancialSystems.com	TELEPHONE (856) 797-1200 Anthony Castile CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 373-3993 Joe Kelly
Contract Compliance Inspector: David Conarton (517) 335-3697 Q2 Investment Accounting & Portfolio Mgt	
CONTRACT PERIOD: 3 yrs. + 3 one-year options From: September 18, 2011 To: September 17, 2014	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
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;">N/A</p>	
MISCELLANEOUS INFORMATION: Estimated Contract Value: \$1,287,150.60	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 07111300222. Orders for delivery will be issued directly by the Department of Technology, Management and Budget through the issuance of a Purchase Order Form.

FOR THE CONTRACTOR: <p style="text-align: center;">QED Financial Systems</p> <p style="text-align: center;">Firm Name</p> <hr/> <p style="text-align: center;">Authorized Agent Signature Joseph Potesta, President and CEO</p> <hr/> <p style="text-align: center;">Authorized Agent (Print or Type)</p> <hr/> <p style="text-align: center;">Date</p>	FOR THE STATE: <p style="text-align: center;">Signature</p> <p style="text-align: center;">Jeff Brownlee, Chief Procurement Officer</p> <hr/> <p style="text-align: center;">Name/Title</p> <p style="text-align: center;">DTMB-Purchasing Operations</p> <hr/> <p style="text-align: center;">Division</p> <hr/> <p style="text-align: center;">Date</p>
--	---



Table of Contents

Article 1 – Statement of Work (SOW)	30
1.000 Project Identification	30
1.001 Project identification	30
1.002 Background	30
1.100 Scope of Work and Deliverables	31
1.101 In Scope	31
1.102 Out Of Scope	32
1.103 Environment	32
1.104 Work and Deliverables	32
1.200 Roles and Responsibilities	43
1.201 Contractor Staff, Roles, And Responsibilities	43
1.202 State Staff, Roles, And Responsibilities	44
1.203 Other Roles And Responsibilities - RESERVED	45
1.300 Project Plan	45
1.301 Project Plan Management	45
1.302 Reports	46
1.400 Project Management	46
1.401 Issue Management	46
1.402 Risk Management	47
1.403 Change Management	47
1.500 Compensation and Payment	48
1.501 Compensation And Payment	48
1.502 Holdback - RESERVED	49
Article 2, Terms and Conditions	50
2.000 Contract Structure and Term	50
2.001 Contract Term	50
2.002 Options to Renew	50
2.003 Legal Effect	50
2.004 Attachments & Exhibits	50
2.005 Ordering	50
2.006 Order of Precedence	50
2.007 Headings	51
2.008 Form, Function & Utility	51
2.009 Reformation and Severability	51
2.010 Consents and Approvals	51
2.011 No Waiver of Default	51
2.012 Survival	51
2.020 Contract Administration	51
2.021 Issuing Office	51
2.022 Contract Compliance Inspector	51
2.023 Project Manager	52
2.024 Change Requests	52
2.025 Notices	53
2.026 Binding Commitments	53
2.027 Relationship of the Parties	54
2.028 Covenant of Good Faith	54
2.029 Assignments	54
2.030 General Provisions	54
2.031 Media Releases	54
2.032 Contract Distribution	54
2.033 Permits	54
2.034 Website Incorporation	54
2.035 Future Bidding Preclusion	54
2.036 Freedom of Information	54
2.037 Disaster Recovery	55
2.040 Financial Provisions	55



2.041	Fixed Prices for Services/Deliverables	55
2.042	Adjustments for Reductions in Scope of Services/Deliverables	55
2.043	Services/Deliverables Covered	55
2.044	Invoicing and Payment – In General	55
2.045	Pro-ration	55
2.046	Antitrust Assignment	56
2.047	Final Payment	56
2.048	Electronic Payment Requirement	56
2.050	Taxes	56
2.051	Employment Taxes	56
2.052	Sales and Use Taxes - RESERVED	56
2.060	Contract Management	56
2.061	Contractor Personnel Qualifications	56
2.062	Contractor Key Personnel	56
2.063	Re-assignment of Personnel at the State's Request	57
2.064	Contractor Personnel Location	58
2.065	Contractor Identification	58
2.066	Cooperation with Third Parties	58
2.067	Contract Management Responsibilities	58
2.068	Contractor Return of State Equipment/Resources	58
2.070	Subcontracting by Contractor	58
2.071	Contractor full Responsibility	58
2.072	State Consent to delegation	59
2.073	Subcontractor bound to Contract	59
2.074	Flow Down	59
2.075	Competitive Selection	59
2.080	State Responsibilities	59
2.081	Equipment	59
2.082	Facilities	59
2.090	Security	59
2.091	Background Checks	59
2.092	Security Breach Notification	60
2.093	PCI DATA Security Requirements	60
2.100	Confidentiality	60
2.101	Confidentiality	60
2.102	Protection and Destruction of Confidential Information	61
2.103	Exclusions	61
2.104	No Implied Rights	61
2.105	Respective Obligations	62
2.110	Records and Inspections	62
2.111	Inspection of Work Performed	62
2.112	Examination of Records	62
2.113	Retention of Records	62
2.114	Audit Resolution	62
2.115	Errors	62
2.120	Warranties	62
2.121	Warranties and Representations	62
2.122	Warranty of Merchantability	63
2.123	Warranty of Fitness for a Particular Purpose	64
2.124	Warranty of Title	64
2.125	Equipment Warranty	64
2.126	Equipment to be New	64
2.127	Prohibited Products	64
2.128	Consequences for Breach	64
2.130	Insurance	64
2.131	Liability Insurance	64
2.132	Subcontractor Insurance Coverage	66
2.133	Certificates of Insurance and Other Requirements	66
2.140	Indemnification	67
2.141	General Indemnification	67



2.142	Code Indemnification	67
2.143	Employee Indemnification	67
2.144	Patent/Copyright Infringement Indemnification	68
2.145	Continuation of Indemnification Obligations	68
2.146	Indemnification Procedures	68
2.150	Termination/Cancellation	69
2.151	Notice and Right to Cure	69
2.152	Termination for Cause	69
2.153	Termination for Convenience	69
2.154	Termination for Non-Appropriation	70
2.155	Termination for Criminal Conviction	70
2.156	Termination for Approvals Rescinded	70
2.157	Rights and Obligations upon Termination	70
2.158	Reservation of Rights	71
2.160	Termination by Contractor	71
2.161	Termination by Contractor	71
2.170	Transition Responsibilities	71
2.171	Contractor Transition Responsibilities	71
2.172	Contractor Personnel Transition	71
2.173	Contractor Information Transition	71
2.174	Contractor Software Transition	71
2.175	Transition Payments	72
2.176	State Transition Responsibilities	72
2.180	Stop Work	72
2.181	Stop Work Orders	72
2.182	Cancellation or Expiration of Stop Work Order	72
2.183	Allowance of Contractor Costs	72
2.190	Dispute Resolution	72
2.191	In General	72
2.192	Informal Dispute Resolution	72
2.193	Injunctive Relief	73
2.194	Continued Performance	74
2.200	Federal and State Contract Requirements	74
2.201	Nondiscrimination	74
2.202	Unfair Labor Practices	74
2.203	Workplace Safety and Discriminatory Harassment	74
2.204	Prevailing Wage	74
2.210	Governing Law	74
2.211	Governing Law	74
2.212	Compliance with Laws	75
2.213	Jurisdiction	75
2.220	Limitation of Liability	75
2.221	Limitation of Liability	75
2.230	Disclosure Responsibilities	75
2.231	Disclosure of Litigation	75
2.232	Call Center Disclosure	76
2.233	Bankruptcy	76
2.240	Performance	76
2.241	Time of Performance	76
2.242	Service Level Agreement (SLA)	76
2.243	Liquidated Damages	77
2.244	Excusable Failure	78
2.250	Approval of Deliverables	78
2.251	Delivery of Deliverables	78
2.252	Contractor System Testing	79
2.253	Approval of Deliverables, In General	79
2.254	Process for Approval of Written Deliverables	80
2.255	Process for Approval of Custom Software Deliverables	80
2.256	Final Acceptance	81



2.260	Ownership	81
2.261	Ownership of Work Product by State	81
2.262	Vesting of Rights - Deleted	82
2.263	Rights in Data	82
2.264	Ownership of Materials	82
2.270	State Standards	82
2.271	Existing Technology Standards	82
2.272	Acceptable Use Policy	82
2.273	Systems Changes	82
2.280	Extended Purchasing	83
2.281	MiDEAL (Michigan Delivery Extended Agreements Locally - RESERVED	83
2.282	State Employee Purchases - RESERVED	83
2.290	Environmental Provision	83
2.291	Environmental Provision	83
2.300	Deliverables	84
2.301	Software	84
2.302	Hardware	84
2.310	Software Warranties	84
2.311	Performance Warranty	84
2.312	No Surreptitious Code Warranty	84
2.313	Calendar Warranty	85
2.314	Third-party Software Warranty	85
2.315	Physical Media Warranty	85
2.320	Software Licensing	85
2.321	Cross-License, Deliverables Only, License to Contractor	85
2.322	Cross-License, Deliverables and Derivative Work, License to Contractor	85
2.323	License Back to the State	85
2.324	License Retained by Contractor	85
2.325	Pre-existing Materials for Custom Software Deliverables	86
2.326	LOCATION OF OPERATION	86
2.327	TITLE	86
2.238.	RISK OF LOSS	87
	Glossary	88
	Attachment A – Cost Tables	90



Article 1 – Statement of Work (SOW)

1.000 Project Identification

1.001 PROJECT IDENTIFICATION

The purpose of this contract is to provide QED-Q2 Software, Maintenance and Support, Data and Associated Services for the Covered Software defined in Section 1.100. The resulting contract will be for a firm fixed price, and in accordance with the terms and conditions defined in Article 2.

1.002 BACKGROUND

The Michigan Department of Treasury, Bureau of Investments (BOI) is responsible for the investing activities of the State of Michigan Retirement Systems (SMRS), the general fund of the State, and various trust and agency funds such as the Lottery and Michigan Education Trust. The BOI has an operating budget of over \$17 million and is authorized to employ 73 employees of which approximately 42 are investment professionals. The BOI is broken down into seven divisions by investment discipline and a back office division: Alternative Investments; Short Term Fixed Income, Absolute, and Real Return; Long Term Fixed Income; Real Estate, Quantitative Analysis, Stock Analysis and Trust Accounting. In carrying out its investment responsibilities, the BOI runs a broadly diversified portfolio which includes over 3,000 individual investments.

SMRS is a Defined Benefits Plan representing over 532,000 members. The plan assets are valued in excess of \$50 billion and represent the seventeenth largest defined benefit public pension plan in the U.S. It is a pooled fund comprised of four funds: Public School Employees, State Employees, State Police and Judges. The State Treasurer is the sole fiduciary of the SMRS which is advised by a five-person Investment Advisory Committee (IAC) comprised of outstanding governmental, economic and investment professionals.

Alternative Investments Division: The Alternative Investments Division objective is to invest in the private equity market, primarily through limited partnerships and other vehicles including but not limited to venture capital, leveraged buyouts, mezzanine debt, and special situations. In addition, these asset classes may include public stock as a result of distributions from limited partnerships.

Short Term Fixed Income, Absolute, and Real Return Division: The Short Term Fixed Income objective is to invest in fixed income securities with maturities of less than one year including, but not limited to, Treasury bills and notes, commercial paper, bankers' acceptances, certificates of deposit, asset backed securities, Eurodollar securities and debentures with less than one year remaining to maturity.

The Absolute Return investments represent ownership interest in hedge funds managed to an overall risk tolerance. Absolute return strategies seek to produce a return patterns over time that have a lower level of correlation with equities and other traditional asset classes. Diversification by fund and by strategies, such as, long/short equities, arbitrage, and event driven is important as a prudent leverage level on a total portfolio.

The Real Return investments represent ownership interest in either individual real return asset classes that provide an inflationary "hedge" or portfolio that are managed strategically or tactically utilizing real return asset classes in isolation or in combination with traditional asset classes to achieve this goal.

Long Term Fixed Income Division: The Long Term Fixed Income investments represent fixed income securities with maturities greater than one year with obligated fixed or floating rates of interest of public and private investments. The strategy is a diversified portfolio of fixed income securities designed to primarily protect principal and generate cash flows according to the guidelines established by the State Treasurer and BOI.

Real Estate Division: The Real Estate Division investments represents ownership interest in partnerships and other vehicles including but not limited to equity and/or mortgages in real property of commercial, retail, industrial, residential, natural resources, land, or publicly traded securities that invest in real estate properties. The real estate investment is expected to provide diversification from traditional capital market risk. Equity participation in concentrated or specialized niche real estate investments may include the use of leverage.



Investments are diversified by property type, geography, development phase, and may include international real estate.

Quantitative Analysis Division: The Quantitative Analysis Division objective is to invest in and manage assets allocated to passive equity investments targeting the returns of the U.S. and International stock indices. The investments include the S&P 500 Index, the S&P MidCap 400 Index, and the international S&P Broad Market Index (BMI) Europe and Pacific (EPAC) Composites. The strategy includes publically traded stocks and the combination of bonds, dedicated short term investments, futures, and equity swap agreements. The diversified portfolio of the international strategy could have company stocks incorporated outside of the United States that may be denominated in non-US currency. The International investment portfolio replicates the performance and characteristics of the BMI and EPAC indices through the use of swaps or other derivative instruments and dedicated floating rate bonds.

Stock Analysis Division: The Stock Analysis Division invests in publicly traded stocks. The objective of the division is to maximize rates of return without placing undue risk on the portfolio. The strategy invests in large cap stocks, generally with market capitalization greater than \$5 billion that have high long-term growth rate estimates.

The Large-Cap value strategy invests primarily in equities and equity-related securities of US companies that are significantly underpriced as measured by price/earnings and/or price/book value ratios, as well as meaningfully below fair value as determined by quantitative and qualitative valuation models.

The Large-Cap growth strategy invests primarily in equities and equity-related securities of US companies which offer above average and sustainable growth in revenues, earnings, cash flow, identifiable catalysts and reasonable valuations relative to their fundamentals.

The Large-Cap core strategy is a diversified portfolio of large-cap stocks of US companies that have passed several screens based on the stocks' valuation, risk attributes and tracking error relative to the overall index. The goal is to build a portfolio that will provide excess returns relative to the S&P 500 index while providing minimal tracking error to the index. The strategy may invest in exchange traded funds (ETFs) and fixed income short-term securities.

The Large-Cap Dividend growth strategy invests in equity and equity related securities that generate a rate of return that exceed the S&P500 Growth Index.

Trust Accounting Division: The Trust Accounting Division provides the "back office" custodial and trust services to the various investment divisions within the BOI and to other agencies and state departments. The division is comprised of three sections delineated by function or responsibility:

1. **The Operation Section** is responsible for processing daily cash and accounting transactions and the security settlement.
2. **The Accounting and Systems Control Section** is responsible for cash and general ledger control functions, in addition to financial statement analysis and preparation.
3. **The Specialized Accounting Section** is responsible for managing the performance measurement process and accounting for derivatives and international investments.

1.100 Scope of Work and Deliverables

1.101 IN SCOPE

This contract covers the purchase of the QED-Q2 investment accounting system comprised of QED-Q2 Investment Accounting System Software License renewal, security enhancements, implementation services and maintenance support. This will include configuration of high-end servers for production and disaster recovery and necessary workstation configurations. The Contractor will continue to provide necessary on-site support as required. The Contractor shall convert, as needed, BOI's existing data, train administrative and system personnel, and play a lead role in the management of the expansion, maintenance and upgrade of the system



1.102 OUT OF SCOPE

The following are out of the scope for this Contract:

- Equipment and application development services for any system(s) other than those specifically addressed within this contract.
- Purchase of server and/or desktop hardware.

1.103 ENVIRONMENT

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to conform to State IT policies and standards. All services and products provided as a result of this Contract must comply with all applicable State IT policies and standards. Contractor must follow the standards for project management, systems engineering, and associated forms and templates found at <http://www.michigan.gov/suite>.

1.104 WORK AND DELIVERABLES

Contract requirements are incorporated into four overall groupings:

- I. Maintenance and Support; and
- II. Disaster Recovery
- III. Implementation of Enhancements
- IV. Training On-Site

I. MAINTENANCE AND SUPPORT

The contractor will provide maintenance and support of the installed QED-Q2 system.

Deliverable(s)

Maintenance of software (includes Support, Help Desk, and Technical)

Support & Help Desk

Contract parameters include:

- The software maintenance program includes all future software updates and system enhancements applicable to system modules.
- Help desk support is available with escalation as necessary to senior technical/engineering staff, and then to higher management and/or senior management.
- provide necessary on-site support as stated in Article 1, Section 1.201 On Site Work Requirements (1.) Location of Work
- Calls for service will be returned within 2 hours during normal State working hours as stated in Article 1, Section 1.201 On Site Work Requirements (2.) Hours of Operation.
- provide help desk services via telephone, electronic mail, and remote system login at no additional cost.
- The State will be provided with information on the software through normal distribution of software release notes.
- Support is provided for the production version in use by the State and during transitional migration to newer versions to be used by the State.
- For the first year and all subsequent Contract years, the following services are provided for the current version and one previous version of any Software provided with the deliverables, commencing upon installation of the deliverables or delivery of the Software:
 - **Error Correction.** Upon notice by State of a problem with the Software (which problem can be verified), reasonable efforts to correct or provide a working solution for the problem.
 - **Material Defects.** The State will be notified of any material errors or defects in the deliverables known, or made known to Contractor from any source during the Contract term that could cause the production of inaccurate, or otherwise materially incorrect, results and shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
 - **Updates.** All new releases and bug fixes (collectively referred to as "Changes") for any software deliverable developed or published by Contractor and made generally available to its other customers at no additional charge will be provided to the State at no additional charge.



Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501.



System Technical Requirements

The system will:

- Enable real-time processing
- Be scalable client-server technology
- Be compatible on the client/desktop side with the current Microsoft product and subsequent upgrades
- Have the ability to export data to external ODBC compliant databases,
 - support at least 30 concurrent users,
 - continue to process high speed large volumes of over 300 transactions per minute,
 - provide roll back and roll forward data integrity, and
- Provide capabilities for tape backup and recovery.
- Provide external and internal electronic communications, interfaces, system functionality, and reporting applications.
- Provide general ledger interfaces with the Michigan Administrative Information Network (MAIN).
- Interface to Bloomberg, FactSet, Wilshire or other systems as required.
- Licensee and Contractor agree that additional interfaces with other systems, such as a Cash Management System, additional investment data vendors or service providers, etc. if required by Licensee and outside of the scope of this agreement, will not be a development deliverable within the time constraints of this Agreement. Although this Contract does not preclude the addition of enhancements/capabilities at mutually agreed upon rates and deliverable time frames.
- Position and transaction reconciliation interfaces to custodial bank.
- Support Depository Trust & Clearing Corporation (DTCC) interface.

Minimum System Accounting Functionality will be provided as listed below:

1. Pooled/unit fund accounting.
2. Accounting for equity swap derivatives.
3. Accounting for limited partnerships on the equity basis.
4. Cash management from transaction to pool levels.
5. Allow client to open and close accounting periods.
6. Recognize investment transactions on effective date and provide AIMR compliance performance measurement, while recognizing accounting transactions in current open period.
7. Account for investments using average cost.
8. Ability to support, on demand, AIMR compliant performance measurement.
9. Derivative strategies have input, accounting and reporting requirements unique to the State of Michigan Retirement Systems. The requirements are:
 - a. Linking the two or more individual security components that comprise specific lots/slices within each strategy;
 - b. Unique data elements to link, account and report for that investment type;
 - c. Potentially new transaction types unique to each strategy, and those used elsewhere in the system.
 - d. Development of customized screens to facilitate the data input, processing and reporting functions.
10. Accounting for complex international equity swaps, consisting of the following:
 - a. Purchase of a Long position in a Real LIBOR Floating Rate Note for Local and Quanto.
 - b. Purchase of Accrued Interest for Local and Quanto.
 - c. Interest Received/Paid on the Long LIBOR Floating Rate Note for Local and Quanto.
 - d. Interest Paid/Received on the Swap Agreements are attached to the Long LIBOR floating rate note for Local and Quanto
 - e. Opening of a Swap Agreement for Local and Quanto using Long Synthetic Futures Trading functionality.
 - f. Increase/decrease the notional amount on the Swap Agreement for Local and Quanto using Long Synthetic Futures Trading functionality.
 - g. Sale of a Long position in a Long LIBOR Floating Rate Note for Local and Quanto.



- h. Record the gain/loss on the sale of the Long LIBOR Floating Rate Note for Local and Quanto.
- i. Close of a Swap Agreement for Local and Quanto utilizing Long Synthetic Futures Trading functionality.
- j. Record the gain/loss on the close of the Swap Agreement for Local and Quanto utilizing Long Synthetic Futures Trading functionality.
- k. Linking all the above transactions for an International Equity Swap position for Local and Quanto.
- l. Valuating the International Equity Swap position for Local and Quanto using client supplied prices.

International Equity Swap position transactions will be entered in a single integrated transaction process. Transaction defined fields will be used to enter the transactions. User defined fields will not be used to enter the transactions.

11. Synthetic Equity Derivatives, consisting of the following:

- a. Opening of Long Future contracts position.
- b. Record the commission paid on the purchase of the Long Future contracts position.
- c. The daily mark to market of the Long Future contracts.
- d. Open additional contracts or close a portion of Long Future contracts before they mature.
- e. Purchase of a Short Term Security.
- f. Price the Short Term Security.
- g. Close of the Long Future Contract position.
- h. Linking all the above transactions for a Synthetic Equity Derivative position.
- i. Valuating the Synthetic Equity Derivative position using client supplied prices.

Synthetic Equity Derivative transactions to be entered in a single integrated transaction process. Transaction defined fields will be used to enter the transactions. User defined fields will not be used to enter the transactions.

12. Synthetic Cash Derivative - contain one "Short" Futures position, a matching equity portfolio, and cash. The Futures position is designated as a Hedge against an equity portfolio. The accounting for a Synthetic Equity Derivative will consist of the following transactions:

- a. Opening of a "Short" Future Contract position.
- b. Purchase of a matching Equity portfolio.
- c. Transfer of Cash.
- d. Record the commission paid on the purchase of the Short Futures contracts position.
- e. The daily mark to market of the Short Futures contracts.
- f. Open additional contracts or close a portion of Short Futures contracts before they mature.
- g. Close of the Short Futures Contract position.
- h. Equity portfolio are transferred to portfolio corresponding to the investment strategy.
- i. Transfers generate realized gain or loss.
- j. Linking all the above transactions for a Synthetic Equity Derivative position.
- k. Valuating the Synthetic Cash Derivative position-using client supplied prices.

Synthetic Cash Derivative transactions to be entered in a single integrated transaction process. Transaction defined fields will be used to enter the transactions. User defined fields will not be used to enter the transactions.

13. Limited Partnership Customization Requirements: Two distinct types of transactions are required to account for limited partnership investments on the equity basis of accounting. These are transactions with cash offset and non-cash transactions.

These transaction types may consist of multiple debits or credits. Development of customized self-balancing screens or screens to facilitate the data collection and input, processing and reporting functions are needed. In addition, management, legal or consulting fees are paid to most limited partnerships. The establishment of unique transaction types would facilitate reporting for these activities.



- a. Cash Adjustments for limited partnerships consist of the following transactions:
 - 1) The receipt of cash on all transactions.
 - 2) An increase to shares and cost/book value through capital contributions.
 - 3) A decrease of shares and cost/book value along with a realized gain/loss from a stock distribution.
 - 4) A decrease of shares and cost/book value through a return of capital.
 - 5) A decrease of shares and cost/book value through a return of capital along with income and/or realized gain.
 - 6) A decrease of shares and cost/book value through a return of capital along with negative income and/or realized gain.
 - 7) A decrease of shares and cost/book value through a return of capital along with negative income and/or realized loss.
 - 8) A decrease of shares and cost/book value through a return of capital along with income and/or realized loss.
 - 9) A return of income and/or realized gain without a decrease of shares and cost/book value.
 - 10) A return of income and/or realized loss without a decrease of shares and cost/book value.
 - 11) A return of realized gain with negative income without a decrease to shares and cost/book value.
 - 12) A return of realized gain only without an increase to shares and cost/book value.
 - 13) A return of income only without an increase to shares and cost/book value.
- b. Non-cash basis adjustments for limited partnerships consist of the following transactions:
 - 1) An increase to shares and cost/book value offset by income and/or realized gain.
 - 2) An increase to shares and cost/book value offset by income and realized loss.
 - 3) An increase to shares and cost/book value offset by negative income and realized gain.
 - 4) A decrease to shares and cost/book value offset by negative income and/or realized loss.
 - 5) A decrease to shares and cost/book value offset by negative income and realized gain.
 - 6) A decrease to shares and cost/book value offset by income and realized loss.
- c. Management fee transactions for limited partnerships consist of the following transactions:
 - 1) Reduction in cash to record the management fee expense.
 - 2) A decrease of shares and cost/book value through return of capital along with management fee expense.
 - 3) A return of income and/or realized gain without a decrease of shares and cost/book value but with management fee expense.
 - 4) A decrease of shares and cost/book value through a return of capital and/or positive or negative income with or without realized gain or loss and management fee expense.
 - 5) An adjustment to reduce the management fee expense and repost the correct amount.
 - 6) An increase in cash through an adjustment to the management fee expense.

Notwithstanding the minimum system accounting functionality above, certain multi-leg derivative instruments necessarily utilize separate transaction forms within the Contractor's system for completion of the transaction. These forms can be managed and viewed simultaneously within the Contractor's system allowing completion of both sides of the transaction at the same time and provides the ability to promote common information between the forms using single click copy and paste functions. Transaction and position legs are linked by a common swap deal identifier used throughout the accounting, valuation, and reporting functions of the Contractor's system. The Contractor's system does not utilize user-defined fields to record essential trade information for these instruments while user-defined fields remain available within the Contractor's system along with numerous other free form fields such as trading-notes to document non-essential information.

Implementation

The contractor must coordinate work activities with SOM project manager to load all necessary components of the QED-Q2 system to the State's production platform.



The Contractor's handling of activities and deliverables for the Implementation Phase includes, but is not limited to the following:

- The Contractor will assist SOM in regards to QED-Q2 software installations in State environments.
- Provide final written work breakdown plan for customization agreed upon by contractor and SOM project manager.
- Implement changes as needed to complement existing QED-Q2 accounting system platform.
- Provide stakeholder reviews of system configuration.
- Design agreed-upon custom formats for client reports and routine printing jobs.
- Interface between QED-Q2 accounting system platform and Bloomberg AIM Plus, State Street (for custody bank data), and FactSet.
- The Contractor will validate the system is installed and ready for use for the following environments:
 - Production
 - Disaster Recovery
- The Contractor will validate the system is installed and ready for use under separate statements of work when required for the following environments:
 - Testing
 - Training
- Obtain sign off on final system acceptance from SOM project manager

The SOM Project Manager will:

- Provide access to 1 to 3 SOM specialists necessary to answer questions and provide information to the Contractor to support Implementation activities.
- Provide for the review and productive feedback of all draft, interim and final deliverables.
- Monitor the resolution of issues and provide final acceptance of the system once the warranty period has passed and the system is acceptable.

Deliverable(s)

- Fully implemented and operational QED-Q2 system approved by SOM project manager.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501. Any additional or more specific criteria should be identified here.

System Security

The contractor shall comply with State and Federal statutory and regulatory requirements, and rules; National Institute of Standards and Technology (NIST) publications; Control Objectives for Information and Related Technology (COBIT); all other industry specific standards; national security best practices and all requirements herein. The Contractor must perform annual testing of all security control requirements to determine they are working as intended.

Security Risk Assessments

The Contractor will be required to conduct assessments of risks and identify the damage that could result from unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the Department of Treasury in so much as such systems environments and data are in the possession of and/or under the physical control of Contractor. Security controls will be implemented based on the potential risks. The Contractor shall ensure that reassessments occur whenever there are significant modifications to the information system and that risk assessment information is updated.

The Contractor must develop a "security threat matrix" identifying safeguards that will be incorporated to mitigate security threats that could arise when an organization handles data. This matrix shall include the following components 1) targeted system/process, 2) results expected, 3) security threat, 4) mitigation strategy, 5) probability of occurrence and 6) identify any residual threat remaining. The security threat matrix will be developed on award of the contract.



Certification and Accreditation

The Contractor shall:

- Ensure a security risk assessment has been performed and is used as part of the certification and accreditation process.
- Obtain certification and accreditation prior to deployment of or significant modifications to an information system which affects a contractual relationship with Treasury.
- Verify data ownership, accountability, and all other security control requirements are established for each affected information system.
- Ensure State of Michigan-specific and Treasury-specific statutory and regulatory requirements and industry-specific security standards are met.
- Maintain information system security controls in compliance with State of Michigan and Treasury policies and guidelines, information technology standards, and best practices.
- Ensure security controls approved during accreditation are implemented and maintained as necessary throughout the system life cycle.
- Monitor critical security controls continuously to determine the extent to which controls are implemented correctly, operating as intended, and producing desired results.
- Provide security assessment reports (i.e., internal security control review or SAS70 audit reports) performed by an independent agent (internal or external auditors), remediation or planned actions to Treasury.

Data Security

The contractor has the responsibility to protect the confidentiality, integrity, and availability of State of Michigan data that is generated, accessed, modified, transmitted, stored, disposed, or used by the system, irrespective of the medium on which the data resides and regardless of format (such as in electronic, paper or other physical form) in so much as such data is in the possession of and/or under the physical control of contractor.

The contractor shall:

1. Process the personal data in accordance with the personal data protection laws of the State of Michigan and the United States.
2. Have in place appropriate technical and organizational internal and security controls to protect the confidential and sensitive data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected. Technical and organizational security controls must be implemented that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, presented by the processing.
3. Provide secure and acceptable methods of transmitting personal, confidential or sensitive information over telecommunication devices such as data encryption (128 bit minimum), Secure Socket Layer (SSL), dedicated leased line or Virtual Private Network (VPN).
4. Have in place procedures so that any third party it authorizes to have access to the personal data, including subcontractors, will respect and maintain the confidentiality, integrity, and availability of the data.
5. Process the personal, confidential and sensitive data only for purposes described in the contract.
6. Identify to the Department of Treasury a contact point within its organization authorized to respond to enquiries concerning processing of the personal, confidential or sensitive data, and will cooperate in good faith with the Department.
7. Not disclose or transfer the personal, confidential or sensitive data to a third party unless it is approved under this contract.
8. Not use data transferred by the Department of Treasury as a result of this contract for marketing purposes.

Media Protection

The contractor shall implement measures to provide physical and environmental protection and accountability for tapes, diskettes, printouts, and other media containing Department of Treasury's personal, confidential and sensitive information to prevent the loss of confidentiality, integrity, or availability of information including data



or software, when stored outside the system in so much as such media and information is in the possession of and/or under the physical control of contractor. This can include storage of information before it is input to the system and after it is output.

The contractor shall ensure that only authorized users have access to information in printed form or on digital media removed from the information system, physically control and securely store information media, both paper and digital, restrict the pickup, receipt, transfer, and delivery of such media to authorized personnel.

Media Destruction and Disposal

The Contractor shall sanitize or destroy information system digital media containing personal, confidential or sensitive information before its disposal or release for reuse to prevent unauthorized individuals from gaining access to and using information contained on the media in so much as such media and information is in the possession of and/or under the physical control of contractor.

- Personal, confidential or sensitive information must be destroyed by burning, mulching, pulverizing or shredding. If shredded, strips should not be more than 5/16-inch, microfilm should be shredded to affect a 1/35-inch by 3/8-inch strip, and pulping should reduce material to particles of one inch or smaller.
- Disk or tape media must be destroyed by overwriting all data tracks a minimum of three times or running a magnetic strip over and under entire area of disk at least three (3) times. If the CD, DVD or tape cannot be overwritten it must be destroyed in an obvious manner to prevent use in any disk drive unit and discarded. Hand tearing, recycling, or burying information in a landfill are unacceptable methods of disposal. Electronic data residing on any computer systems must be purged based on retention periods required by the Department of Treasury.

Access Control

In the event the Treasury authorizes contractor to have access to information, including test data, and information resources. Contractor must provide Treasury with a list of all employees working under the contract. The list must be updated and provided to the Department of Treasury prior to any contractual staff being authorized to access information and information resources. Access to information, including test data must be limited to approved employees.

The contractor must limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems) and to the types of transactions and functions that authorized users are permitted to exercise. Access must be immediately removed when a staff changes job duties or leaves the employment.

Automatic user logons are prohibited. Device-to-device logons must be secured (preferably using client certificates or password via tunneled session). For certain implementations, source restrictions (sign-on can occur only from a specific device) provide a compensating control, in addition to the ID and password. Authentication information (e.g., a password or PIN) must never be disclosed to another user or shared among users.

The authentication process is limited to three (3) unsuccessful attempts and must be reinstated by the authorized personnel (preferably the System security Administrator). User accounts should be systematically disabled after 90 days of inactivity and must be deleted after 1 year of inactivity.

Identification and Authentication

The contractor shall provide a secure identification and authentication methodology for users accessing the system and restrict use of a user ID only to the assigned users. This method of identification/authentication can be comprised of biometric techniques such as retinal scan, voice, signature and hand geometry or PINS, strong passwords. On award of the contract, the Department of Treasury will provide the password requirements.



Separation of Duties

The contractor must adequately separate functions so that an individual does not control all critical stages of a process. In the case where functions cannot be fully separated, mitigating and compensating controls must be established. The contractor must ensure:

- No one person shall have complete control over any transaction from initialization to completion.
- Duties are appropriately separated by analyzing their operations, identifying incompatible duties and assigning these duties to two or more individuals or organizational groups.
- Separation between operational, development and test systems is maintained to reduce the risk of unauthorized changes or access to operational software or data.
- Separation between production development and testing activities is maintained.

Notwithstanding the Separation of Duties requirements above, the Treasury and contractor agree to collaborate in the development of such processes, operating procedures, mitigating and compensating controls and systems environments within the context of the contractor's system that support the business needs of the Treasury.

Change control

Contractors who support Treasury applications and systems are responsible for:

- Ensuring a business owner's written approval is received prior to any scheduled change(s) to source code or data.
- Communicating to the business owner the implementation date and when the change would begin affecting information technology processes for each scheduled change.
- Communicating scheduled changes at least bi-weekly to the business owner to ensure change reviews occurred satisfactorily.
- Communicating all unscheduled changes to the business owner immediately and obtaining post change written approval.
- Preparing detailed system specifications.
- Documenting and reviewing test plans and test results.

Contractor will adhere to the Change Control requirements stated above in so much as such changes described are proposed and conducted by QED and are not developed and implemented by the Treasury without the knowledge and participation of QED.

Audit Logs

The contractor must (i) create, protect, and retain information system audit log records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful, unauthorized, or inappropriate information system activity, and (ii) ensure that the actions of individual information system users can be uniquely traced to those users so they can be held accountable for their actions in so much as such software applications software audit logging described are under the control of contractor or in the event that the Treasury causes contractor to have sole authorization to enable and manage such operating systems software audit logging..

The contractor shall observe the following guidelines regarding system auditing:

1. Audit log record should contain the following:
 - date and time of the event
 - subject identity
 - type of event
 - how data changed
 - where the event occurred
 - outcome of the event.
2. System alerts if audit log generation fails.
3. System protects audit information from unauthorized access.
4. Audit record should be reviewed by individuals with a "need to know" on a regular basis.
5. Audit logs are retained for sufficient period of time.



Physical and Environmental Security

The contractor shall have established physical and environmental security controls to protect systems, the related supporting infrastructure and facilities against threats associated with their physical environment in so much as such physical access and environmental conditions described are in the possession of and/or under physical control of contractor.

- The contractor shall have established environmental protection for magnetic and other media from fire, temperature, liquids, magnetism, smoke, and dust.
- The contractor shall control all physical access points to facilities containing information systems (except those areas within the facilities officially designated as publicly accessible), review physical security logs periodically, investigate security violations or suspicious physical access activities, and initiate remedial actions.
- The contractor shall periodically review the established physical and environmental security controls to ensure that they are working as intended.

Security Awareness Training

The contractor must ensure that their staff having access to Treasury information are made aware of the security risks associated with their activities and of applicable laws, policies, and procedures related to security, and ensuring that personnel are trained to carry out their assigned information security related duties.

- Contracted employees must obtain Department of Treasury provided security awareness training. (On-line training to be identified by the Contract Compliance Inspector).

II. DISASTER RECOVERY

The disaster recovery system ensures the availability of Department of Treasury's data in the event of an adverse impact to the system due to a natural or man-made emergency or disaster event. The Treasury's disaster recovery system consists of a separate instance of the contractor's system hosted by the State in the State's datacenter facilities and the disaster recovery system will be configured to perform data replication over secure communications protocols established by the State with the Treasury's production system on a daily basis.

The contractor will provide maintenance and support of the installed QED-Q2 Disaster Recovery system.

Deliverable(s)

Maintenance of software (includes Support and Technical)

Support & Technical

Contract parameters include:

- data replication will be conducted over secure communications protocols with the Treasury's production system on a daily basis
- The software maintenance program includes all future software updates and system enhancements applicable to system modules.
- provide necessary on-site support as stated in Article 1, Section 1.201 On Site Work Requirements (1.) Location of Work
- Emergency assistance is available 24 hours a day, seven days a week, at no additional cost to the State.
- provide help desk services via telephone, electronic mail, and remote system login at no additional cost.
- The State will be provided with information on the software through normal distribution of software release notes.



- Support is provided for the production version in use by the State and during transitional migration to newer versions to be used by the State.
- For the first year and all subsequent Contract years, the following services are provided for the current version and one previous version of any Software provided with the deliverables, commencing upon installation of the deliverables or delivery of the Software:
 - **Error Correction.** Upon notice by State of a problem with the Software (which problem can be verified), reasonable efforts to correct or provide a working solution for the problem.
 - **Material Defects.** The State will be notified of any material errors or defects in the deliverables known, or made known to Contractor from any source during the Contract term that could cause the production of inaccurate, or otherwise materially incorrect, results and shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
 - **Updates.** All new releases and bug fixes (collectively referred to as “Changes”) for any software deliverable developed or published by Contractor and made generally available to its other customers at no additional charge will be provided to the State at no additional charge.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501.

Acceptance Criteria

The project will be completed to the specifications, and within the timeframe, established by the State of Michigan.

III. IMPLEMENTATION OF ENHANCMENTS

The contactor must coordinate work activities with SOM project manager to load all necessary components of the QED-Q2 system to the State’s production platform.

The Contractor’s handling of activities and deliverables for the Implementation Phase includes, but is not limited to the following:

- The Contractor will assist SOM in regards to QED-Q2 software installations in State environments.
- Provide final written work breakdown plan for customization agreed upon by contractor and SOM project manager.
- Implement changes as needed to complement existing QED-Q2 accounting system platform.
- Provide stakeholder reviews of system configuration.
- Design agreed-upon custom formats for client reports and routine printing jobs.
- Interface between QED-Q2 accounting system platform and Bloomberg AIM Plus, State Street (for custody bank data), and FactSet.
- The Contractor will validate the system is installed and ready for use for the following environments:
 - Production
 - Disaster Recovery
- The Contractor will validate the system is installed and ready for use under separate statements of work when required for the following environments:
 - Testing
 - Training
- Obtain sign off on final system acceptance from SOM project manager

The SOM Project Manager will:

- Provide access to 1 to 3 SOM specialists necessary to answer questions and provide information to the Contractor to support Implementation activities.
- Provide for the review and productive feedback of all draft, interim and final deliverables.
- Monitor the resolution of issues and provide final acceptance of the system once the warranty period has passed and the system is acceptable.



Deliverable(s)

- Fully implemented and operational QED-Q2 system approved by SOM project manager.

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501. Any additional or more specific criteria should be identified here.

IV. TRAINING ON-SITE

The Contractor shall provide functional user and system administration training on the QED platform during each year of the Contract term. Contractor shall conduct training using State-provided computer training facilities, the State's QED platform hardware, non-production QED platform databases, and training agendas/plans and accompanying documentation jointly created by Contractor and State personnel (with such jointly created training agendas/plans and documentation being the property of the State) on a schedule agreed upon by Contractor and State. In the first year of the Contract term the Contractor shall provide up to five (5) consecutive calendar days of training. For each subsequent year of the Contract term the Contractor shall provide up to two (2) consecutive calendar days of training. Contractor shall conduct no more than two (2) training sessions per calendar day with each training session limited to a maximum duration of four (4) hours and with each training session comprised of no more than two (2) Contractor instructors and fourteen State students.

Deliverable(s)

- Completion of Annual Functional User Training
- Completion of Annual System Administrator Training

Acceptance Criteria

High-level acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501. Any additional or more specific criteria should be identified here.

1.200 Roles and Responsibilities

1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

The contractor has identified the following key personnel for this Contract.

Name	Company	Title	Phone/e-mail
Marc R. Conley 1 st point of contact	QED Financial Systems, Inc.	Senior Project Manager	856-797-1200 Conley@QedFinancialSystems.com
Robert Piontek 2 nd point of escalation	QED Financial Systems, Inc.	Client Support Manager	856-797-1200 piontek@QedFinancialSystems.com
Kimberly A McCann 3 rd point of escalation	QED Financial Systems, Inc.	Product Manager	856-797-1200 McCann@QedFinancialSystems.com

The contractor must provide a single-point of contact to interface with the State and the contractor. 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.

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.

On Site Work Requirements

1. Location of Work

The work to be performed, completed, and managed can take place remotely and is not required to be performed at a State location.



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 or State non-paid weekdays.

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.

1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

Executive Subject Matter Experts

The Executive Subject Matter Experts representing the business units involved will provide the vision for the business design and how the application shall provide for that vision. They shall be available on an as needed basis. The Executive SME's will be empowered to:

- Resolve project issues in a timely manner
- Review project plan, status, and issues
- Resolve deviations from project plan
- Provide acceptance sign-off
- Utilize change control procedures
- Ensure timely availability of State resources
- Make key implementation decisions, as identified by the contractor's project manager, within 48-hours of their expected decision date.

Name	Agency/Division	Title	Phone/e-mail
Karen Stout	Treasury/Bureau of Investments/Trust Accounting Division	Administrator	(517) 335-1012 stoutk@michigan.gov
John Stark	Treasury/Bureau of Investments/Trust Accounting Division	Manager, Accounting and System Controls	(517) 373-9242 starkjl@michigan.gov

State Project Manager- (MDTMB and Agency)

MDTMB will provide a Project Manager who will be responsible for the State's infrastructure and coordinate with the contractor in determining the system configuration.

The State's Project Manager will provide the following services:

- Provide State facilities, as needed
- Coordinate the State resources necessary for the project
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions
- Provide acceptance and sign-off of deliverable/milestone
- Review and sign-off of timesheets and invoices
- Resolve project issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Conduct regular and ongoing review of the project to confirm that it meets original objectives and requirements
- Document and archive all important project decisions



- Arrange, schedule and facilitate State staff attendance at all project meetings.

Name	Agency/Division	Title
David Connarton	MDTMB/Infrastructure Services	Project Manager
Karen Stout	Treasury/Bureau of Investments/Trust Accounting Division	Project Manager

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

Name	Agency/Division	Title
Joe Kelly	MDTMB	Contract Administrator

1.203 OTHER ROLES AND RESPONSIBILITIES - RESERVED

1.300 Project Plan

1.301 PROJECT PLAN MANAGEMENT

Project Plan

Contractor shall provide a 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.

1. In particular, the Project Plan will include a MS Project plan or equivalent (check the SUITE/PMM standard):
 - 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 Project Plan.
 - e. Internal milestones
 - f. Task durations
2. The Project Plan shall include the following deliverable/milestones for which payment shall be made.
 - a. Payment to the contractor will be made upon the completion and acceptance of the deliverable or milestone, not to exceed contractual costs of the phase. A milestone is defined as complete when all of the deliverables within the milestone have been completed.
 - b. Failure to provide deliverable/milestone by the identified date may be subject to liquidated damages as identified in Article 2.

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

Orientation Meeting

Upon 14 calendar days from execution of the Contract, the contractor may 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.



Project Control

1. The contractor will carry out this project under the direction and control of MDTMB and the Department of Treasury.
2. Within 30 working days of the execution of the Contract, the contractor will submit to the State project manager(s) for final approval, 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 60 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.

1.302 REPORTS

Reporting formats must be submitted to the State's Project Manager for approval within 60 business days after the execution of the contract. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the contract.

- Weekly Project status
- Updated project plan
- Summary of activity during the report period
- Accomplishments during the report period
- Deliverable status
- Schedule status
- Action Item status
- Issues
- Change Control
- Repair status
- Maintenance Activity

1.400 Project Management

1.401 ISSUE MANAGEMENT

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)

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 the 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.

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 Technology, 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 MDTMB 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 MDTMB 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.



1.500 Compensation and Payment

1.501 COMPENSATION AND PAYMENT

Method of Payment

The project will be paid firm, fixed price per Attachment A. Payment is made upon acceptance of deliverables by the SOM Project Manager. All maintenance support will be paid monthly, with equal payments each month based upon the annual cost listed in Attachment A.

Travel

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

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

DTMB – Financial Services
Accounts Payable
P.O. Box 30026
Lansing, MI 48909
or
DTMB-Accounts-Payable@michigan.gov

. Invoices must provide and itemize, as applicable:

- Contract number;
- Purchase Order number
- Contractor name, address, phone number, and Federal Tax Identification Number;
- Description of any commodities/hardware, including quantity ordered;
- Date(s) of delivery and/or date(s) of installation and set up;
- Price for each item, or Contractor's list price for each item and applicable discounts;
- Maintenance charges;



- Net invoice price for each item;
- Shipping costs;
- Other applicable charges;
- Total invoice price; and
- Payment terms, including any available prompt payment discount.

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

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

1.502 HOLDBACK - RESERVED



Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 CONTRACT TERM

This Contract is for a period of 3 years beginning 9/18/2011 through 9/17/2014. All outstanding Purchase Orders must also expire upon the termination for any of the reasons listed in **Section 2.150** of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, shall remain in effect for the balance of the fiscal year for which they were issued.

2.002 OPTIONS TO RENEW

This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to 3 additional 1 year periods.

2.003 LEGAL EFFECT

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

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

2.004 ATTACHMENTS & EXHIBITS

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

2.005 ORDERING

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

2.006 ORDER OF PRECEDENCE

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

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



2.007 HEADINGS

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

2.008 FORM, FUNCTION & UTILITY

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

2.009 REFORMATION AND SEVERABILITY

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

2.010 Consents and Approvals

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

2.011 NO WAIVER OF DEFAULT

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

2.012 SURVIVAL

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

2.020 Contract Administration

2.021 ISSUING OFFICE

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

Joe Kelly
Buyer
Purchasing Operations
Department of Technology, Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email: kellyj11@michigan.gov
Phone: 517-373-3993

2.022 CONTRACT COMPLIANCE INSPECTOR

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

David Conarton
MDTMB/Infrastructure Services
2501 Coolidge Road, Suite 400



conartond@michigan.gov
517-335-3697

2.023 PROJECT MANAGER

The following individual will oversee the project:

David Conarton
MDTMB/Infrastructure Services
2501 Coolidge Road, Suite 400
conartond@michigan.gov
517-335-3697

2.024 CHANGE REQUESTS

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

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

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

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

(1) Change Request at State Request

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

(2) Contractor Recommendation for Change Requests:

Contractor shall be entitled to propose a Change to the State, on its own initiative, should Contractor believe the proposed Change would benefit the Contract.

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



recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

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

2.025 NOTICES

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

State:

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

Contractor:

Name: Joseph Potesta
 Address: 10,000 Sagemore Drive
 Marlton, New Jersey 08053

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

2.026 BINDING COMMITMENTS

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



2.027 RELATIONSHIP OF THE PARTIES

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

2.028 COVENANT OF GOOD FAITH

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

2.029 ASSIGNMENTS

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

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

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

2.030 General Provisions

2.031 MEDIA RELEASES

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

2.032 CONTRACT DISTRIBUTION

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

2.033 PERMITS

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

2.034 WEBSITE INCORPORATION

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

2.035 FUTURE BIDDING PRECLUSION

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

2.036 FREEDOM OF INFORMATION



All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

2.037 DISASTER RECOVERY

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

2.040 Financial Provisions

2.041 FIXED PRICES FOR SERVICES/DELIVERABLES

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

2.042 ADJUSTMENTS FOR REDUCTIONS IN SCOPE OF SERVICES/DELIVERABLES

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

2.043 SERVICES/DELIVERABLES COVERED

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

2.044 INVOICING AND PAYMENT – IN GENERAL

- (a) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.
- (b) Each Contractor invoice shall show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis shall show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.600**.
- (c) Correct invoices shall be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.
- (d) All invoices should reflect actual work done. Specific details of invoices and payments shall be agreed upon between the Contract Administrator and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity shall occur only upon the specific written direction from Purchasing Operations.

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

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

2.045 PRO-RATION



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

2.046 ANTITRUST ASSIGNMENT

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

2.047 FINAL PAYMENT

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

2.048 ELECTRONIC PAYMENT REQUIREMENT

Electronic transfer of funds is required for payments on State Contracts. Contractors are required to register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in Public Act 431 of 1984, all contracts that the State enters into for the purchase of goods and services shall provide that payment shall be made by electronic fund transfer (EFT).

2.050 Taxes

2.051 EMPLOYMENT TAXES

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

2.052 SALES AND USE TAXES - RESERVED

2.060 Contract Management

2.061 CONTRACTOR PERSONNEL QUALIFICATIONS

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

2.062 CONTRACTOR KEY PERSONNEL

- (a) The Contractor must provide the Contract Compliance Inspector with the names of the Key Personnel.
- (b) Key Personnel must be dedicated as defined in the Statement of Work to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.
- (c) The State shall have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor shall notify the State of the proposed assignment, shall introduce the individual to the appropriate State representatives, and shall provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State shall provide a written explanation including reasonable detail outlining the reasons for the rejection.
- (d) Contractor must not remove any Key Personnel from their assigned roles on the Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). Unauthorized Removals does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. Unauthorized Removals does not include replacing Key Personnel because of promotions or other job movements allowed by Contractor personnel policies or



Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides 30 days of shadowing unless parties agree to a different time period. The Contractor with the State must review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its termination and cancellation rights.

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

2.063 RE-ASSIGNMENT OF PERSONNEL AT THE STATE'S REQUEST

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

**2.064 CONTRACTOR PERSONNEL LOCATION**

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

2.065 CONTRACTOR IDENTIFICATION

Contractor employees must be clearly identifiable while on State property by wearing a State-issued badge, as required. Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

2.066 COOPERATION WITH THIRD PARTIES

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

2.067 CONTRACT MANAGEMENT RESPONSIBILITIES

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

The Contractor shall provide the Services/Deliverables directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor shall act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

2.068 CONTRACTOR RETURN OF STATE EQUIPMENT/RESOURCES

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

2.070 Subcontracting by Contractor**2.071 CONTRACTOR FULL RESPONSIBILITY**

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



2.072 STATE CONSENT TO DELEGATION

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

2.073 SUBCONTRACTOR BOUND TO CONTRACT

In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor shall be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State shall not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. A list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract is attached.

2.074 FLOW DOWN

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

2.075 COMPETITIVE SELECTION

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

2.080 State Responsibilities

2.081 EQUIPMENT

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

2.082 FACILITIES

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

2.090 Security

2.091 BACKGROUND CHECKS



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

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

2.092 SECURITY BREACH NOTIFICATION

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

2.093 PCI DATA SECURITY REQUIREMENTS

Contractors with access to credit/debit card cardholder data must adhere to the Payment Card Industry (PCI) Data Security requirements. Contractor agrees that they are responsible for security of cardholder data in their possession. Contractor agrees that data can ONLY be used for assisting the State in completing a transaction, supporting a loyalty program, supporting the State, providing fraud control services, or for other uses specifically required by law.

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

The Contractor shall contact the Department of Technology, Management and Budget, Financial Services immediately to advise them of any breaches in security where card data has been compromised. In the event of a security intrusion, the Contractor agrees the Payment Card Industry representative, or a Payment Card Industry approved third party, shall be provided with full cooperation and access to conduct a thorough security review. The review will validate compliance with the Payment Card Industry Data Security Standard for protecting cardholder data.

Contractor agrees to properly dispose sensitive cardholder data when no longer needed. The Contractor shall continue to treat cardholder data as confidential upon contract termination.

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

2.100 Confidentiality

2.101 CONFIDENTIALITY

Contractor and the State each acknowledge that the other possesses and shall continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor must mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below), which is marked confidential, restricted, proprietary, or with a similar designation. "Confidential Information" of the State must mean any information which is retained



in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. "Confidential Information" excludes any information (including this Contract) that is publicly available under the Michigan FOIA.

2.102 PROTECTION AND DESTRUCTION OF CONFIDENTIAL INFORMATION

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

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

2.103 EXCLUSIONS

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

2.104 NO IMPLIED RIGHTS

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



2.105 RESPECTIVE OBLIGATIONS

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

2.110 Records and Inspections

2.111 INSPECTION OF WORK PERFORMED

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

2.112 EXAMINATION OF RECORDS

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

2.113 RETENTION OF RECORDS

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

2.114 AUDIT RESOLUTION

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

2.115 ERRORS

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

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

2.120 Warranties

2.121 WARRANTIES AND REPRESENTATIONS

The Contractor represents and warrants:

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



- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under neither this Contract, nor their use by the State shall infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.
- (e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.
- (f) It is qualified and registered to transact business in all locations where required.
- (g) Neither the Contractor nor any Affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.
- (h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.
- (i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
- (j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other Bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.
- (k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor.
- (l) All written information furnished to the State by or for the Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the information not misleading.
- (m) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the contract.
- (n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Technology, Management and Budget, Purchasing Operations.

2.122 WARRANTY 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

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

The Contractor represents and warrants that the equipment/system(s) are in good operating condition and operates and performs to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of (1) one year commencing upon the first day following Final Acceptance.

Within 15 business days of notification from the State, the Contractor must adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract. The Contractor must assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

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

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

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.

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



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

2.140 Indemnification

2.141 GENERAL INDEMNIFICATION

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

2.142 CODE INDEMNIFICATION

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

2.143 EMPLOYEE INDEMNIFICATION

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



2.144 PATENT/COPYRIGHT INFRINGEMENT INDEMNIFICATION

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

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

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

2.145 CONTINUATION OF INDEMNIFICATION OBLIGATIONS

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

2.146 INDEMNIFICATION PROCEDURES

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

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



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

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

2.150 Termination/Cancellation

2.151 NOTICE AND RIGHT TO CURE

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

2.152 TERMINATION FOR CAUSE

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

2.153 TERMINATION FOR CONVENIENCE

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



must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for convenience must cease on the effective date of the termination.

2.154 TERMINATION FOR NON-APPROPRIATION

- (a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State must terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).
- (b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract shall be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.
- (c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section shall not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.155 TERMINATION FOR CRIMINAL CONVICTION

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

2.156 TERMINATION FOR APPROVALS RESCINDED

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

2.157 RIGHTS AND OBLIGATIONS UPON TERMINATION

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



for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

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

2.158 RESERVATION OF RIGHTS

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

2.160 Termination by Contractor

2.161 TERMINATION BY CONTRACTOR

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

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

2.170 Transition Responsibilities

2.171 CONTRACTOR TRANSITION RESPONSIBILITIES

If the State terminates this contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor shall comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If this Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 30 days. These efforts must include, but are not limited to, those listed in **Section 2.150**.

2.172 CONTRACTOR PERSONNEL TRANSITION

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

2.173 CONTRACTOR INFORMATION TRANSITION

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

2.174 CONTRACTOR SOFTWARE TRANSITION

The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This must include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses must, upon expiration of the Contract, transfer back to the State at



their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

2.175 TRANSITION PAYMENTS

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

2.176 STATE TRANSITION RESPONSIBILITIES

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to reconcile all accounts between the State and the Contractor, complete any pending post-project reviews and perform any others obligations upon which the State and the Contractor agree.

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

2.180 Stop Work

2.181 STOP WORK ORDERS

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

Within the period of the stop work order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the Stop Work Order as provided in **Section 2.182**.

2.182 CANCELLATION OR EXPIRATION OF STOP WORK ORDER

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

2.183 ALLOWANCE OF CONTRACTOR COSTS

If the Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated for reasons other than material breach, the termination shall be deemed to be a termination for convenience under **Section 2.153**, and the State shall pay reasonable costs resulting from the Stop Work Order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this Section.

2.190 Dispute Resolution

2.191 IN GENERAL

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

2.192 INFORMAL DISPUTE RESOLUTION



(a) All disputes between the parties shall be resolved under the Contract Management procedures in this Contract. If the parties are unable to resolve any dispute after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DTMB, or designee, to resolve the dispute without the need for formal legal proceedings, as follows:

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

2.193 INJUNCTIVE RELIEF

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



2.194 CONTINUED PERFORMANCE

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

2.200 Federal and State Contract Requirements

2.201 NONDISCRIMINATION

In the performance of the Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, and marital status, physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of this Contract or any purchase order resulting from this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., and any breach of this provision may be regarded as a material breach of the Contract.

2.202 UNFAIR LABOR PRACTICES

Under 1980 PA 278, MCL 423.321, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.203 WORKPLACE SAFETY AND DISCRIMINATORY HARASSMENT

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

2.204 PREVAILING WAGE

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

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

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

2.210 Governing Law

2.211 GOVERNING LAW



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

2.212 COMPLIANCE WITH LAWS

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

2.213 JURISDICTION

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

2.220 Limitation of Liability

2.221 LIMITATION OF LIABILITY

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

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

2.230 Disclosure Responsibilities

2.231 DISCLOSURE OF LITIGATION

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

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

- (a) the ability of Contractor (or a Subcontractor) to continue to perform this Contract according to its terms and conditions, or
- (b) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
 - (1) Contractor and its Subcontractors will be able to continue to perform this Contract and any Statements of Work according to its terms and conditions, and



- (2) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.
- (c) Contractor shall make the following notifications in writing:
- (1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify MDTMB Purchasing Operations.
 - (2) Contractor shall also notify MDTMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.
 - (3) Contractor shall also notify MDTMB Purchase Operations within 30 days whenever changes to company affiliations occur.

2.232 CALL CENTER DISCLOSURE

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

2.233 BANKRUPTCY

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

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

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

2.240 Performance

2.241 TIME OF PERFORMANCE

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

2.242 SERVICE LEVEL AGREEMENT (SLA)

- (a) SLAs will be completed with the following operational considerations:
 - (1) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has been determined; Incident means any interruption in Services.
 - (2) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification or coordination.
 - (3) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete



documentation relevant to the denied planning proposal must be presented to substantiate the proposal.

- (4) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:
- (i) Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.
 - (ii) Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.
- (b) Chronic Failure for any Service(s) will be defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service will not affect any tiered pricing levels.
- (c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.
- (d) All decimals must be rounded to two decimal places with five and greater rounding up and four and less rounding down unless otherwise specified.

2.243 LIQUIDATED DAMAGES

The State and the Contractor hereby agree to the specific standards set forth in this Contract. It is agreed between the Contractor and the State that the actual damages to the State as a result of Contractor's failure to provide promised services would be difficult or impossible to determine with accuracy. The State and the Contractor therefore agree that liquidated damages as set out herein shall be a reasonable approximation of the damages that shall be suffered by the State as a result thereof. Accordingly, in the event of such damages, at the written direction of the State, the Contractor shall pay the State the indicated amount as liquidated damages, and not as a penalty. Amounts due the State as liquidated damages, if not paid by the Contractor within fifteen (15) days of notification of assessment, may be deducted by the State from any money payable to the Contractor pursuant to this Contract. The State will notify the Contractor in writing of any claim for liquidated damages pursuant to this paragraph on or before the date the State deducts such sums from money payable to the contractor. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.

The Contractor shall not be liable for liquidated damages when delays arise out of causes beyond the control and without fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State in either its sovereign or contractual capacity, fires, flood, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the delays must be beyond control and without the fault or negligence of this Contractor.

Liquidated Damages - The parties acknowledge and agree that in the event that the Contractor fails to complete certain obligations as specified in the Contract, damage shall be sustained by the State. The parties also agree that it is impractical and difficult to determine the actual amount of such damages. Therefore, the parties agree that the State may receive liquidated damages in the amounts specified below for any of the following failures due to the sole fault of the Contractor.

- a.) Failure by QED to deliver a substantially acceptable Software system as determined by system acceptance test plan within 150 days following acceptance by the State of the Project Plan. The Liquidated Damage amount shall be one thousand five hundred dollars (\$1,500) per day.
- b.) In no event shall the total amount of Liquidated Damages in this provision exceed one hundred thousand dollars (\$100,000).

The State is not obligated to assess liquidated damages before availing itself of any other remedy. The State may choose to discontinue liquidated damages and avail itself of any other remedy available under this contract or at law or equity provided however the contractor shall receive credit for said liquidated damages previously withheld, unless the contract is cancelled by the State for contractor's material breach.



2.244 EXCUSABLE FAILURE

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

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

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

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

2.250 Approval of Deliverables

2.251 DELIVERY OF DELIVERABLES

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

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



2.252 CONTRACTOR SYSTEM TESTING

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

For practical purposes, Contractor and the State agree to collaborate and agree on the creation and execution of reasonable testing plans that may require specifications and resources to be provided by both parties.

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

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

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

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

2.253 APPROVAL OF DELIVERABLES, IN GENERAL

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

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

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

The State will approve in writing a Deliverable upon confirming that it conforms to and, in the case of a Custom Software Deliverable, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable that contains material



deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable that remain outstanding at the time of State approval.

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

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

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

2.254 PROCESS FOR APPROVAL OF WRITTEN DELIVERABLES

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

2.255 PROCESS FOR APPROVAL OF CUSTOM SOFTWARE DELIVERABLES

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

Within thirty (30) days (or such other number of days as the parties may agree to in writing) prior to Contractor's delivery of any Custom Software Deliverable to the State for approval, Contractor and the State agree to collaborate to provide the necessary resources to develop a set of proposed test plans, including test cases, scripts, data and expected outcomes, for the State's use (which the State may supplement in its own



discretion) in conducting UAT of the Custom Software Deliverable. Contractor, upon request by the State, shall provide the State with reasonable assistance and support during the UAT process.

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

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

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

2.256 FINAL ACCEPTANCE

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

1. Work Products shall be defined as the information derived from the Software. This information shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such Work Product, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned Work Product.

2. Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any and all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the State shall have no interest in or claim to such preexisting work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the State shall include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of preexisting work, materials and Development Tools, except as specifically limited herein.



3. The Contractor and its subcontractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so long as the Contractor or its subcontractors acquire and apply such information without disclosure of any confidential or proprietary information of the State, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.

4. During the life of this Contract, Contractor may provide the State with new versions of the Software. Such new versions may include improvements, enhancements and new features added to the Software and may also include changes or additions to the manuals and documentation provided. Any additional programs, functionality or documentation provided to the State under this Contract shall automatically be added as part of Software licensed to the State, and shall thereafter be subject to all of the terms and conditions set forth under this Contract.

2.262 VESTING OF RIGHTS - DELETED

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 and during the term of 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 and the State will be party to the licensing agreement set forth for such software by the third party provider.

2.270 State Standards

2.271 EXISTING TECHNOLOGY STANDARDS

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

2.272 ACCEPTABLE USE POLICY

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

2.273 SYSTEMS CHANGES

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

**2.280 Extended Purchasing****2.281 MIDEAL (MICHIGAN DELIVERY EXTENDED AGREEMENTS LOCALLY - RESERVED****2.282 STATE EMPLOYEE PURCHASES - RESERVED****2.290 Environmental Provision****2.291 ENVIRONMENTAL PROVISION**

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

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

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

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



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

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

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

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

2.300 Deliverables

2.301 SOFTWARE

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

2.302 HARDWARE

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

2.310 Software Warranties

2.311 PERFORMANCE WARRANTY

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

2.312 NO SURREPTITIOUS CODE WARRANTY

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

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



authority of the owner) to establish and maintain software license seat and user authentication audits and controls.

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

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

2.313 CALENDAR WARRANTY

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

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

2.314 THIRD-PARTY SOFTWARE WARRANTY

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

2.315 PHYSICAL MEDIA WARRANTY

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

2.320 Software Licensing

2.321 CROSS-LICENSE, DELIVERABLES ONLY, LICENSE TO CONTRACTOR

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

Contractor grants to the State a non-exclusive, royalty-free, site-wide, perpetual, non-transferable license to use the Software and related documentation according to the terms and conditions of this Contract. For the purposes of this license, "site-wide" includes any State of Michigan office regardless of its physical location.



The State may copy each item of Software to multiple hard drives or networks unless otherwise agreed by the parties.

The State will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. The State may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents.

In the event that the Contractor shall, for any reason, cease to conduct business, or cease to support the Software, the State shall have the right to convert these licenses into perpetual licenses, with rights of quiet enjoyment, but subject to payment obligations not to exceed the then current rates.

2.325 PRE-EXISTING MATERIALS FOR CUSTOM SOFTWARE DELIVERABLES

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

2.326 LOCATION OF OPERATION

The Software may be used only for, by and on the behalf of the Licensee and only at the facility location specified above and herein. Any change of location shall require prior written consent of Contractor, which shall not be unduly withheld.

2.327 TITLE

Licensee's right to use the Software is limited to the license granted and may not be assigned, sub-licensed or otherwise transferred without the prior written consent of the Contractor. These restrictions shall survive the termination of this Agreement. Contractor hereby reserves all rights to all programs, documentation, manuals and applications related to the Software.

Title and full ownership rights to the Software licensed under this Agreement and all copies and versions thereof shall at all times remain with Contractor. Contractor expressly retains sole ownership of all source code, and no license granted under this Agreement shall be construed to include source code as part of the licensed Software. Licensee understands and agrees that the Software is proprietary information and a trade secret of Contractor whether or not any portion thereof is or may be validly copyrighted or patented.

Licensee acknowledges that the Contractor has exclusive rights, title and interest in and to the Software and holds the sole and exclusive copyright on Software and any other ownership rights that may exist therein. Licensee agrees that it will not at any time do or cause to be done any act or thing impairing or tending to impair any part of such rights, title and interest. Licensee agrees that its use of the Software shall not create in Licensee's favor any right, title or interest in Software beyond that of licensee.

Licensee shall become owner of all equipment and licensee of third party software specified in Section 4 of the Software Installation and Maintenance Agreement upon the date of installation of said items at Licensee's location subject to Contractor's receipt of the payment specified in Section 2 of the Software Installation and Maintenance Agreement.

In the event that Contractor discontinues operations, Licensee shall be entitled to secure for its own use the then current product source code listings and related documentation free of charge, provided that a valid and continuous Software Installation and Maintenance Agreement is in force. This source code shall be for Licensee's sole use, and may not be distributed, made commercially available in any manner, or reconstructed so as to constitute an issue, sale, or distribution of the software to any other Party.



2.238. RISK OF LOSS

On delivery and acceptance of equipment, all risk shall transfer to Licensee.



Glossary

Days	Means calendar days unless otherwise specified.
24x7x365	Means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
Additional Service	Means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Audit Period	See Section 2.110
Business Day	Whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
Blanket Purchase Order	An alternate term for Contract as used in the States computer system.
Business Critical	Any function identified in any Statement of Work as Business Critical.
Chronic Failure	Defined in any applicable Service Level Agreements.
Deliverable	Physical goods and/or commodities as required or identified by a Statement of Work
DTMB	Michigan Department of Technology, Management and Budget
Environmentally preferable products	A product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to, those that contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.
Excusable Failure	See Section 2.244.
Hazardous material	Any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).
Incident	Any interruption in Services.
ITB	A generic term used to describe an Invitation to Bid. The ITB serves as the document for transmitting the RFP to potential bidders
Key Personnel	Any Personnel designated in Article 1 as Key Personnel.
New Work	Any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.
Ozone-depleting substance	Any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydro chlorofluorocarbons
Post-Consumer Waste	Any product generated by a business or consumer which has served its intended end use, and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.
Post-Industrial Waste	Industrial by-products that would otherwise go to disposal and wastes generated after completion of a manufacturing process, but do not include internally generated scrap commonly returned to industrial or manufacturing processes.
Recycling	The series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.
Deleted – Not Applicable	Section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.
Reuse	Using a product or component of municipal solid waste in its original form more than once.



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



Attachment A – Cost Tables

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
License and Maintenance	\$250,000.00	\$260,500.00	\$271,525.00	\$283,101.25	\$295,256.31	\$308,019.13
Disaster Recovery License and Maintenance	\$42,000.00	\$44,100.00	\$46,305.00	\$48,620.25	\$51,051.26	\$53,603.83
Implementation of Enhancements	\$165,000.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Training On-Site	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00
Total Annual Cost	\$469,000.00	\$316,600.00	\$329,830.00	\$343,721.50	\$358,307.57	\$373,622.96

Transition Cost Table

Officer/Senior Executive	\$600
Senior Systems Analyst/Programmer	\$540
Financial Engineer	\$500
Application Developer	\$480
Technology Engineer	\$440
Business Analyst	\$440
Programmer	\$400
Project Manager	\$400
Training Specialist	\$400
Interface/Reports Specialist	\$360
Technical Writer	\$320