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 4
to
Contract Number **071B2200052**

CONTRACTOR	
	CAREFUSION SOLUTIONS, LLC
	10020 Pacific Mesa Blvd.
	San Diego, CA 92121
	Peter Bashakes
	248-906-8648
	peter.bashakes@carefusion.com
	*******7112

STATE			
	Program Manager	Roach, David	DTMB
		517-241-2220	
		roachd2@@Michigan.gov	
	Contract Administrator	Simon Baldwin	DTMB
		(517) 284-6997	
		BaldwinS@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: NARCOTIC DISPENSING SYSTEM			
INITIAL EFFECTIVE DATE	**INITIAL EXPIRATION DATE**	**INITIAL AVAILABLE OPTIONS**	**EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW**
December 1, 2011	November 30, 2014	3 - 1 Year	November 30, 2017
PAYMENT TERMS		**DELIVERY TIMEFRAME**	
ALTERNATE PAYMENT OPTIONS			**EXTENDED PURCHASING**
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes ☒ No
MINIMUM DELIVERY REQUIREMENTS			

DESCRIPTION OF CHANGE NOTICE				
OPTION	**LENGTH OF OPTION**	**EXTENSION**	**LENGTH OF EXTENSION**	**REVISED EXP. DATE**
☐		☐		

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$ 649,428.00	$ 116,840.00	$ 766,268.00

DESCRIPTION: Effective June 7, 2016, The State adds $116,840.00 and the attached 20 Month Rental and Support quote for 5 additional Medication dispensing units. The monthly rate for the 5 additional units will begin on 9/1/2016, per the attached implementation schedule. Please note, the Contract Administrator has been changed to Simon Baldwin. All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval and State Administrative Board approval on June 7, 2016.
Available Ad Board approved dollars remaining: $11,984.00

P ricing Schedule:

CareFusion

Rental Agreement and Support Agreement
Pyxis Product Schedule
Quote Number : 1000089539

Sold To: GRAND RAPIDS VETERANS HOME #10089446
Ship To: GRAND RAPIDS VETERANS HOME #10089446

GPO: VETERANS ADMINISTRATION

Product Discounts:
QTY: 7 %
Support Discounts:
QTY: 3 %
Support Level: Basic / Standard 24h
Rental and Support Term: 20 months

The fees stated in this Agreement are offered by CareFusion for acceptance by the Customer for a period expiring on: 07/04/2016

New Products							Rental Terms			Support Terms		
							Monthly Rental Fee			Monthly Support Fee		
Proposed Location	Product ID	Rx/ Prs	Product Name	P.Drws	Tr.Type	QTY	List	Net	Extended	List	Net	Extended
Floors - Main	303	Rx	M40R6B--6H0F0N0C0M0B--MEDSTATION,4000,MAIN,6DR,T2	6	EXP	1	$ 1,141.00	$ 1,061.00	**$ 1,061.00**	$ 91.00	$ 88.00	**$ 88.00**
Floors - Main	303	Rx	M40R6B--6H0F0N0C0M0B--MEDSTATION,4000,MAIN,6DR,T2	6	EXP	1	$ 1,141.00	$ 1,061.00	**$ 1,061.00**	$ 91.00	$ 88.00	**$ 88.00**
Floors - Main	303	Rx	M40R6B--6H0F0N0C0M0B--MEDSTATION,4000,MAIN,6DR,T2	6	EXP	1	$ 1,141.00	$ 1,061.00	**$ 1,061.00**	$ 91.00	$ 88.00	**$ 88.00**
Floors - Main	303	Rx	M40R6B--6H0F0N0C0M0B--MEDSTATION,4000,MAIN,6DR,T2	6	EXP	1	$ 1,141.00	$ 1,061.00	**$ 1,061.00**	$ 91.00	$ 88.00	**$ 88.00**
Floors - Aux	306		A40-7---7H0F0N0C0M0B--MEDSTATION,4000,AUX,7-DRAWER	7	EXP	1	$ 891.00	$ 829.00	**$ 829.00**	$ 42.00	$ 41.00	**$ 41.00**
Floors - Fridge	345		RSR----------MED,SRM,ROUNDOFFSET,12FT,LT		EXP	1	$ 84.00	$ 78.00	**$ 78.00**	$ 17.00	$ 16.00	**$ 16.00**
Floors - Fridge	345		RSR----------MED,SRM,ROUNDOFFSET,12FT,LT		EXP	1	$ 84.00	$ 78.00	**$ 78.00**	$ 17.00	$ 16.00	**$ 16.00**
Floors - Fridge	345		RSR----------MED,SRM,ROUNDOFFSET,12FT,LT		EXP	1	$ 84.00	$ 78.00	**$ 78.00**	$ 17.00	$ 16.00	**$ 16.00**
Floors - Fridge	345		RSR----------MED,SRM,ROUNDOFFSET,12FT,LT		EXP	1	$ 84.00	$ 78.00	**$ 78.00**	$ 17.00	$ 16.00	**$ 16.00**
						Totals:			**$ 5,385.00**			**$ 457.00**

Total Monthly Rental & Support Fee: **$5,842.00**

All fees mentioned are in USD

Implementation Schedule:

Key Activity	Customer Responsibilities	Completion Date
Third Party Hardware Procurement (if applicable)	Any additional equipment arrives on site and is ready for implementation as outlined in the project scope by this date.	N/A
Install Server(s) and Test Environment	Prepare environment for server(s) and test equipment.	N/A
Develop the Solution	Department Lead, Nursing/Anesthesia (as applicable), Interface and IT Liaison Leads participate in meetings and are responsible for setting up the Customer's system and managing workflow changes. Solution for the customer system is developed via System Setup, Workflow, and Policy and Procedure documents. These results determine the build of the system. Customer System Manager completes the System Manager training.	N/A
Complete the Database Build / Configuration	Gather required information for database build / configuration.	N/A
Create Training Plan	Department Leads and Nursing/Anesthesia (as applicable) develop training tools and finalize Customer's end user training plan.	N/A
Validate TEST System	Customer completes the System validation.	N/A
Migrate to PRODUCTION System	Customer completes System validation and signs off on the interface.	N/A
Verify Facility Preparation	Complete all construction, including wire/wireless network and power in preparation for equipment installation. Prepare an area for staging/storage of equipment.	8/5/2016
Obtain Equipment	Receive equipment. Customer Project manager and IT Liaison acquire any third party interfaces, as applicable. Complete applicable server setup processes.	8/5/2016
Build Equipment	Department Lead loads equipment and configures system according to the System Setup document.	8/26/2016
Deliver / Verify Training	Two to three identified Super Users per patient care unit per shift attend scheduled sessions of CareFusion-provided Super User training; provide Super User-led training to end users. Sign off on training.	N/A
Go-live and Support	Attend pre-go-live meetings and work with CareFusion to bring System live. Provide a full time resource(s) for a minimum of two days after go-live.	8/31/2016
Obtain Customer Acceptance	Sign Equipment Confirmation	8/31/2016

Form No. DTMB-3521 (Rev. 7/2015)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

CHANGE NOTICE NO. 3

to

CONTRACT NO. 071B2200052

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Carefusion Solutions, LLC	Peter Bashakes	Peter.bashakes@carefusion.com
10020 Pacific Mesa Blvd.	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
San Diego, CA 92121	(248) 906-8648	7112

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	David Roach	(517) 241-2220	Roachd2@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Jarrod Barron	(517) 284-7045	barronj@michigan.gov

CONTRACT SUMMARY

DESCRIPTION: Narcotic Dispensing System

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
December 1, 2011	November 30, 2014	3, one year	November 30, 2017

PAYMENT TERMS	DELIVERY TIMEFRAME
N/A	N/A

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

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$196,776.00	$389,412.00	$586,188.00

DESCRIPTION: Effective August 18, 2015, the State adds $389,412.00 for the lease and support of 12 additional Pyxis narcotics dispensing systems as described in the attached Statement or Work. All other pricing, terms, and conditions remain the same. Per contractor and agency agreement, the approval of DTMB Procurement, and the approval of the State Administrative Board August 18, 2015.

FOR THE CONTRACTOR:

_____
Company Name

_____
Authorized Agent Signature

_____
Authorized Agent (Print or Type)

_____
Date

FOR THE STATE:

_____
Signature

_____
Name & Title

_____
Agency

_____
Date

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

Project Title: **Additional Medication Dispensing Units**	**Period of Coverage:** **8/30/2015 -7/1/2019**
Requesting Department: **Department of Military & Veterans Affairs (DMVA)**	**Date:** **July 13, 2015**
Agency Project Manager: **Eric Alderman**	**Phone:** **616-364-5292**
DTMB Project Manager: **David Roach**	**Phone:** **517-241-2254**

Brief Description of Services to be provided:
Amendment to Contract 071B2200052 to fund 12 additional medication dispensing systems and supportive peripherals and support for 36 months. Estimated total project period of coverage is 8/30/2015 through 7/1/2019. This Statement of Work is governed by the terms of Contract 071B2200052.

BACKGROUND:
The Department of Military & Veterans Affairs (DMVA) has Contract 071B2200052 with Carefusion Solutions LLC to provide a narcotics dispensing system that includes one medication dispensing unit at the Grand Rapids Home for Veterans (GRHV) which interfaces with the QS1 pharmacy system and future electronic medical record system.

The medication dispensing unit was installed more than a year ago in an effort to reduce On-Call Pay for Pharmacists and to comply with an Audit Finding for accountability of Controlled Substances. The original equipment installed accomplished both areas and has proven to work successfully. Currently, the GRHV Pharmacy is faced with a challenge to adequately dispense medications for all residents who reside at the home because there is only one medication dispensing unit. With the additional medication dispensing units DMVA will position the equipment in each of the wards within the Home to reduce time lost by staff in going to the single system and returning with the prescribed Medication. This amendment will provide an efficient solution for GRHV pharmacy staff to sufficiently provide nurses to access approved medications on a 24 hour basis.

PROJECT OBJECTIVE:
The objective of this project is to be able to provide accurate and safe medication dispensing to the residents at the Grand Rapids Home for Veterans. To accomplish this goal, Carefusion Solutions LLC will provide 12 additional medication dispensing units that will be compatible with the existing Pyxis MedStation 4000, PharmOPak packager, and Pyxis CII Safe and interface with the QS1 pharmacy system and future electronic medical record system. In addition, the equipment under this amendment will generate an electronic record of all transactions in order to be in compliance with all state and federal laws.

SCOPE OF WORK:
Carefusion Solutions LLC will provide 12 additional medication dispensing units and supportive peripherals and support for 36 months. Estimated total project period of coverage is 8/30/2015 through 7/1/2019. See Implementation Timeline attached and 36 month Rental Agreement.

Contractor must provide delivery and install 12 additional medication dispensing units and supportive peripherals that provide appropriate system interfaces/integration compatible with the following applications/systems:

- CIISafe Single Integrated Main, 3 Doors, 1 Rapid Access Drawer, BioID, XP, V7 Exp date tracking
- MedStation 4000 Non-Profile Console with up to 1 printer, montor, UPS
- MedStation 4000 6 Drawer Main with up to 4 Cubie/Mini Drawers, BioID
- MedStation 4000 Single Column Auxiliary, 4 Doors, 0 Drawers
- Smart Remote Manager – Med
- QS1 Pharmacy System
- Pyxis CII Safe
- Pyxis PharmOPak packager
- Future Electronic Medical Records system

Each Parties respective implementation activities are listed in the Implementation Timeline attached and in Contract 071B2200052, Master Rental Terms and Conditions Rental Agreement Section #4 “Implementation”

Contractor will provide all necessary training to operate and maintain the medication dispensing units as listed in Contract 071B2200052, Master Rental Terms and Conditions Support Agreement Section #6 “Training” and the following.

Upgrades and new versions to the medication dispensing units that affect end-user functionality include training at no additional cost (e.g. classroom or online training, training flier, release features, etc.)

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

All training manuals, training plans and other documentation provided become the property of the State.

Contractor will provide a 90 day warranty period as listed in Contract 071B2200052 Master Rental Terms and Conditions Support Agreement Section #16 “Limited Warranty”.

Contractor will provide ongoing support for the medication dispensing units as listed in Contract 071B2200052 Master Rental Terms and Conditions Support Agreement Section #7 “Basic Services”

DELIVERABLES:
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.

Equipment Deliverable(s)

- Delivery of 12 Medication dispensing units and supportive peripherals as listed below:

New Products						
Proposed Location	Product ID	Rx/ Prs	Product Name	P.Drws	Tr.Type	QTY
Floors	303	Rx	M40R2B--2H0F0N0C0M0B MEDSTATION4000,MAIN,2DR	2	NEW	12
Floors	119-56		119-56 MED, SRM, FLAT, 12, LEFT, ROHS		NEW	12
Night Cabinet	134349-01		134349-01 PROFILE UPGRADE FOR MEDSTATION		EXP	1
Night Cabinet add	306		A40-7---7H0F0N0C0M0B MEDSTATION,4000,AUX,7-DRAWER	7	EXP	1
Pharmacy - Profile upg	134349-01		134349-01 PROFILE UPGRADE FOR MEDSTATION		EXP	1

Implementation Deliverable(s)
Implementation will occur on the attached Implementation Timeline (last page of this Change Notice) and will include:

- Set-up of 12 Medication dispensing units and supportive peripherals as listed above.
- Interfaces
  - Interface to existing QS1 pharmacy system
  - Interface with the Pyxis PharmOPak medication packager.
  - Interface with Pyxis CII Safe.
  - Interface with current Pyxis MedStation 4000
  - Interface with future Electronic Medical Records
- Testing (user, system)
- Training
- Ongoing Support

ACCEPTANCE CRITERIA:
Per Contract 071B2200052 Section 1.500 Acceptance and Master Rental Terms and Conditions Rental Agreement Section #5 "Acceptance".

PROJECT CONTROL AND REPORTS:
Contractor will hold a teleconference Kick-off meeting at a date and time agreeable by both parties following execution of this Change Notice. Bi-weekly calls with all parties will be made to report on the progress of this project up to customer acceptance after go-live. The Agency will be responsible to document the following:

1. **Accomplishments:** What was worked on and what was completed during the current reporting period.

2. **Planned Tasking:** Activities to be accomplished during the next reporting period.

3. **Issues:** Major issues/risks/changes, real or perceived, and recommend resolutions.

SPECIFIC DEPARTMENT STANDARDS:
Agency standards, if any, in addition to DTMB standards:
Per Contract 071B2200052 Agreement.

PAYMENT SCHEDULE:
The total firm-fixed price based on the list of products and service below is $10,817.00 a month for the 36 month period of July 1, 2016-June 30, 2019. Monthly rental payments commence July 1, 2016 under the attached Implementation Timeline. The total cost is $389,412.00.

New Products							Rental Terms			Support Terms		
							Monthly Rental Fee			Monthly Support Fee		
Proposed Location	Product ID	Rx/ Prs	Product Name	P.Drws	Tr.Type	QTY	List	Net	**Extended**	List	Net	**Extended**
Floors	303	Rx	M40R2B--2H0F0N0C0M0B MEDSTATION4000,MAIN,2DR	2	NEW	12	$ 996.00	$ 598.00	**$ 7,176.00**	$ 105.00	$ 105.00	**$ 1,260.00**
Floors	119-56		119-56 MED, SRM, FLAT, 12, LEFT, ROHS		NEW	12	$ 122.00	$ 73.00	**$ 876.00**	$ 17.00	$ 17.00	**$ 204.00**
Night Cabinet	134349-01		134349-01 PROFILE UPGRADE FOR MEDSTATION		EXP	1	$ 373.00	$ 224.00	**$ 224.00**	$ 0.00	$ 0.00	**$ 0.00**
Night Cabinet add	306		A40-7---7H0F0N0C0M0B MEDSTATION,4000,AUX,7-DRAWER	7	EXP	1	$ 1,342.00	$ 805.00	**$ 805.00**	$ 48.00	$ 48.00	**$ 48.00**
Pharmacy - Profile upg	134349-01		134349-01 PROFILE UPGRADE FOR MEDSTATION		EXP	1	$ 373.00	$ 224.00	**$ 224.00**	$ 0.00	$ 0.00	**$ 0.00**
						Totals:			**$ 9,305.00**			**$ 1,512.00**

Total Monthly Rental & Support Fee: **$10,817.00**

DTMB will pay CONTRACTOR upon Term and Payment of the Implementation Timeline and receipt of properly completed invoice(s) which shall be submitted to the billing address on the State issued purchase order. DTMB Accounts Payable area will coordinate obtaining Agency and DTMB Project Manager approvals. All invoices should reflect actual work completed by payment date, and must be approved by the Agency and DTMB Project Manager prior to payment. The invoices shall describe and document to the State's satisfaction a description of the work performed, the progress of the project, and fees.
Payment shall be considered timely if made by the DTMB within forty-five (45) days after receipt of properly completed invoices.

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

PROJECT CONTACTS:

The designated Agency Project Manager is:
Eric Alderman, Director of Operations
Grand Rapids Home for Veterans
3000 Monroe Ave N W
Grand Rapids, MI 49505
Office: 616-364-5292
Email: aldermane@michigan.gov

The designated DTMB Project Manager is:
David M. Roach
Business Relationship Manager for MSP & DMVA
333 S Grand Ave
Lansing, MI 48933
Office: 517-241-2220
Email: roachd2@michigan.gov

LOCATION OF WHERE THE WORK IS TO BE PERFORMED:
The work is to be performed, completed, and managed at the following locations:

Grand Rapids Home for Veterans
3000 Monroe Ave N W
Grand Rapids, MI 49505

EXPECTED CONTRACTOR WORK HOURS AND CONDITIONS:
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.

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.

Implementation Timeline

Product(s): MI: GR Veterans - MS4K expansion

Customer Name: Grand Rapids Home For Veterans

Customer Order Number: 1000072678

Submit Date: 7/22/2015

This Implementation Timeline applies to the Pyxis® Products identified in the applicable Customer Order (or, if applicable, Rental Agreement or Purchase Agreement) (the "Agreement"). Capitalized terms in this Implementation Timeline shall have the same meaning as used in the Agreement. CareFusion and Customer shall use commercially reasonable efforts to complete the Implementation Activities for each implementation stage described below on or before the applicable estimated Completion Date. If Customer fails to provide access or otherwise prevents CareFusion from conducting an Implementation Activity, then CareFusion may re-schedule the activity and Customer shall reimburse CareFusion for expenses incurred due to re-scheduling.

Key Activity	Customer Responsibilities	Completion Date
Third Party Hardware Procurement (if applicable)	Any additional equipment arrives on site and is ready for implementation as outlined in the project scope by this date.	N/A
Install Server(s) and Test Environment	Prepare environment for server(s) and test equipment.	4/29/2016
Develop the Solution	Department Lead, Nursing/Anesthesia (as applicable), Interface and IT Liaison Leads participate in meetings and are responsible for setting up the Customer's system and managing workflow changes. Solution for the customer system is developed via System Setup, Workflow, and Policy and Procedure documents. These results determine the build of the system. Customer System Manager completes the System Manager training.	4/29/2016
Complete the Database Build / Configuration	Gather required information for database build / configuration.	5/27/2016
Create Training Plan	Department Leads and Nursing/Anesthesia (as applicable) develop training tools and finalize Customer's end user training plan.	5/27/2016
Validate TEST System	Customer completes the System validation.	5/27/2016
Migrate to PRODUCTION System	Customer completes System validation and signs off on the interface.	5/27/2016
Verify Facility Preparation	Complete all construction, including wire/wireless network and power in preparation for equipment installation. Prepare an area for staging/storage of equipment.	5/27/2016
Obtain Equipment	Receive equipment. Customer Project manager and IT Liaison acquire any third party interfaces, as applicable. Complete applicable server setup processes.	4/29/2016
Build Equipment	Department Lead loads equipment and configures system according to the System Setup document.	6/10/2016
Deliver / Verify Training	Two to three identified Super Users per patient care unit per shift attend scheduled sessions of CareFusion-provided Super User training; provide Super User-led training to end users. Sign off on training.	6/10/2016
Go-live and Support	Attend pre-go-live meetings and work with CareFusion to bring System live. Provide a full time resource(s) for a minimum of two days after go-live.	6/24/2016
Obtain Customer Acceptance	Sign Equipment Confirmation	6/24/2016
Term and Payment		
The Rental Term for each Pyxis Product will begin on the Term Begin Date; provided, however, that if there is no Term Begin Date agreed upon by the Parties hereunder, then the Rental Term for each Pyxis Product will begin on the first day of the calendar month following Acceptance of the Pyxis Product ("Acceptance Date"). If a Pyxis Product is being purchased, then Customer shall pay the Net Purchase Price for each Pyxis Product within thirty (30) days of the Term Begin Date. If there is no Term Begin Date for the Pyxis Product agreed upon by the Parties hereunder, then Customer shall pay the Net Purchase Price for each Pyxis Product within thirty (30) days of the first day of the month following the Acceptance Date. **Note**: If a previously-installed Pyxis Product is being upgraded or is subject to new terms and conditions under this Agreement, then the previously applicable terms and conditions for the Pyxis Products, including payment terms, shall remain in full force and effect until the Term Begin Date (or, if no Term Begin Date, until the first day of the month following the Acceptance Date). Notwithstanding the foregoing, if a Pyxis Product is not Accepted by the Term Begin Date; or, if no Term Begin Date, by the first day of the month following the Completion Date for all Implementation Activities for the Pyxis Product ("Go-Live Date") for any reason that is not the sole fault of CareFusion (each, a "Delayed Product"), then CareFusion may, in its sole discretion,(i) cancel the Agreement for the Delayed Product, (ii) require that the Rental Term for the Delayed Product begin on the Term Begin Date or first day of the month following the Go-Live Date; or (iii) if a Purchase Agreement, require that Customer pay for the Delayed Product within thirty (30) days of the Go-Live Date in accordance with the terms of the Agreement.		7/1/2016

Each person signing this Implementation Timeline represents that he/she intends to and has the authority to bind his/her respective Party to this Implementation Timeline

Implementation Timeline is valid if signed before: 9/1/2015

Grand Rapids Home For Veterans	**CareFusion Solutions, LLC**
Sign:	Sign:
Print:	Print:
Title:	Title:
Date:	Date:

Created by: Keith Lanctot

Created on: 7/22/2015 10:17 AM

Form No. DTMB-3521 (Rev. 4/2012)

AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

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

CHANGE NOTICE NO. 2

to

CONTRACT NO. 071B2200052

Between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Carefusion Solutions LLC	Peter Bashakes	Peter.bashakes@carefusion.com
10020 Pacific Mesa Blvd	TELEPHONE	CONTRACTOR #, MAIL CODE
San Diego, CA 92121	248-906-8648	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	David Roach	517-241-2220	Roachd2@michigan.gov
BUYER	DTMB	Jarrod Barron	517-284-7045	Barronj1@michigan.gov

CONTRACT SUMMARY:

DESCRIPTION: Narcotic Dispensing System

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
December 1, 2011	November 30, 2014	3 one year	November 30, 2014
PAYMENT TERMS	**F.O.B**	**SHIPPED**	**SHIPPED FROM**
N/A	N/A	N/A	N/A

ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS	
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes	☒ 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
☐ No ☒ Yes	☒	☐	3 years	November 30, 2017

VALUE/COST OF CHANGE NOTICE:	ESTIMATED REVISED AGGREGATE CONTRACT VALUE:
$98,388.00	$196,776.00

Effective December 1, 2014, the State exercises all three maintenance and support option years and adds $98,388.00 to the contract in accordance with the attached cost table. The new contract expiration date is November 30, 2017.

The State bid out the RFP requesting a five-year term (2011 – 2016) but awarded the contract as a three-year term (2011 – 2014); however, the five-year reference in Section 2.001 was inadvertently not changed to three years when the contract was integrated. To correct this clerical error, Section 2.001 of the Contract is hereby revised and restated as follows: “This Contract is for a period of 3 years beginning 12/01/2011 through 11/30/2014. 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.”

The buyer has been changed to Jarrod Barron.

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

Cost Table for Three Option Years
(12/01/2014 – 11/30/2017)

Cost of Rental & Support						
Product Number	Description	Qty	Monthly Rental cost	Monthly Support Cost	Total Monthly cost	Annual Cost
M2C2BXP7INS	CIISafe Single Integrated Main, 3 Doors, 1 Rapid Access Drawer, BioID, XP, V7 Exp date tracking	1	$978.00	$97.00	$1,075.00	$12,900.00
M4C7NWA	MedStation 4000 Non-Profile Console with up to 1 printer, montor, UPS	1	$396.00	$96.00	$492.00	$5,904.00
M4MB6DR7W4	MedStation 4000 6 Drawer Main with up to 4 Cubie/Mini Drawers, BioID	1	$757.00	$96.00	$853.00	$10,236.00
M4A4DO	MedStation 4000 Single Column Auxiliary, 4 Doors, 0 Drawers	1	$183.00	$32.00	$215.00	$2,580.00
MSRM	Smart Remote Manager – Med	1	$80.00	$18.00	$98.00	$1,176.00
134056-01	CCE Basic Connectivity SW License	1	$0	$0	$0	$0
133359-01	Dell 410 Rack 2CPU v4.1 ESX MSC	1	$0	$0	$0	$0
133608-01	Kit License VM Support Dell v1.0	1	$0	$0	$0	$0
133452-01	Kit VM DVD VMDK CCE v1.0 with SQL2008	1	$0	$0	$0	$0
129350-03	Kit VM SECMOD v2.0.1	1	$0	$0	$0	$0
	Total Monthly Cost		**$2,394.00**	**$339.00**	**$2733.00**	
	Total Annual Cost					**$32,796.00**
	Total Cost For All Three Contract Option Years					**$98,388.00**

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

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET **February 2, 2012**
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO.1
OF
CONTRACT NO. 071B2200052
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Carefusion Solutions LLC** **10020 Pacific Mesa Blvd** **San Diego, CA 92121** **Email: cathy.paiva@carefusion.com**	TELEPHONE Cathy Paiva **(858) 617-2797** CONTRACTOR NUMBER/MAIL CODE BUYER/CA 517-373-3993 **Joseph Kelly**
Contract Compliance Inspector: **Narcotic Dispensing System**	
CONTRACT PERIOD: From: **December 01, 2011** To: **November 30, 2014**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

NATURE OF CHANGE (S):

1. **The Following items are added to the contract at no cost to the State of Michigan**

Product Number	Product Name	Quantity *Added*	Rental Terms			Support Terms		
			Term	Net Monthly Fee	Extended Monthly Fee	Term	Net Monthly Fee	Extended Monthly Fee
134056-01	SW CCE Basic Connectivity	1	60	$0	$0	60	$0	$0
133359-01	Dell 410 Rack XEON V4.1 ESX MC S (R410)	1	60	$0	$0	60	$0	$0
133608-01	Kit License VM Support Dell v1.0	1	60	$0	$0	60	$0	$0
133452-01	Kit VM DVD VMDK CCE v1.0 with SQL2008	1	60	$0	$0	60	$0	$0
129350-03	KIT VM SECMOD V2.0.1	1	60	$0	$0	60	$0	$0
			Total Extended Monthly Rental Fee		$0	Total Extended Monthly Support Fee		$0

2. **The State's Contract Compliance Inspector for this contract is:**
   David M. Roach
   Client Service Director – DMVA/MSP
   Department of Technology, Management and Budget
   333 S. Grand Avenue
   Lansing, MI 48909
   Email: roachd2@michigan.gov
   Phone: 517- 241-2254

3. **The State's Project Managers for this contract are:**

   David M. Roach
   Client Service Director – DMVA/MSP
   Department of Technology, Management and Budget
   333 S. Grand Avenue
   Lansing, MI 48909
   Email: roachd2@michigan.gov
   Phone: 517- 241-2254

   and

   William (Bill) G. Hatch, Jr. CPhT
   Pharmacy Assistant
   Grand Rapids Home for Veterans
   3000 Monroe Ave. NW
   Grand Rapids, MI 49504
   Email: hatchb@michigan.gov
   Phone: 616-364- 5260

All other pricing, terms, conditions and specifications remain the same.

AUTHORITY/REASON:

Per request from David Roach (DTMB) and William (Bill) G. Hatch, Jr (DMVA), per emails dated 02/02/12.

TOTAL ESTIMATED CONTRACT VALUE REMAINS: $ 98,388.00

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

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET **November 18, 2011**
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

NOTICE
OF
CONTRACT NO. 071B2200052
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Carefusion Solutions LLC** **10020 Pacific Mesa Blvd** **San Diego, CA 92121** **Email: cathy.paiva@carefusion.com**	TELEPHONE Cathy Paiva **(858) 617-2797** CONTRACTOR NUMBER/MAIL CODE BUYER/CA 517-373-3993 **Joseph Kelly**
Contract Compliance Inspector: **Narcotic Dispensing System**	
CONTRACT PERIOD: From: **December 01, 2011** To: **November 30, 2014**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

TOTAL ESTIMATED CONTRACT VALUE: $ 98,388.00

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

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

CONTRACT NO. 071B2200052
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Carefusion Solutions LLC** **10020 Pacific Mesa Blvd** **San Diego, CA 92121** **Email: cathy.paiva@carefusion.com**	TELEPHONE Cathy Paiva **(858) 617-2797** CONTRACTOR NUMBER/MAIL CODE BUYER/CA 517-373-3993 **Joseph Kelly**
Contract Compliance Inspector: **Narcotic Dispensing System**	
CONTRACT PERIOD: From: **December 01, 2011** To: **November 30, 2014**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION: **The terms and conditions of this Contract are those of ITB # 084R1300095, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.** **Estimated Contract Value: $ 98,388.00**	

FOR THE CONTRACTOR:	**FOR THE STATE:**
Carefusion Solutions LLC Firm Name	Signature
Authorized Agent Signature	Jeff Brownlee, Chief Procurement Officer Name/Title
Authorized Agent (Print or Type)	DTMB Procurement Division
Date	Date

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Article 1 – Statement of Work (SOW)

1.000 Project Identification/Scope

1.001 PROJECT REQUEST

The State of Michigan (State), through the Department of Military & Veterans Affairs (DMVA) with assistance and support of the Michigan Department of Technology, Management, & Budget (MDTMB), has issued this contract to obtain a lease of a narcotic dispensing system.

1.002 BACKGROUND

The mission of agency: Provide compassionate quality interdisciplinary care for the members to achieve their highest potential of independence, self-worth, wellness and dignity. Additionally to provide medical and nursing care of the best possible quality to meet the defined needs of each member as determined through individual assessments, health professional intervention, and care planning.

Problem issues: Providing timely access to medications on a 24 hour basis for residents. The solution will allow nurses to access approved medications on a 24 hour basis. It will create an electronic record of all transactions, achieving compliance with all state and federal laws.

Goals and business objectives.

A. Twenty four access to the top 100 medications used in the facility.
B. Tracking and control of Schedule II-V medications.
C. Narcotic safe for improved tracking of Schedule II-V medications in the pharmacy.
D. Improved stocking accuracy of night stock medications with additional inventory control.
E. Elimination of pharmacist overtime and on-call pay.

Other projects / entities involved

A. Is compatible with QS1 pharmacy system and future electronic medical record systems.
B. An emergency power source and computer cable will be dropped for the project.
C. Maintenance will be installing the power source. The Department of Technology, Management and Budget (DTMB) will be dropping the cable. QS1 (pharmacy software vendor) will provide software for inventory control if needed. End users will include: Nursing, pharmacy, and Contractor technicians at this time.

Location / involved offices.

A. The narcotic safe will be installed in the Grand Rapids Home for Veterans (GRHV) pharmacy.
B. The cabinet will be installed in the current night stock med room located off the main nursing office on the first floor at GRHV.

Systems, hardware and practices in place that will affect services to be provided.

A. The night cabinet will be in a limited access area. Access can be granted 24 hours per day by the nursing supervisor, pharmacy director, or director of nursing.

1.100 Scope of Work and Deliverables

1.101 IN SCOPE

The scope of this RFP is to secure a lease of a narcotics dispensing system which will interface with the QS1 pharmacy system and future electronic medical record systems in place at the Grand Rapids Home for Veterans.

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

1.102 OUT OF SCOPE

This agreement does not include system development or project management.

1.103 ENVIRONMENT

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

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products provided as a result of this RFP must comply with all applicable State IT policies and standards. Contractor is required to review all applicable links provided below and state compliance in their response.

Enterprise IT Policies, Standards and Procedures:
http://www.michigan.gov/dmb/0,1607,7-150-9131_9347---,00.html

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

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

Enterprise IT Security Policy and Procedures:
http://www.michigan.gov/dmb/0,1607,7-150-9131_9347---,00.html (see 1300 series for security)

The State's security environment includes:

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

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

1.104 Work And Deliverable

Contractor will provide and install a narcotics dispensing safe, dispensing cabinet with extra storage space, smart remote manager and interfaces to QS1 pharmacy system and future electronic medical record system.

Deliverable(s)

- CIISafe Single Integrated Main, 3 Doors, 1 Rapid Access Drawer, BioID, XP, V7 Exp date tracking
- MedStation 4000 Non-Profile Console with up to 1 printer, montor, UPS
- MedStation 4000 6 Drawer Main with up to 4 Cubie/Mini Drawers, BioID
- MedStation 4000 Single Column Auxiliary, 4 Doors, 0 Drawers
- Smart Remote Manager – Med
- Interface to QS1 pharmacy system

Implementation

Contractor will provide delivery and set up of equipment and interface with QS1 pharmacy system.

Deliverable(s)

- Delivery
- Set-up
- Testing (user, system)

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

Name of application: QS1 Pharmacy System

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.

Training
Contractor will provide all necessary training to operate and maintain the system.

Deliverable(s)

- Train the trainer
- End user

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

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

All training manuals, training plans and other documentation provided become the property of the State.

Maintenance and Support
Contractor will provide maintenance of hardware and software.

Deliverable(s)

- Maintenance of hardware
- Maintenance of software
  - Existing software
  - Leased software

1.200 Roles and Responsibilities

1.201 SINGLE POINT OF CONTACT (SPOC)

The Contractor Project Manager will oversee the project:

Name	Agency/Division	Title
Peter Bashakes	CareFusion	Project Manager

A. Contractor Staff
Contractor must provide a list of all subcontractors, including firm name, address, contact person, and a complete description of the work to be contracted. Include descriptive information concerning subcontractor's organization and abilities.

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

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

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

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

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

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

- *Project Manager*

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

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

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

B. On Site Work Requirements

1. Location of Work

The work is to be performed, completed, and managed at the following locations:

Grand Rapids Home for Veterans
3000 Monroe Ave N W
Grand Rapids, MI 49505

2. Hours of Operation:

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

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

1.202 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
John Carlson, RPh	DMVA	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	Buyer

1.203 OTHER ROLES AND RESPONSIBILITIES - RESERVED

1.300 Project Plan

1.301 PROJECT PLAN MANAGEMENT RESERVED

1.302 REPORTS - RESERVED

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 – Project Managers

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 resulting from the upcoming RFP. 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 Acceptance

1.501 CRITERIA
- All items have been delivered and setup
- All tests have been successfully executed in system test, performance test, load test, User Acceptance Test
- And all defects, unless waived in writing by the State, are corrected

1.502 FINAL ACCEPTANCE
"Final Acceptance" shall be considered to occur when the Deliverable to be delivered has been approved by the State and has been operating in production without any material deficiency for fourteen (14) consecutive days.

1.600 Compensation and Payment

1.601 COMPENSATION AND PAYMENT
All costs will be paid with a firm fixed price. The Costs Table(s) attached (Attachment A) must be used as the format for submitting pricing information.

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

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 the address listed on the Purchase Order issued against the Conract.

. 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.

Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 CONTRACT TERM
This Contract is for a period of 5 years beginning 12/1/2011 through 11/30/2016. 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 three (3) additional one (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 the meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

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

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

2.011 NO WAIVER OF DEFAULT
If a party fails to insist upon strict adherence to any term of the Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of the Contract.

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

2.020 Contract Administration

2.021 ISSUING OFFICE
This Contract is issued by the Department of Technology, Management and Budget, Purchasing Operations and Department of Military & Veterans Affairs (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:

John Carlson
Department of Military and Veterans Affairs
Grand Rapids Home for Veterans
3000 Monroe Ave N W
Grand Rapids, MI 49505
Email: carlsonj7@michigan.gov
Phone: 616-364-5355

2.023 PROJECT MANAGER
The following individual will oversee the project:

John Carlson
Department of Military and Veterans Affairs
Grand Rapids Home for Veterans
3000 Monroe Ave N W
Grand Rapids, MI 49505
Email: carlsonj7@michigan.gov
Phone: 616-364-5355

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:
CareFusion Solutions, LLC
Attention: Sonya Sandsmark
3750 Torrey View Court
San Diego, CA 91230

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

2.026 BINDING COMMITMENTS

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

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

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

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

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

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

2.030 General Provisions

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

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

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

2.034 WEBSITE INCORPORATION
The State is not bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the

State has actual knowledge of the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

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

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

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

2.040 Financial Provisions

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

2.042 ADJUSTMENTS FOR REDUCTIONS IN SCOPE OF SERVICES/DELIVERABLES
If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope.

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

2.044 INVOICING AND PAYMENT – IN GENERAL
(a) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.
(b) Each Contractor invoice shall show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis shall show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.600**.
(c) Correct invoices shall be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

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

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

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

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

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

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

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

2.050 Taxes

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

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

means sole proprietorship, a partnership (as defined in § 701(a) (2) of the Internal Revenue Code), a trust, an estate, a corporation, or a limited liability company.

2.060 Contract Management

2.061 CONTRACTOR PERSONNEL QUALIFICATIONS

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

2.062 CONTRACTOR KEY PERSONNEL

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

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

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

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

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

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

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

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

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

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

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

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

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

2.070 Subcontracting by Contractor

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

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

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

2.073 SUBCONTRACTOR BOUND TO CONTRACT

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

2.074 FLOW DOWN

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

2.075 COMPETITIVE SELECTION

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

2.080 State Responsibilities

2.081 EQUIPMENT

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

2.082 FACILITIES

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

2.090 Security

2.091 BACKGROUND CHECKS

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

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

2.092 SECURITY BREACH NOTIFICATION

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

2.093 PCI DATA SECURITY REQUIREMENTS

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

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

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

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

2.100 Confidentiality

2.101 CONFIDENTIALITY

Contractor and the State each acknowledge that the other possesses and shall continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor must mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below), which is marked confidential, restricted, proprietary, or with a similar designation. "Confidential Information" of the State must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. "Confidential Information" excludes any information (including this Contract) that is publicly available under the Michigan FOIA.

2.102 PROTECTION AND DESTRUCTION OF CONFIDENTIAL INFORMATION

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

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

2.103 EXCLUSIONS

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

2.104 NO IMPLIED RIGHTS

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

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

2.110 Records and Inspections

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

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

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

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

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

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

2.120 Warranties

2.121 WARRANTIES AND REPRESENTATIONS

The Contractor represents and warrants:

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

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under neither this Contract, nor their use by the State shall infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

(d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in this Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any Affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or must accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.

(i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or the Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other Bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other Bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by the financial statements, reports, other information. Since the respective dates or periods covered by the financial statements, reports, or other information, there have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor.

(l) All written information furnished to the State by or for the Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make the information not misleading.

(m) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants

that it has not been a party to any contract with the State or any of its departments that was terminated by the State or the department within the previous five years for the reason that Contractor failed to perform or otherwise breached an obligation of the contract.

(n) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after contract award, the Contractor is required to report those changes immediately to the Department of Technology, Management and Budget, Purchasing Operations.

2.122 WARRANTY 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 10 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 must provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

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

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

2.230 Disclosure Responsibilities

2.231 DISCLOSURE OF LITIGATION
Contractor shall disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) shall notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor shall disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its

occurrence. Details of settlements that are prevented from disclosure by the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation shall be deemed to satisfy the requirements of this Section.

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

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

(b) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:

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

(2) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

(c) Contractor shall make the following notifications in writing:

(1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify MDTMB Purchasing Operations.

(2) Contractor shall also notify MDTMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

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

2.232 CALL CENTER DISCLOSURE

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

2.233 BANKRUPTCY

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

(a) the Contractor files for protection under the bankruptcy laws;

(b) an involuntary petition is filed against the Contractor and not removed within 30 days;

(c the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;

(d) the Contractor makes a general assignment for the benefit of creditors; or

(e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under this Contract.

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

2.240 Performance

2.241 TIME OF PERFORMANCE

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

(b) Without limiting the generality of **Section 2.241,** Contractor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and

successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.242 SERVICE LEVEL AGREEMENT (SLA)

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

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

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

(3) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. To invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.

(4) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following:

(i) Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.

(ii) Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) will be defined as three unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling 30 day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three additional months. The termination of the Service will not affect any tiered pricing levels.

(c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two weeks of outage(s) and provide a recommendation for resolution.

(d) All decimals must be rounded to two decimal places with five and greater rounding up and four and less rounding down unless otherwise specified.

2.243 LIQUIDATED DAMAGES

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result. Therefore, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.152**, the State is entitled to collect liquidated damages in the amount of $1,000.00 and an additional $100.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

Unauthorized Removal of any Key Personnel

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

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

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

2.244 EXCUSABLE FAILURE

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

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

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

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

2.250 Approval of Deliverables

2.251 DELIVERY OF DELIVERABLES

A list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable") or

a Custom Software Deliverable is attached, if applicable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

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

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

2.252 CONTRACTOR SYSTEM TESTING

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

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

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

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

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

2.253 APPROVAL OF DELIVERABLES, IN GENERAL

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

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

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

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

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

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

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

2.254 PROCESS FOR APPROVAL OF WRITTEN DELIVERABLES

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Written Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Written Deliverable is approved in the form delivered by Contractor or describing any deficiencies that shall be corrected prior to approval of the Written Deliverable (or at the State's election, subsequent to approval of the Written Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described

deficiencies and within five (5) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Written Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Written Deliverable to confirm that the identified deficiencies have been corrected.

2.255 PROCESS FOR APPROVAL OF CUSTOM SOFTWARE DELIVERABLES

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

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

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

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

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

2.256 FINAL ACCEPTANCE

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

2.260 Ownership

2.261 OWNERSHIP OF WORK PRODUCT BY STATE

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

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

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

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

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

2.270 State Standards

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

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

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

2.280 Extended Purchasing

2.281 MIDEAL (MICHIGAN DELIVERY EXTENDED AGREEMENTS LOCALLY

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

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

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

2.282 STATE EMPLOYEE PURCHASES - RESERVED

2.290 Environmental Provision

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.

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

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

2.313 CALENDAR WARRANTY

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

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

2.314 THIRD-PARTY SOFTWARE WARRANTY

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

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

2.320 Software Licensing

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

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

2.323 LICENSE BACK TO THE STATE
Unless otherwise specifically agreed to by the State, before initiating the preparation of any Deliverable that is a Derivative of a preexisting work, the Contractor shall cause the State to have and obtain the irrevocable, nonexclusive, worldwide, royalty-free right and license to (1) use, execute, reproduce, display, perform, distribute internally or externally, sell copies of, and prepare Derivative Works based upon all preexisting works and Derivative Works thereof, and (2) authorize or sublicense others from time to time to do any or all of the foregoing.

2.324 LICENSE RETAINED BY CONTRACTOR
Contractor grants to the State a non-exclusive, royalty-free, site-wide, irrevocable, 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 modify the Software and may combine such with other programs or materials to form a derivative work. The State will own and hold all copyright, trademarks, patent and other intellectual property rights in any derivative work, excluding any rights or interest in Software other than those granted in this Contract.

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.

2.330 Source Code Escrow

2.331 DEFINITION
"Source Code Escrow Package" shall mean:
(a) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
(b) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or
(c) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

2.332 DELIVERY OF SOURCE CODE INTO ESCROW
Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within (30) thirty days of the execution of this Contract.

2.333 DELIVERY OF NEW SOURCE CODE INTO ESCROW
If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.

2.334 VERIFICATION
The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.

2.335 ESCROW FEES
The Contractor will pay all fees and expenses charged by the Escrow Agent.

2.336 RELEASE EVENTS
The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:
(a) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
(b) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;
(c) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.

2.337 RELEASE EVENT PROCEDURES

If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in this **Section**, then:

(a) The State shall comply with all procedures in the Escrow Contract;

(b) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;

(c) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.

2.338 LICENSE

Upon release from the Escrow Agent pursuant to an event described in this **Section**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.

2.339 DERIVATIVE WORKS

Any Derivative Works to the source code released from escrow that are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.

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

Cost of Lease					
Part Number	Description	Qty	Monthly lease cost	Monthly Support Cost	Total Monthly cost
M2C2BXP7INS	CIISafe Single Integrated Main, 3 Doors, 1 Rapid Access Drawer, BioID, XP, V7 Exp date tracking	1	$978.00	$97.00	$1,075.00
M4C7NWA	MedStation 4000 Non-Profile Console with up to 1 printer, montor, UPS	1	$396.00	$96.00	$492.00
M4MB6DR7W4	MedStation 4000 6 Drawer Main with up to 4 Cubie/Mini Drawers, BioID	1	$757.00	$96.00	$853.00
M4A4DO	MedStation 4000 Single Column Auxiliary, 4 Doors, 0 Drawers	1	$183.00	$32.00	$215.00
MSRM	Smart Remote Manager – Med	1	$80.00	$18.00	$98.00
	Total Monthly Cost		$2,394.00	$339.00	$2733.00

Master Rental Terms and Conditions

Date: 3-16-2011
Customer: Grand Rapids Home for Veterans #124206

These Master Rental Terms and Conditions shall be incorporated into each Rental Agreement executed by CareFusion Solutions, LLC ("CareFusion") and the customer identified in the signature block below ("Customer"), each a "Party" and, collectively, the "Parties." Each Rental Agreement shall constitute a separate, independent contract between the Parties. "Pyxis Products" means, collectively, the Pyxis® products identified in any single Rental Agreement, including the software identified in the Rental Agreement or integrated into any of the Pyxis Products (collectively, "Software"). Capitalized terms used herein shall have the meanings defined herein or as used in the Rental Agreement. Each separate Rental Agreement, together with these incorporated Master Rental Terms and Conditions, shall be referred to as a "Rental Agreement" herein.

1. **Delivery.** CareFusion shall deliver each Pyxis Product to the "ship-to" location stated in the Rental Agreement.
2. **Risk of Loss.** From the time Customer receives delivery of a Pyxis Product until CareFusion accepts return delivery of the Pyxis Product, Customer shall be responsible for: (a) any loss of or damage to the Pyxis Product from any cause other than normal wear and tear ("Loss"); and (b) obtaining and maintaining throughout the term of the Rental Agreement All Risk Property Insurance in an amount equal to full replacement value covering the Pyxis Products. Customer shall not be responsible for any portion of Loss caused by CareFusion's negligence or reckless or willful misconduct.
3. **Conditional Security Agreement.** If a Rental Agreement is determined not to constitute a true lease, then the Rental Agreement shall be a security agreement with respect to the Pyxis Products and all accessions, substitutions, replacements therefore, and proceeds thereof (including insurance proceeds) to secure all obligations pursuant to the Rental Agreement.
4. **Implementation.** Each Party shall perform the Party's respective implementation activities stated below ("Implementation Activities") for each Pyxis Product pursuant to the Implementation Schedule attached and incorporated into the Rental Agreement ("Implementation Schedule"):

   (a) Infrastructure. Customer shall provide adequate personnel, clean commercial power, necessary communication lines, and sufficient clean space (maintained at a temperature between 50°F and 80°F) for all Implementation Activities. Customer shall appoint a System Manager who shall be available during business hours and responsible to define policies/procedures and to coordinate planning, installation, and set-up.

   (b) Installation. CareFusion shall stage and install the Pyxis Product at the ship-to location.

   (c) Interfaces. CareFusion shall provide CareFusion's side of each interface ("Interface") identified in the Rental Agreement. Customer shall promptly test each Interface to verify that the interface functions properly. Customer's sole remedy related to Interface functionality shall be for CareFusion to modify CareFusion's side of the Interface to provide full functionality.

   (d) Documentation. CareFusion shall provide Customer one copy of the current user manual for the Pyxis Product.
5. **Acceptance.** A Pyxis Product shall be deemed accepted by Customer ("Accepted") when the Implementation Activities regarding the Pyxis Product are completed and the Pyxis Product functions in accordance with the material specifications of its user manual. Customer shall execute an electronic or paper Equipment Confirmation for the Pyxis Product on the date the Pyxis Product is Accepted.
6. **Initial Rental Term.** The "Rental Term" for a Pyxis Product consists of any period of time that CareFusion leases the Pyxis Product to Customer pursuant to the Rental Agreement. The period of the initial Rental Term for each Pyxis Product shall be the number of months stated in the Rental Agreement for the Pyxis Product. The initial Rental Term for a Pyxis Product shall commence on the Term Begin Date stated in the Implementation Schedule. If there is no Implementation Schedule or if there is no Term Begin Date stated in the Implementation Schedule, then the initial Rental Term for a Pyxis Product shall commence on the first day of the month following the date the Pyxis Product is Accepted.
7. **Automatic Continuation of Rental Term.** If, at least sixty (60) days prior to the conclusion of the initial Rental Term for a Pyxis Product, Customer delivers notice that Customer shall return the Pyxis Product at the conclusion of that initial Rental Term, then that Rental Term shall expire at the end of the initial Rental Term. If Customer does not deliver notice pursuant to the preceding sentence, then the following terms shall apply at the end of the initial Rental Term: (i) the Rental Term shall continue on a month-to-month term basis; (ii) the Monthly Rental Fee shall be the month-to-month Rental Fee stated for the Pyxis Product in the then-current Pyxis Product Price Catalog; and (iii) either Party may terminate the continued Rental Term effective upon thirty (30) days prior notice.

Master Rental Terms and Conditions

8. **Payment of Monthly Rental Fees.** Customer shall pay the Net Monthly Rental Fee stated in the Rental Agreement ("Monthly Rental Fee") for each Pyxis Product by check, wire, ACH or EFT on the first day of each month during the Rental Term.

9. **Taxes.** Monthly Rental Fees do not include any taxes. Customer shall pay when due any sales, use, rental, property, or other taxes or assessments of any kind (other than any tax based solely on CareFusion's net income) and related interest and penalties (except those caused by CareFusion's failure to collect or remit such taxes) arising from the transactions pursuant to the Rental Agreement. If CareFusion pays an amount that Customer is obligated to pay under this Section, then Customer shall promptly reimburse CareFusion.

10. **Cash Application; Late Charges.** CareFusion shall apply all payments according to CareFusion's then-current cash application procedures. If Customer does not pay an amount due to CareFusion pursuant to any provision of the Rental Agreement on or before the due date, then Customer shall pay a late charge on the unpaid amount at the rate of one and one-half percent (1.5%) per month, prorated on a daily basis, or the highest rate allowed by law (whichever is lower).

11. **Use of Pyxis Products.** Customer shall have possession of each Pyxis Product during the Rental Term for the Pyxis Product. Customer shall use each Pyxis Product only (i) during a Rental Term for the Pyxis Product; (ii) at the specific location in Customer's facility at which the Pyxis Product is implemented (unless CareFusion provides prior written approval for a different location); (iii) for Customer's internal business purposes; (iv) in the manner described in the user manual for the Pyxis Product; and (v) in accordance with applicable laws and regulations. Customer shall not modify a Pyxis Product and shall not install or use any software not provided by CareFusion on a Pyxis Product.

12. **Grant of Limited Software License.** CareFusion grants Customer a limited, non-exclusive, non-transferable license to use the Software. Customer (i) shall use integrated Software only as an integrated part of Pyxis Products; (ii) shall not separate integrated Software from any Pyxis Product; (iii) shall not translate, disassemble, decompile, reverse engineer, alter or modify the Software; (iv) shall not make any copies of the Software or its documentation (except one (1) copy for back-up or archival purposes); and (v) may use the Software only during the Rental Term of the Software or of the Pyxis Product into which the Software is integrated. The Software is owned or licensed by CareFusion and is protected by copyright and other laws. Except as provided in Section 26, Customer shall not sell, assign, sublicense, transfer or disclose or permit access to the Software to a third party.

13. **Intellectual Property Indemnity.**

    (a) Notice and Cooperation. Customer shall deliver notice to CareFusion promptly after Customer receives actual notice of any demand, claim, suit or proceeding against Customer that claims that a Pyxis Product used by Customer consistent with the Rental Agreement infringes any patent, copyright or other proprietary right of a third party (each, an "Infringement Claim"). Customer shall authorize CareFusion to have sole control of the defense and/or settlement of each Infringement Claim, provided that CareFusion shall obtain Customer's prior written consent before agreeing to settle an Infringement Claim in a manner that adversely affects Customer's right to use a Pyxis Product. Upon CareFusion's request, Customer shall provide reasonable cooperation in the defense and/or settlement of the Infringement Claim.

    (b) Indemnity. CareFusion at its expense shall (i) defend the Infringement Claim; (ii) pay any damages and costs assessed against Customer (or payable by Customer pursuant to a settlement agreement) arising out of the Infringement Claim; and (iii) reimburse Customer for reasonable costs and expenses incurred by Customer to provide the cooperation requested by CareFusion pursuant to Section 13(a).

    This Section 13 states Customer's exclusive remedy and CareFusion's total liability to Customer regarding any Infringement Claim.

14. **Option to Modify.** If CareFusion determines that a Pyxis Product might infringe any United States patent, copyright, trade secret or other proprietary right of a third party, then CareFusion may, at its discretion, replace the Pyxis Product with a substantially equivalent Pyxis Product or modify the Pyxis Product in a manner that does not adversely affect the performance or functionality of the Pyxis Product.

15. **Data.** "Data" means, collectively, data contained in the data files of a Pyxis Product or data that is created or stored through the use of a Pyxis Product. Subject to the Business Associate Agreement in effect between the Parties as of the date of the Rental Agreement, Customer grants CareFusion a perpetual, royalty-free license to use reasonable means to access Data and to use Data for any lawful purpose. If Data collected by CareFusion contains Protected Health Information as defined by 45 C.F.R. §160.103, then CareFusion shall, prior to using or disclosing that Data, de-identify that Data pursuant to 45 C.F.R. §164.514 and dissociate that Data from Customer.

16. **Limited Warranty.** For a period of ninety (90) days after the date a Pyxis Product is Accepted, the Pyxis Product shall perform in accordance with the material specifications of its user manual (the "Limited Warranty"). If, because of a defect in workmanship or material, the Pyxis Product fails to perform in accordance with the Limited Warranty, then, as Customer's sole remedy (in addition to the right to indemnification pursuant to Section 17), CareFusion shall promptly repair or replace, at CareFusion's option, the Pyxis Product or any part thereof. **EXCEPT FOR THE LIMITED WARRANTY, CAREFUSION**

DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY) REGARDING THE PYXIS PRODUCTS.

17. **Mutual Indemnification.** Each Party (the "Indemnifying Party") shall indemnify and hold the other Party (the "Indemnified Party") harmless from and shall defend the Indemnified Party against any claim asserted against the Indemnified Party for losses, injuries, or damages caused by the Indemnifying Party's conduct. In addition, CareFusion shall indemnify and defend Customer against any claim asserted against Customer by a third party based upon a Pyxis Product that has not been modified other than by or on behalf of CareFusion.

18. **Exclusion of Consequential Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS OR PROFITS, EVEN IF A PARTY RECEIVES NOTICE IN ADVANCE THAT THESE KINDS OF DAMAGES MIGHT RESULT.** This Section shall not limit a Party's right to indemnification from the other Party pursuant to Section 13 or Section 17.

19. **Default by CareFusion.** If, prior to Acceptance of a Pyxis Product, CareFusion fails to cure any breach of CareFusion's Implementation Activities regarding that Pyxis Product within thirty (30) days (the "Cure Period") after delivery of notice from Customer identifying the conduct in breach, then, if Customer delivers notice to CareFusion (the "Cancellation Notice")within ten (10) days after the expiration of the Cure Period, Customer may elect to cancel Customer's obligation to rent that Pyxis Product. If Customer timely elects to exercise the right of cancellation provided by this Section, then (i) CareFusion shall have no further obligation to Customer regarding the Pyxis Product; (ii) the Rental Term for the Pyxis Product shall be cancelled effective as of the Cancellation Notice; and (iii) Customer shall promptly permit CareFusion to obtain possession of the Pyxis Product and any equipment or Software provided by CareFusion to Customer related to the Pyxis Product.

20. **Default by Customer.** If (i) Customer fails to pay any payment required by the Rental Agreement within ten (10) days after CareFusion delivers notice to Customer stating that the payment is past due or (ii) Customer fails to cure any other breach of the Rental Agreement within thirty (30) days after delivery of notice from CareFusion, then CareFusion may by notice, to the extent permitted by applicable law and in addition to and without prejudice to any other remedy available at law or equity, elect to (i) cancel one or more Rental Terms and require Customer to make the related Pyxis Products available for repossession by CareFusion at a reasonably convenient location and/or (ii) recover liquidated damages from Customer in the amount of the present value (calculated using a discount rate of six percent (6%) per annum) of the unpaid balance of all Monthly Rental Fees for all unexpired Rental Terms under the Rental Agreement.

21. **Absence of Defenses to Payment.** Customer's obligation to pay Monthly Rental Fees is unconditional and non-cancelable. Customer shall not be entitled to any abatement or reduction of Monthly Rental Fees for any reason. Customer shall make Monthly Rental payments when due regardless of any existing or future setoff or claim that might be asserted by Customer. If CareFusion's assignee commences an action to collect any amount due pursuant to the Rental Agreement, then Customer shall not assert any setoff or counterclaim against CareFusion's assignee.

22. **Return of Pyxis Products.** At the conclusion of the Rental Term for any Pyxis Product, Customer shall (i) accept ownership and acknowledge receipt of any data device that CareFusion removes from the Pyxis Product and tenders to Customer and then (ii) promptly and properly crate and ship the Pyxis Product to CareFusion.

23. **Lexi-Comp Databases.** This Section applies only to Lexi-Comp Licensed Databases ("Databases"), if any, contained in a Pyxis Product and shall constitute the exclusive statement of terms and conditions between Customer, CareFusion, and Lexi-Comp, Inc. or Lexi-Comp, Inc.'s parents, subsidiaries, affiliates, or suppliers (collectively, "Lexi-Comp") related to the Databases.

    (a) Ownership; License Grant. The Databases are owned by Lexi-Comp and are licensed, not sold, by CareFusion to Customer. The Databases are provided to Customer subject to the rights and restrictions stated in the "Grant of Limited Software License" section herein applicable to integrated Software, as modified by this Section. Customer shall not copy any portion of the Databases for resale. Customer shall not post any portion of the Databases on public bulletin boards, web sites, Internet domains, or online chatrooms. Customer may print out individual articles containing only insubstantial portions of the Databases for Customer's personal educational use if Customer includes a source reference to Lexi-Comp and its copyright notice. CareFusion shall not update the data sets contained in the Databases; Customer may contact Lexi-Comp to attempt to procure updated data sets for the Databases. However, Pyxis MedStation™ 3000, 3500 and 4000 system customers shall receive quarterly Lexi-Comp updates to Databases at no additional Customer cost. Customer shall be responsible for installing the quarterly Lexi-Comp updates to Databases.

    (b) Use of Professional Judgment. Customer should consult a variety of information sources before making any treatment decision. Customer should check the product information sheet accompanying each drug to verify conditions of use and should identify any changes in dosage schedule or contraindications. Information in the Databases is not a substitute for individual patient assessment based upon Customer's examination of each patient and consideration of laboratory data and other factors

unique to the patient. Customer shall bear full responsibility for the appropriate use of the information contained in the Databases.

(c) Limited Warranty. THE DATABASES ARE PROVIDED "AS IS" AND WITH ALL FAULTS. CAREFUSION AND LEXI-COMP DISCLAIM ANY AND ALL WARRANTIES RELATED TO THE DATABASES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

(d) Limitation of Liability. NEITHER LEXI-COMP NOR CAREFUSION SHALL BE LIABLE TO CUSTOMER FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES RELATED TO ANY CLAIM RELATED TO THE DATABASES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS OR PROFITS, EVEN IF LEXI-COMP OR CAREFUSION RECEIVES NOTICE IN ADVANCE THAT THESE KINDS OF DAMAGES MIGHT RESULT. LEXI-COMP'S AND CAREFUSION'S AGGREGATE CUMULATIVE LIABILITY TO CUSTOMER PURSUANT TO ANY AND ALL CLAIMS RELATED TO THE DATABASES SHALL NOT EXCEED THE AGGREGATE NET LICENSE FEES TO BE PAID BY CUSTOMER TO CAREFUSION FOR THE DATABASES.

24. **Removal of Customer Property.** If Customer is required to relinquish possession of a Pyxis Product to CareFusion for any reason pursuant to the Rental Agreement, then Customer shall, without damaging the Pyxis Product, promptly remove all medications, data, and Customer's property from the Pyxis Product.

25. **Governing Law.** The Rental Agreement shall be governed by the laws of the state of the Customer's initial Notice Address, below, without regard to that state's conflicts of law provisions.

26. **Assignment.** Subject to Section 27, neither Party may assign any rights or obligations under the Rental Agreement without the other Party's prior written consent, which shall not be unreasonably withheld, provided that either Party may upon delivery of notice assign all of such Party's rights and obligations under the Rental Agreement without the consent of the other Party to a related affiliate or upon the transfer of all or substantially all of such Party's assets, whether by merger, sale or otherwise.

27. **Assignment of Right to Receive Payments.** CareFusion may assign some or all of CareFusion's right to receive payments under the Rental Agreement without Customer's consent. If CareFusion assigns CareFusion's right to receive payments under the Rental Agreement, then (i) Customer shall not hold any assignee liable for any of CareFusion's obligations under the Rental Agreement; (ii) the rights of CareFusion's assignee shall not be subject to any claims, counterclaims, defenses or setoffs that Customer might possess against CareFusion; (iii) Customer shall execute documents that CareFusion reasonably requests to confirm Customer's obligations under the Rental Agreement; and (iv) Customer shall, if requested, make payments due under the Rental Agreement directly to the assignee.

28. **Medication Handling.** CareFusion employees and agents ("CareFusion Personnel") shall not physically handle Customer's medications. Customer must be physically present and capable of observing CareFusion Personnel during any Implementation Activity or in any situation in which CareFusion Personnel have access to Customer's medications.

29. **Discounts.** If CareFusion provides any discount, credit, rebate or other incentive regarding the Pyxis Products, then it is a "discount or other reduction in price" pursuant to the Medicare/Medicaid Anti-Kickback Statute. Each Party shall comply with the "safe harbor" regulations stated in 42 C.F.R. § 1001.952(h).

30. **Notices.** Any notice from one Party to the other Party related to the Rental Agreement shall be in writing and delivered either by hand, overnight courier or first class mail (certified or registered, return receipt requested, postage prepaid) to the receiving Party's Notice Address stated below. A notice shall be deemed to be given when delivered if by hand or by overnight courier and three days after it is mailed if by certified or registered mail. Either Party may change its Notice Address upon delivery of notice to the other Party.

31. **Confidentiality.** Except as required by law, Customer shall not disclose to a third party the terms of or issue any public statement regarding the Rental Agreement ("Confidential Information") without CareFusion's prior written approval. This confidentiality obligation shall not apply if Customer can reasonably demonstrate that any such Confidential Information (a) was in the public domain; (b) was received from a third party that lawfully possessed the Confidential Information; (c) was otherwise known by Customer prior to the disclosure of Confidential Information; or (d) was independently developed by Customer without reference to, exposure to, use of or disclosure of any Confidential Information. This confidentiality obligation shall survive the termination of the Rental Agreement.

32. **Prevailing Party.** If a Party prevails against the other Party regarding any claim arising from the Rental Agreement, then the non-prevailing Party shall reimburse the prevailing party for costs, expenses, and attorneys' fees reasonably incurred by the prevailing party regarding such claim.

Master Rental Terms and Conditions

33. **Severability.** If a court or other body of competent jurisdiction declares any term of the Rental Agreement invalid or unenforceable, then the remaining terms shall continue in full force and effect.
34. **Non-Waiver.** No right created by the Rental Agreement shall be deemed waived unless specifically and expressly waived in a writing signed by the Party possessing the right.
35. **Compliance with Laws.** The Parties shall comply with all federal and state laws and regulations applicable to their respective performance of the Rental Agreement.
36. **Access to Records.** For a period of four (4) years after CareFusion has performed the Rental Agreement, CareFusion shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General of the United States, or any of their duly authorized representatives (collectively, the "Requesting Party"), the Rental Agreement and any books, documents, and records necessary to certify the nature and extent of the costs paid by Customer to CareFusion pursuant to the Rental Agreement ("Access"). If CareFusion pays a subcontractor more than $10,000 over a twelve (12) month period to perform the Rental Agreement, then CareFusion shall obligate the subcontractor to permit Access to the Requesting Party.
37. **Applicable Terms of GPO Agreement.** If a Group Purchasing Organization agreement ("GPO Agreement") is applicable to a Pyxis Product as of the date of the Rental Agreement and if the GPO Agreement states that identified terms of the GPO Agreement are incorporated into the Rental Agreement related to that Pyxis Product, then the identified terms of the GPO Agreement shall be incorporated into the Rental Agreement related to that Pyxis Product and shall supersede any conflicting term or condition in the Rental Agreement applicable to the Pyxis Product.
38. **Vendor Policies**. CareFusion and its employees shall comply with Customer's reasonable security rules, policies and procedures provided in writing and agreed to in advance by CareFusion ("Vendor Policies"). Customer shall notify CareFusion in writing of any substantive amendments to the Vendor Policies. Notwithstanding the foregoing, the Parties understand and agree that any alteration, modification or creation of additional obligations related to the purchase and delivery of Pyxis Products, or Customer's payment obligations or termination rights under a Rental Agreement shall become effective only by a written amendment to the Master Rental Terms and Conditions or applicable Rental Agreement executed by both Parties.
39. **Entire Agreement; Amendment.** The Rental Agreement incorporating these Master Rental Terms and Conditions constitutes the entire agreement and understanding of the Parties regarding the subject matter of the Rental Agreement and supersedes all prior written and oral agreements, proposals, and understandings between the Parties regarding the subject matter of the Rental Agreement. If any of Customer's Vendor Policies conflicts with any term or condition of a Rental Agreement, such Vendor Policies shall have no force or effect and the terms of the Rental Agreement shall prevail. No changes to a Rental Agreement shall be made or shall be binding or effective upon either Party unless documented through a written amendment to the applicable Rental Agreement executed by both Parties.

Master Support Terms and Conditions

Date: 03-16-2011
Customer: Grand Rapids Home for Veterans #124206

These Master Support Terms and Conditions shall be incorporated into each Support Agreement executed by CareFusion Solutions, LLC ("CareFusion") and the customer identified in the signature block below ("Customer"), each a "Party" and, collectively, the "Parties." Each Support Agreement shall constitute a separate, independent contract between the Parties. "Pyxis Products" means, collectively, the Pyxis® products identified in any single Support Agreement, including the software identified in the Support Agreement, integrated into any of the Pyxis Products or a software application delivered to Customer (collectively, "Software"). Capitalized terms used herein shall have the meanings defined herein or as used in the Support Agreement or any Rental Agreement or Purchase Agreement that identifies the Pyxis Products. Each separate Support Agreement, together with these incorporated Master Support Terms and Conditions, shall be referred to as a "Support Agreement" herein.

1. **Support Term.** The "Support Term" for a Pyxis Product consists of any period of time that CareFusion agrees to support the Pyxis Product for Customer pursuant to the Support Agreement. The period of the initial Support Term for each Pyxis Product shall be the number of months stated in the Support Agreement for that Pyxis Product. The initial Support Term for each Pyxis Product shall commence on the Term Begin Date stated in the Implementation Schedule applicable to that Pyxis Product ("Implementation Schedule"). If there is no Implementation Schedule or if there is no Term Begin Date stated in the Implementation Schedule, then the initial Support Term for a Pyxis Product shall commence on the first day of the month following the date that Pyxis Product is "Accepted" pursuant to the Rental Agreement or Purchase Agreement applicable to that Pyxis Product.
2. **Automatic Continuation of Support Term.** Either Party may terminate the Support Term for a Pyxis Product effective at the conclusion of the initial Support Term for the Pyxis Product by delivering notice of the Party's election at least sixty (60) days prior to the conclusion of the initial Support Term. If neither Party delivers such notice, then, at the conclusion of the initial Support Term (i) the Support Term for the Pyxis Product shall continue on a month-to-month basis; (ii) the Monthly Support Fee shall be the Monthly Support Fee stated for the Pyxis Product in the then-current Pyxis Product price catalog; and (iii) either Party may terminate this continued Support Term effective upon thirty (30) days prior notice.
3. **Payment of Monthly Support Fees.** Subject to the provisions of Section 5 herein, Customer shall pay the Net Monthly Support Fee stated in the Support Agreement ("Monthly Support Fee") for each Pyxis Product by check, wire, ACH or EFT on the first day of each month during the Support Term of the Pyxis Product. If Customer does not pay an amount due to CareFusion pursuant to any provision of the Support Agreement on or before the due date, then Customer shall pay a late charge at the rate of 1.5% of the unpaid amount, or the highest rate allowed by the law (whichever is lower), per month, prorated on a daily basis.
4. **Taxes.** Monthly Support Fees do not include any taxes. Customer shall pay when due any sales taxes and related interest and penalties (except those caused by CareFusion's failure to collect or remit such taxes) arising from the transactions related to the Support Agreement. If CareFusion pays any amount that Customer is obligated to pay under this Section, then Customer shall promptly reimburse CareFusion.
5. **Indexed Monthly Support Fee Increases.** CareFusion may by notice increase the then-current Monthly Support Fee for any Pyxis Product effective once every twelve (12) months by a percentage amount no greater than the sum of the then-current Consumer Price Index for medical care as reported by the U.S. Department of Labor plus two percent (2%). Monthly Support Fee increases shall be effective on the anniversary date of the commencement of the initial Support Term for the Pyxis Product.
6. **Training.** CareFusion shall provide introductory training through the station tutorial for select Pyxis Products. A schedule of available training classes is located on the CareFusion Learning Portal accessible at http://www.carefusion.com.
7. **Basic Services. CareFusion** shall provide the following basic support services (collectively, "Services") to Customer for each Pyxis Product from the time the Pyxis Product is Accepted, through the Term Begin Date and during the Support Term for that Pyxis Product:

   (a) Remote Support Services. CareFusion shall provide remote support services ("Remote Support Services" or "RSS") through CareFusion's Technical Support Center ("TSC") 24 hours a day, 365 days a year. To permit Remote Support Services, Customer shall provide continuously-connected high-speed Internet access via Secure Socket Layer (Port 443). If Customer's system, connectivity, or personnel prevent CareFusion from performing Remote Support Services on a Pyxis Product related to a request for Services, then (i) CareFusion shall not be obligated to satisfy any response time or Uptime guaranty applicable to that Pyxis Product and (ii) if CareFusion performs field services for the Pyxis Product, Customer shall pay CareFusion's Time and Materials Fees for the field services. Customer shall permit CareFusion to install and maintain Pyxis Security Module to allow the deployment of Updates/Upgrades by RSS.

Master Support Terms and Conditions

(b) Field Service. CareFusion shall provide on-site field service necessary to keep the Pyxis Products and CareFusion's side of any interfaces performing in accordance with the material specifications of the applicable user manuals ("Properly Performing"). If CareFusion determines that it cannot make the Pyxis Products Properly Performing through repair services, then CareFusion shall replace portions of the Pyxis Product as CareFusion determines necessary to make the Pyxis Product Properly Performing.

(c) Field Service During Extended Term. If the Support Term is renewed on a month-to-month basis or is extended beyond the initial Support Term ("Extended Term"), CareFusion shall use commercially reasonable efforts to keep the Pyxis Product Properly Performing through repair services only during the Extended Term. If CareFusion cannot repair the Pyxis Product using commercially reasonable efforts during the Extended Term, CareFusion shall have no further service or replacement obligation with respect to that Pyxis Product.

(d) Procedure to Obtain Services. Customer shall promptly contact TSC if the Pyxis Product is not Properly Performing. TSC will work with the Customer to perform initial troubleshooting. If the issue/problem cannot be repaired in a timely manner through telephone and remote support, then CareFusion shall use commercially reasonable efforts to provide field service within 24 hours of Customer's initial call to TSC regarding the issue. Customer shall provide CareFusion with entry and access to the Pyxis Product to provide regular service and repair. Promptly following the completion of any Field Service, Customer shall perform an audit of the proper communication of transactions between the Pyxis Product and Customer's information system.

(e) Guaranteed Response Time. CareFusion guarantees that dispatched on-site field service representatives will arrive at the location of the Pyxis Product within twenty four (24) hours from the time of dispatch from TSC*. If, due to the sole fault of CareFusion, a field service representative does not arrive within this guaranty period and if Customer provides written notice to CareFusion within ten (10) days following the end of the calendar month in which such dispatch occurred, then, as Customer's sole and exclusive remedy, CareFusion shall credit Customer five percent (5%) of the Monthly Support Fee for the Pyxis Product subject to the response time guaranty.

*Notwithstanding anything to the contrary set forth herein or the Support Agreement, CareFusion guarantees that dispatched on-site field service representatives will arrive at the location of the Pyxis® Control Center within forty-eight (48) hours from the time of dispatch from TSC.

(f) Interface Modification. If CareFusion modifies an interface between a Pyxis Product and Customer's system/network as part of Services, then, upon completion of the modification, Customer shall promptly test the interface to verify that the interface functions properly. Customer's sole remedy related to interface functionality shall be for CareFusion to modify CareFusion's side of the interface to provide full functionality.

(g) Replacement Parts. CareFusion shall adjust and replace non-consumable parts in the Pyxis Products as CareFusion deems necessary to keep the Pyxis Products Properly Performing. CareFusion shall furnish maintenance and replacement parts on an exchange basis.

(h) Pyxis CUBIE®Pockets. CareFusion shall replace Pyxis CUBIE®pockets that fail to work for any reason other than an External Cause.

(i) Preventative Maintenance. At Customer's request, CareFusion shall perform on-site preventative maintenance of Pyxis Products in accordance with CareFusion's internal preventive maintenance schedule (as modified from time to time) for each Pyxis Product.

(j) Software Updates and Upgrades. If CareFusion generally releases an Update/Upgrade to the Software, then CareFusion shall install the Update/Upgrade, deliver notice to Customer of the Update/Upgrade, and Customer shall promptly perform an audit of the proper communication of transactions between the Pyxis Product and Customer's information system. An "Update" shall include bug fixes, patches, error corrections, virus updates, minor enhancements or modifications to existing features to maintain the security or operation of the Software. An "Upgrade" shall include new applications, functionality enhancements or other improvements to the Software; provided however, an Upgrade shall not include any hardware, third party software, or any software that CareFusion generally licenses as a separate product from the Software.

8. **Non-Covered Items and Services.** The following are excluded from the Services provided by CareFusion under the Support Agreement:

(a) External Causes. If the Pyxis Product is not Properly Performing in part because of abuse, misuse, vandalism, modification, alteration, unauthorized adjustment, unauthorized repair, equipment not installed by CareFusion, a computer virus introduced to the Pyxis Product by a source other than CareFusion, or any other cause external to the Pyxis Product, or Customer prevents Updates/Upgrades thereof to be installed through the Pyxis Security Module or by other means chosen by CareFusion (collectively, "External Causes"), then CareFusion shall not be obligated to provide Services regarding the portion or part of the Pyxis Product or the functionality adversely affected by an External Cause.

Master Support Terms and Conditions

(b) Service for External Causes. If Customer requests that CareFusion attempt to correct a Pyxis Product problem attributable to an External Cause, then (i) CareFusion shall promptly use commercially reasonable efforts to perform services and, if necessary, provide replacement parts to make the Pyxis Product Properly Performing; (ii) CareFusion shall provide an invoice to Customer stating the charges for the services and parts used on a time and materials basis at CareFusion's then-current rates and prices (the "Time and Materials Fees"); and (iii) within thirty (30) days after receiving an invoice stating Time and Materials Fees, Customer shall pay the Time and Materials Fees.

(c) Consumables. Services do not include the acquisition, replacement or installation of consumables, which include, but are not limited to, batteries, paper and toner. Customer is responsible for acquiring replacement light bulbs for Pyxis Products; however, CareFusion shall install Customer's replacement light bulbs as part of Services provided under the Support Agreement.

9. **Service Care Plan.** If Customer elects CareFusion's *Service Care Plan* for the Pyxis Products, an additional cost election under the Support Agreement, Services shall include the Basic Services set forth under Section 7, in addition to the following:

(a) Guaranteed Response Time. Instead of the response time guaranty provided under Section 7(e), above, CareFusion guarantees that dispatched on-site service representatives will arrive at the location of the Pyxis Product within the number of hours designated by the Parties under the Support Agreement, either eight (8) or twenty four (24) hours, calculated from the time of dispatch from TSC*. If, due to the sole fault of CareFusion, a service representative does not arrive within this guaranty period and if Customer provides written notice to CareFusion within ten (10) days following the end of the calendar month in which such dispatch occurred, then, as Customer's sole and exclusive remedy, CareFusion shall credit Customer twenty percent (20%) of the Monthly Support Fee for the Pyxis Product subject to the response time guaranty.

*Notwithstanding anything to the contrary set forth herein or the Support Agreement, CareFusion guarantees that dispatched on-site field service representatives will arrive at the location of the Pyxis® Control Center within forty-eight (48) hours from the time of dispatch from TSC.

(b) Guaranteed Product Uptime. A Pyxis Product that is Remote Support Services function enabled ("RSS-Enabled Pyxis Product") shall be Properly Performing ("Up") at least ninety-seven percent (97%) of the total number of hours during each calendar month of the Support Term ("Uptime"). CareFusion will determine if an RSS-Enabled Pyxis Product is not Up beginning on the date and time that CareFusion identifies such product as down (i.e., not in service) by Open Service Case status. "Open Service Cases" exclude cases opened at Customer's request for issues other than device break/fix issues. An RSS-Enabled Pyxis Product shall nevertheless be considered Up during (i) the performance of scheduled preventative maintenance; (ii) Customer-initiated delays; (iii) any period that an RSS-Enabled Pyxis Product is not Properly Performing because of an External Cause; and (iv) any period that Customer or Customer's system does not permit CareFusion to provide Services related to the RSS-Enabled Pyxis Product.

The Uptime calculation for the Pyxis Product shall be as follows:

((Total # of devices at a Site * 24 Hrs per day * # days in the month)-(Total # of Service Case hours in the month for that site))/ (Total # of devices at a Site * 24 Hrs per day * # days in the month) = Uptime. Service Case hours means the total number of hours required to resolve a reported issue for a Pyxis Product, from the time a case is opened by the TSC until it is closed.

(c) Credit. If collectively, the RSS-Enabled Pyxis Products are not Up for at least ninety-seven percent (97%) of the total number of hours during a calendar month of the Support Term (each, a "Compensable Month") and conditioned upon: (i) Customer's providing written notice to CareFusion of such downtime within thirty (30) days following the end of any calendar quarter; and (ii) CareFusion's verification of Customer's claim; then, as Customer's sole and exclusive remedy, CareFusion shall credit Customer 5% of the Total Monthly Support Fee(s) for all RSS-Enabled Pyxis Product(s) subject to the response time guaranty. Any credit will be applied in the month following the end of the next business quarter.

(d) Unit Relocations. Upon thirty (30) days advance notice from Customer, CareFusion shall relocate a Pyxis Product from the Customer facility in which the Pyxis Product was initially installed to another of Customer's facilities not more than one hundred (100) miles distant.

(e) Communications. CareFusion shall provide the labor, but not the hardware or software, to install upgrades to Customer's network communication methods.

(f) Interfaces. CareFusion shall provide scheduled interface changes, upgrades, and conversions to CareFusion's side of the standard ADT and Billing Interfaces for Pharmacy and Materials Management, as well as Profile Interfaces for pharmacies where the Pyxis Profile system is in place. Interface changes consist of adding features and/or functionality to the standard interfaces.

10. **Service Care Plan with Preferred Support.** If Customer elects CareFusion's *Service Care Plan with Preferred Support* for the Pyxis Products, an additional cost election under the Support Agreement, Services shall include the Services set forth under Sections 7 and 9, in addition to the following:

Master Support Terms and Conditions

(a) Guaranteed Response Time. Instead of the response time guarantees provided, above, during each calendar month, CareFusion guarantees that on-site service representatives will arrive at the location of the Pyxis Product within four (4) hours from the time of dispatch by TSC* on ninety five percent (95%) of the Service calls placed that calendar month. If, due to the sole fault of CareFusion, such guarantee is not met and if Customer provides written notice to CareFusion of such failure of this response time guaranty within thirty (30) days following the end of any calendar quarter, then, as Customer's sole and exclusive remedy, CareFusion shall credit Customer five percent (5%) of the ship-to Monthly Support Fee for the Pyxis Product(s) subject to the response time guaranty. Any credit will be applied in the month following the end of the next business quarter.

*Notwithstanding anything to the contrary set forth herein or the Support Agreement, CareFusion guarantees that dispatched on-site field service representatives will arrive at the location of the Pyxis® Control Center within forty-eight (48) hours from the time of dispatch from TSC.

(b) Guaranteed Product Uptime. If collectively, the RSS-Enabled Pyxis Products are not Up for at least ninety-seven percent (97%) of the total number of hours during a Compensable Month (as defined in Section 9(b) above, as such Uptime is determined as set forth therein) and conditioned upon: (i) Customer's providing written notice to CareFusion of such downtime within thirty (30) days following the end of any calendar quarter; and (ii) CareFusion's verification of Customer's claim; then, as Customer's sole and exclusive remedy, CareFusion shall credit Customer 10% of the Total Monthly Support Fee(s) for all RSS-Enabled Pyxis Product(s) subject to the response time guaranty.

(c) Customized Performance Reporting. CareFusion shall provide a monthly report of Customer's service call activity, TSC cases and performance related to applicable response time or Uptime guarantees within fifteen (15) business days after each calendar month during the Support Term for the Pyxis Products.

(d) Direct Access to TSC Manager Representative. CareFusion shall designate a manager from the TSC who will be available during CareFusion's business hours for Customer's direct access regarding overall quality of TSC support.

(e) Direct Access to Field Service Representative. A local CareFusion Service Manager shall be designated and available to discuss Customer's level of satisfaction with the Services provided and consider any suggestions Customer may have for improving the quality of Services provided under the Support Agreement.

11. **Customer Cancellation of On-Site Service.** Customer may cancel scheduled on-site Services by delivering notice to TSC five (5) business days prior to the scheduled start date ("Proper Notice"). If Customer cancels or otherwise prevents CareFusion from performing scheduled on-site Services without providing Proper Notice, then CareFusion may charge and Customer shall pay CareFusion the reasonable costs incurred by CareFusion because of the lack of Proper Notice.

12. **Medication Handling.** CareFusion employees and agents ("CareFusion Personnel") shall not physically handle Customer's medications. Customer must be physically present and capable of observing CareFusion Personnel during any Service activity or in any situation in which CareFusion Personnel have access to Customer's medications. If Customer fails to provide personnel to handle Customer's medications or to directly supervise CareFusion Personnel regarding Services where medications are present, then CareFusion may re-schedule the affected Service activity and, upon invoice, Customer shall reimburse CareFusion for expenses incurred related to re-scheduling that activity.

13. **Mutual Indemnification.** Each Party (the "Indemnifying Party") shall indemnify and hold the other Party (the "Indemnified Party") harmless from and shall defend the Indemnified Party against any claims asserted against the Indemnified Party for losses, injuries, or damages caused by the Indemnifying Party's conduct.

14. **Exclusion of Consequential Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS OR PROFITS, EVEN IF A PARTY RECEIVES NOTICE IN ADVANCE THAT THESE KINDS OF DAMAGES MIGHT RESULT.** This Section shall not limit a Party's right to indemnification from the other Party pursuant to Section 13 or Customer's obligation to make all payments due under the Support Agreement.

15. **Default by CareFusion.** If CareFusion fails to cure any breach of CareFusion's obligation to provide Services regarding a Pyxis Product within thirty (30) days (the "Cure Period") after delivery of notice from Customer identifying the conduct in breach, then Customer may by notice elect to cancel the then-remaining Support Term for that Pyxis Product.

16. **Default by Customer.** If Customer fails to pay any payment required by the Support Agreement or by any other contract between the Parties within ten (10) days after CareFusion delivers notice to Customer that the payment is past due, then CareFusion may by notice elect one or more of the following remedies to the extent permitted by applicable law and in addition to and without prejudice to any other remedy available at law or equity: (i) suspend performance of the Support Agreement until Customer satisfies the outstanding obligation(s) and/or (ii) cancel one or more Support Terms.

17. **Governing Law.** The Support Agreement shall be governed by the laws of the state identified in Customer's Notice Address, below, without regard to that state's conflict of laws provisions.

Master Support Terms and Conditions

18. **Prevailing Party.** If a Party prevails against the other Party regarding any claim arising from or related to the Support Agreement, then the non-prevailing Party shall reimburse the prevailing party for costs, expenses, and attorneys' fees reasonably incurred by the prevailing party regarding such claim.
19. **Notices.** Any notice from one Party to the other Party related to the Support Agreement shall be in writing and delivered either by hand, overnight courier, or first class mail (certified or registered, return receipt requested, postage prepaid) to the receiving Party's Notice Address stated below. A notice shall be deemed to be given when delivered if by hand or by overnight courier and three (3) days after mailed if by certified or registered mail. Either Party may change its Notice Address upon delivery of notice to the other Party.
20. **Confidentiality.** Except as required by law, Customer shall not disclose to a third party the terms of or issue any public statement regarding the Support Agreement ("Confidential Information") without CareFusion's prior written approval. This confidentiality obligation shall not apply if Customer can reasonably demonstrate that any such Confidential Information (a) was in the public domain; (b) was received from a third party that lawfully possessed the Confidential Information; (c) was otherwise known by Customer prior to the disclosure of Confidential Information; or (d) was independently developed by Customer without reference to, exposure to, use of or disclosure of any Confidential Information. This confidentiality obligation shall survive the termination of the Support Agreement.
21. **Severability.** If a court or other body of competent jurisdiction declares any term of the Support Agreement invalid or unenforceable, then the remaining terms shall continue in full force and effect.
22. **Non-Waiver.** No right created by the Support Agreement shall be deemed waived unless specifically and expressly waived in a writing signed by the Party possessing the right.
23. **Compliance with Laws.** The Parties shall comply with all federal and state laws and regulations applicable to their respective performance of the Support Agreement.
24. **Access to Records.** For a period of four (4) years after CareFusion has performed the Support Agreement, CareFusion shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General of the United States, or any of their duly authorized representatives (collectively, the "Requesting Party"), the Support Agreement and any books, documents, and records necessary to certify the nature and extent of the costs paid by Customer to CareFusion pursuant to the Support Agreement ("Access"). If CareFusion pays a subcontractor more than $10,000 over a twelve (12) month period to perform the Support Agreement, then CareFusion shall obligate the subcontractor to permit Access to the Requesting Party.
25. **Applicable Terms of GPO Agreement.** If a Group Purchasing Organization agreement ("GPO Agreement") is applicable to a Pyxis Product as of the date of the Support Agreement and if the GPO Agreement states that identified terms of the GPO Agreement are incorporated into the Support Agreement related to that Pyxis Product, then the identified terms of the GPO Agreement shall be incorporated into the Support Agreement related to that Pyxis Product and shall supersede any conflicting term or condition in the Support Agreement applicable to the Pyxis Product.
26. **Vendor Policies**. CareFusion and its employees shall comply with Customer's reasonable security rules, policies and procedures provided in writing and agreed to in advance by CareFusion ("Vendor Policies"). Customer shall notify CareFusion in writing of any substantive amendments to the Vendor Policies. Notwithstanding the foregoing, the Parties understand and agree that any alteration, modification or creation of additional obligations related to the purchase and delivery of Pyxis Products, or Customer's payment obligations or termination rights under a Support Agreement shall become effective only by a written amendment to the Master Support Terms and Conditions or applicable Support Agreement executed by both Parties.
27. **Entire Agreement; Amendment.** The Support Agreement incorporating these Master Support Terms and Conditions constitutes the entire agreement and understanding of the Parties regarding the subject matter of the Support Agreement and supersedes all prior written and oral agreements, proposals, and understandings between the Parties regarding the subject matter of the Support Agreement. If any of Customer's Vendor Policies conflicts with any term or condition of a Support Agreement, such Vendor Policies shall have no force or effect and the terms of the Support Agreement shall prevail. No changes to a Support Agreement shall be made or shall be binding or effective upon either Party unless documented through a written amendment to the applicable Support Agreement executed by both Parties.