



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

**CONTRACT CHANGE NOTICE**

Change Notice Number **5**

to

Contract Number **071B2200067**

<b>CONTRACTOR</b>	RICOH USA INC
	26800 Meadowbrook, Suite 101
	Novi, MI 48377
	Carol Bertrand
	248-596-8060
	carol.bertrand@richoh-usa.com
	CV0007263

<b>STATE</b>	<b>Program Manager</b>	Kristen Hampton	DTMB
		517-322-5488	
		HamptonK@Michigan.gov	
	<b>Contract Administrator</b>	Valerie Hiltz	DTMB
		(517) 249-0459	
		hiltzv@michigan.gov	

CONTRACT SUMMARY				
CONTINUOUS FEED TWIN PRINTER				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
November 15, 2011	September 30, 2015	2 - 1 Year	November 30, 2021	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		Per State approved delivery schedule		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,996,306.00	\$0.00	\$2,996,306.00		
DESCRIPTION				
Effective January 6, 2020, this contract is revising pricing, retroactive to October 1, 2019, as reflected in Attachment A, Price as attached. All other terms, conditions and specifications remain the same. Per Contractor and Agency agreement and DTMB Central Procurement Service approval.				

## **Attachment A, Price**

Revised via Change Notice 5  
Effective 10/1/2019 through 9/30/2020

**CONTRACT 071B2200067- RICOH**  
**DUAL ENGINE INFOPRINT CONTINUOUS FEED PRINTERS**  
**(Costs are total for both printers, Serial # 015021T and 016021T)**

	<b>Line Item</b>	<b>Contract Pricing</b>
1.	Direct purchase amount:	NA
2.	Monthly maintenance amount (no impression allowance):	<b>\$2,760.30</b>
3.	Meter charge per lineal foot (no supplies)	.002163
4.	Meter charge per 100 lineal foot (no micr, no supplies)	.2163
5.	InfoPrint Production Tracker	NA
6.	InfoPrint Production Tracker Maintenance	\$7,000 per year
7.	Ricoh Process Director Software	NA
8.	Ricoh Process Director Software Installation	NA
9.	Ricoh Process Director Software Maintenance	\$12,250 per year



**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 **071B2200067**

<b>CONTRACTOR</b>	RICOH USA INC
	26800 Meadowbrook, Suite 101
	Novi, MI 48377
	Carol Bertrand
	248-596-8060
	carol.bertrand@richoh-usa.com
	*****4400

<b>STATE</b>	<b>Program Manager</b>	Kristen Hampton	DTMB
		517-322-5488	
		HamptonK@Michigan.gov	
	<b>Contract Administrator</b>	Valerie Hiltz	DTMB
		(517) 284-7026	
		hiltzv@michigan.gov	

CONTRACT SUMMARY				
CONTINUOUS FEED TWIN PRINTER				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
November 15, 2011	September 30, 2015	2 - 1 Year	November 30, 2017	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		Per State approved delivery schedule		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	4 years	November 30, 2021
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,096,306.00	\$900,000.00	\$2,996,306.00		
DESCRIPTION				
Effective December 1, 2017 this contract is extended due to useful life and the new expiration date is November 30, 2021. Prices are revised as indicated in revised Attachment A. All other terms, conditions and specifications remain the same. Per Contractor and Agency agreement, DTMB Central Procurement approval, and State Administrative Board Approval dated June, 27, 2017.				

## **Attachment A, Price**

Revised via Change Notice 4

### **CONTRACT 071B2200067- RICOH DUAL ENGINE INFOPRINT CONTINUOUS FEED PRINTER**

	<b>Line Item</b>	<b>Contract Pricing</b>
1.	Direct purchase amount:	NA
2.	Monthly maintenance amount (no impression allowance):	\$5,835.00
3.	Meter charge per lineal foot (no supplies)	.002163
4.	Meter charge per 100 lineal foot (no micr, no supplies)	.2163
5.	InfoPrint Production Tracker	NA
6.	InfoPrint Production Tracker Maintenance	\$7,000 per year
7.	Ricoh Process Director Software	NA
8.	Ricoh Process Director Software Installation	NA
9.	Ricoh Process Director Software Maintenance	\$12,250 per year



# STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget

525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
P.O. BOX 30026 LANSING, MICHIGAN 48909

## CONTRACT CHANGE NOTICE

Change Notice Number **3**

to

Contract Number **071B2200067**

<b>CONTRACTOR</b>	RICOH USA INC
	26800 Meadowbrook, Suite 101
	Novi, MI 48377
	Carol Bertrand
	248-596-8060
	carol.bertrand@richoh-usa.com
	*****4400

<b>STATE</b>	<b>Program Manager</b>	Kristen Hampton	DTMB
		517-322-5488	
		HamptonK@Michigan.gov	
	<b>Contract Administrator</b>	Valerie Hiltz	DTMB
		(517) 284-7026	
		hiltzv@michigan.gov	

CONTRACT SUMMARY				
CONTINUOUS FEED TWIN PRINTER				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
November 15, 2011	November 30, 2015	2 - 1 Year	November 30, 2016	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		Per State approved delivery schedule		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1	<input type="checkbox"/>		November 30, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$1,956,306.00	\$140,000.00	\$2,096,306.00		
DESCRIPTION				
Effective December 1, 2016, the final option year available on this contract is exercised and is increased by \$140,000.00. The revised contract expiration date is November 30, 2017. Please note the contract administrator is changed to Valerie Hiltz, DTMB. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval and Administrative Board approval on November 15, 2016.				

**STATE OF MICHIGAN**  
**DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET**  
**PROCUREMENT**

525 W. ALLEGAN STREET  
 LANSING, MI 48933

P.O. BOX 30026  
 LANSING, MI 48909

CHANGE NOTICE NO. 2  
 to  
 CONTRACT NO. 071B2200067  
 between  
 THE STATE OF MICHIGAN  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Ricoh Usa Inc 26800 Meadowbrook, Suite 101 Novi MI, 48377	Carol Bertrand	carol.bertrand@richoh-usa.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	248-596-8060	*****4400

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Kristen Hampton	517-322-5488	HamptonK@Michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Malu Natarajan	517-284-7030	natarajanm@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Continuous Feed Twin Printer			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
December 1, 2011	November 30, 2015	2 - 1 Year	September 30, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
45 Days			
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE					
EXERCISE OPTION?	LENGTH OF OPTION		EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>			<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE		ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,933,731.00		\$ 22,575.00		\$1,956,306.00	
<b>DESCRIPTION:</b> Effective February 8, 2016, items are added to and deleted from this contract, per revised Attachment A and increased by \$22,575.00 for Department of Technology Management and Budget use. Please note the Contract Administrator has been changed to Malu Natarajan. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.					

**Attachment A, Price**

<b>Line Item</b>	<b>Amount</b>
Direct purchase amount:	\$751,191.00
Monthly maintenance amount (no impression allowance):	\$5,623.00
Meter charge per image with supplies.	\$0.00139
Meter charge per image Micr with supplies	\$0.00161
InfoPrint Production Tracker	\$25,500.00
InfoPrint Production Tracker Maintenance	\$6,750.00/Year (1 <sup>st</sup> Year Free)
Ricoh Process Director Software	\$25,500.00
Ricoh Process Director Software Installation	\$10,000.00
Ricoh Process Director Software Maintenance	\$16,950.00/Year (1 <sup>st</sup> Year Free)

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 4890  
 OR  
 525 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 1**  
 to  
**CONTRACT NO. 071B2200067**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
RICOH USA INC 26800 Meadowbrook, Suite 101 Novi MI 48377	Carol Bertrand	carol.bertrand@richoh-usa.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	248-596-8060	4400

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Kristen Hampton	(517) 322-5488	HamptonK@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Melissa Sambiagio	(517) 284-7016	sambiagiom@michigan.gov

**CONTRACT SUMMARY**

**DESCRIPTION:**

CONTINUOUS FEED TWIN PRINTER

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
December 01, 2011	November 30, 2015	2, 1 year	November 30, 2015

PAYMENT TERMS	DELIVERY TIMEFRAME
45 Days	

ALTERNATE PAYMENT OPTIONS	EXTENDED PURCHASING
<input type="checkbox"/> P Card: <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXPIRATION DATE
<input checked="" type="checkbox"/>	1 year	<input type="checkbox"/>		November 30, 2016
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$1,933,731.00	\$0.00	\$1,933,731.00		

**DESCRIPTION:**

Effective December 1, 2015, the first option year available on this contract is hereby exercised. The revised contract expiration date is November 30, 2016. Please note the Contract Administrator has been changed to Melissa Sambiagio. All other terms, conditions, specifications and pricing remain the same. Per contractor and agency agreement, and DTMB Procurement approval.



STATE OF MICHIGAN  
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET December 14, 2011  
PROCUREMENT

P.O. BOX 30026, LANSING, MI 48909  
OR  
530 W. ALLEGAN, LANSING, MI 48933

NOTICE  
OF  
CONTRACT NO. 071B2200067  
between  
THE STATE OF MICHIGAN  
and

NAME & ADDRESS OF CONTRACTOR <b>IKON Office Solutions, Inc.</b> <b>26800 Meadowbrook, Suite 101</b> <b>Novi, MI 48377</b>  Email: carol.bertrand@ricoh-usa.com		TELEPHONE (248) 596-8060 <b>Carol Bertrand</b>
		CONTRACTOR NUMBER/MAIL CODE
		BUYER/CA (517) 373-6535 <b>William C. Walsh, CPPB</b>
Contract Compliance Inspector: Kristen Hampton (517) 322-5488 e-mail hamptonk@michigan.gov <b>Continuous Feed Twin Printers</b>		
CONTRACT PERIOD: 4 yrs. + 2 one-year options From: <b>December 6, 2011</b> To: <b>November 30, 2015</b>		
TERMS <b>1.5% - 10 , Net 30</b>	SHIPMENT <b>N/A</b>	
F.O.B. <b>Destination</b>	SHIPPED FROM <b>N/A</b>	
ALTERNATE PAYMENT OPTIONS: <input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other		
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

The terms and conditions of the Contract are attached.

Estimated Contract Value: \$1,933,731.00





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### **Definitions**

**This section provides definitions for terms used throughout this document.**

**Business Day** - whether capitalized or not, means any day other than a Saturday, Sunday, State employee temporary layoff day, or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am through 5:00pm Eastern Time unless otherwise stated.

**Buyer** – the DTMB-Purchasing Operations employee identified on the cover page of this RFP.

**Chronic Failure** - as defined in applicable Service Level Agreements.

**Contract** – based on this RFP, an agreement that has been approved and executed by the awarded bidder, the DTMB-Purchasing Operations Director, and the State Administrative Board.

**Contractor** – the awarded bidder after the Effective Date.

**Days** - Business Days unless otherwise specified.

**Deleted, Not Applicable** - the section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

**Deliverable(s)** - physical goods or commodities as required or identified in a Statement of Work.

**Eastern Time** – either Eastern Standard Time or Eastern Daylight Time, whichever is prevailing in Lansing, Michigan.

**Effective Date** - the date that a binding Contract is executed by the final party.

**Final Acceptance** - has the meaning provided in Section 2.8.7, Final Acceptance, unless otherwise stated in Article 1.

**Key Personnel** - any personnel designated as Key Personnel in Sections 1.3.3, Staff, Duties, and Responsibilities, and 2.4.2, Contractor Key Personnel, subject to the restrictions of Section 2.4.2.

**Post-Industrial Waste** - industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.

**Purchase Order** - a written document issued by the State that requests full or partial performance of the Contract.

**State** - the State of Michigan.

**State Location** - any physical location where the State performs work. State Location may include state-owned, leased, or rented space.

**Stop Work Order** - a notice requiring the Contractor to fully or partially stop work in accordance with the terms of the notice.

**SubContractor** - a company or person that the Contractor delegates performance of a portion of the Deliverable(s) to, but does not include independent Contractors engaged by the Contractor solely in a staff augmentation role.

**Unauthorized Removal** - the Contractor's removal of Key Personnel without the prior written consent of the State.

**DTMB** – Department of Technology, Management and Budget

**CPC** - the Consolidated Print Center

**PS** – Printing Services

**EOM** – Enterprise Output Manger





## **Article 1 – Statement of Work**

### **1.1 Project Identification**

This Contract is for one high-speed continuous feed twin duplex printing system and corresponding pre and post-processing equipment for the Department of Technology, Management and Budget (DTMB), Consolidated Print Center (CPC) in Lansing Michigan.

#### **1.1.1 Project**

This Contract is for one high-speed continuous feed twin duplex printing system and corresponding pre and post-processing equipment. The overall objectives of this Contract is to:

- Procure one high-speed continuous feed twin printing system along with installation, maintenance, and training services.
- Procure corresponding high-speed continuous feed pre and post processing equipment along with installation, maintenance, and training services.

#### **1.1.2 Background- Deleted – Not Applicable**

### **1.2 Scope of Work and Deliverable(s)**

#### **1.2.1 In Scope**

The Contractor shall provide all personnel, equipment, tools, materials, software, supervision, and other items necessary to perform the services as described in the specifications herein. All equipment is to be delivered to 7461 Crowner Drive, Lansing, MI 48913.

- Two high-speed continuous feed printers and pre and post-processing equipment
  - Hardware specifications listed below
  - Cut-sheet solutions will NOT be accepted
- Interface/controllers for high-speed printers
  - All file formats must process at or above the rated printer output speed
  - Any additional hardware required for the printer interface/controller
- Printer software capable of handling all PS data file formats
  - License Fees included in bid
  - License Fees include unlimited impressions for each file format
- Services to implement the hardware/software, including
  - On-site configuration
  - Integration into current CPC environment
  - Testing of CPC applications
- Knowledge transfer to State staff
  - On-site training of CPC Operations staff on new hardware
  - On-site training of CPC analyst staff on new software
- Documentation, to include
  - User manuals
  - Technical manuals
  - Electronic online viewing
- Support
  - Help Desk
  - Software and print controller interface technical support
- Maintenance
  - Hardware and support to perform according to the specifications outlined in Section 1.2.4.
  - Maintenance and support of pre and post processing equipment will be supplied by winning vendor.
- Billing Support
  - The Contractor will need to demonstrate the methodology used for providing a functional and accurate billing system for invoices generated to the State of Michigan. This will include monthly statements that are in a clear and easy to understand format with detailed breakdown





of services rendered. The ability to access billing and invoice information online is strongly desired.

Contractor shall include all maintenance; all software upgrades or enhancements to printers or printer controllers, and monthly consumables in the Contract pricing. Usage (click) charges will remain constant through the life of the contract.

### **Hardware Specifications:**

Item	Description
Paper Feed	Roll feed to cut-sheet and box to box
Duty Cycle	Printing system must have a minimum duty cycle of ten million images per month.
Controller Interface	Display will be GUI (Graphical User Interface) Display will be touch screen Display will display printer error messages Interface will allow operator to establish individual job setups Interface will allow operator the ability to adjust the image on the page Interface must process all data files at or above the hardware's rated output printing speed
Engine Technology	The ability to print documents one-up or two-up on both printers.
Toner	Ability to print either MICR or Non-MICR applications on either machine. If alternate developer stations are required, cost must be included in final pricing.
Consumables	Ability to add toner to either print device without stopping printer output.
Network	Connectivity: Minimum 100 MB Ethernet Protocols: TCP/IP and/or LPD/LPR for print job submission.
Paper Width	8" up to 17" wide
Paper Transport	Each printer has a tractor paper transport.
Quality	Resolution up to 600 dpi.
Stacker	High capacity internal or external stacker for each printer.
Stacker/Cutter	Output processed off the stacker/cutter unit delivered in face down horizontal stacks.
Support	All hardware and software under one maintenance Contract.
Performance	Hardware rated print speeds are based on 20 lb. stock Minimum: 1000 letter portrait images/minute

### **1.022 Equipment Trade-In – Deleted – Not Applicable**

#### **1.2.4 Deliverable(s)**

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

#### **A. Hardware**

The Contractor will provide services identified in Section 1.2.1, In Scope, for the complete and successful implementation of hardware for use in DTMB's Consolidated Print Center and meeting the State's objectives.

#### **Deliverable (s)**

- Provide all hardware required for the installation of two high-speed continuous feed printers.
- Provide all hardware required for the installation of corresponding high-speed pre and post processing equipment. Have all hardware ready for use by CPC staff within 60 days after signed Contract or purchase order has been delivered.

#### **B. Software**

The Contractor will provide services identified in Section 1.2.1, In Scope, for the complete and successful implementation of software for use in DTMB's Consolidated Print Center and meeting the State's objectives outlined in 1.1.2 Background.



#### Deliverable (s)

- Provide printer controller software capable of processing all applications at or above the rated printer speed.
- Provide any software upgrades or patches necessary to print all CPC applications without charge to the SOM.
- The Contractor will comply with all SOM software security standards.

#### C. Maintenance

Maintenance is defined as repair or replacement services provided after the expiration of the warranty period necessary to identify and repair hardware and software malfunctions in order to return the system to its original operating condition. Maintenance also includes an agreement to provide an annual renewable software subscription to include future upgrades (both major and minor revisions of the application) and ongoing vendor product support.

#### Deliverable (s)

- Provide maintenance which includes all hardware, software support, and all software licenses for the entire Contract period.
- Provide online process for invoicing, billing information, and submitting monthly usage totals.
- Contractor must provide single point of contact for maintenance on all purchased equipment.
- Provide 24 hour coverage Monday thru Friday on all hardware and software. The ability to expand support to 7 day 24 hour coverage is required.
- Respond to trouble call within 30 minutes during coverage hours.
- Be onsite within 3 hours of trouble call during coverage hours.
- Preventive maintenance shall be performed at original equipment manufacturer's established standard intervals. Contractor shall provide a listing of preventive maintenance tasks and established interval periods. Parts and service shall be included in cost of full service maintenance agreement.
- Contractor to arrange and fund all transportation costs for travel and equipment shipments.
- Contractor will provide a service Contract on all hardware and software sold to the State.
- Equipment operates at 90% of production capability during CPC hours or operation. Uptime hours **will not** be calculated by total number of hours under maintenance coverage.
  - i.e. 20 work days per month X 17 hours = 340 hours. Equipment must be operable in excess of 306 hours per month.
- Contractor must perform and document completion of scheduled preventive maintenance.
- Contractor must keep accurate records of all hardware and software maintenance for the duration of the Contract.
- Contractor must provide itemized breakdown of maintenance costs for each printer and each pre/post processing equipment piece.

State will contact the Contractor, via telephone, when any repairs or support are needed to be made to the equipment. Contractor shall provide the guaranteed response time to service calls placed and guaranteed response time for repairs to commence (i.e., Contractor shall respond (via phone) within thirty (30) minutes of a service call being placed by the State. Contractor shall commence on-site maintenance within 3 hours of the service call being placed by the State.).

#### D. Implementation

Contractor will develop and provide a comprehensive implementation plan for the solution(s) being proposed.

#### Deliverable (s)

- The implementation plan is to be inclusive of the following elements and deliverables:
  - An overview of the proposed deployment plan
  - A timeline for the deployment, with appropriate milestones
  - Identification of all hardware requirements necessary for installation
  - Identification of all electrical requirements necessary for hardware installation
  - Identification of all network data drops required for hardware installation.



- An implementation staffing plan, adequate to meet all deliverables within the stated timeframes
- Comply with all State of Michigan security requirements.

#### E. Training

Contractor will provide one day (two shifts) of on-site (State Facility – Lansing, MI) training for CPC staff.

##### Deliverable (s)

- All training manuals, training plans, and other documentation. These materials will become property of the State.
- Training plan and schedule

#### F. Documentation

Contractor will provide all hardware and controller software documentation to the State after installation. All documentation will become property of the State.

##### Deliverable (s)

- User Manuals
- Technical Manuals

#### G. Installation

Contractor will develop and provide hardware installation drawings for State review of the proposed solution(s). Drawings will show twin configuration layout in the Consolidated Print Center.

##### Deliverable (s)

- On-site review or inspection of CPC is optional.
- Configuration drawings provided for State review and approval.
- Configuration drawings will include all required electrical and network data drop requirements.
- Installation drawings due to the State five days after Contract signing.
- Installation to ensure no wires required for running the pre and post processing equipment will be installed on the floor in the CPC operations work area.
- Installation to ensure no wires required for running the continuous feed printers will be installed on the floor in the CPC operations work area.

### **1.2.3 Quantity**

The State is not obligated to purchase in any specific quantity.

### **1.2.4 Ordering**

The State will issue a Purchase Order, which must be approved by the Contract Compliance Inspector, to order any Deliverable(s). The bidder is not authorized to begin performance until receipt of a Purchase Order.

### **1.2.5 Alternate Bids**

Bids should include pricing for both equipment lease and purchase pricing.

## **1.3 Management and Staffing**

### **1.3.1 Project Management**

Contractor will provide a Preliminary Project Plan with the proposal, including the necessary time frames and deliverables for the various stages of the project and the responsibilities and obligations of both the Contractor and the State.

##### Deliverable (s)

- Preliminary Project Plan will include:
  - A description of the deliverables to be provided under this Contract.
  - Target dates and critical paths for the deliverables.
  - Identification of roles and responsibilities, including the organization responsible.



- The labor, equipment, materials and supplies required to be provided by the State in meeting the target dates established in the Preliminary Implementation Plan.
- Internal milestones
- Task durations
- Final Project Plan will include:
  - The project plan shall include the following deliverable milestones for which payment shall be made:

	Deliverable	Acceptance Criteria	Date Due
1.	Final Project Work Plan	Meeting the criteria of 1.31	Five (5) days after Contract signing
2.	Delivery of Hardware	Delivered as specified in requirements and on date identified in Final Project Work Plan	On date specified in Final Project Work Plan
3.	Installation of Hardware	Hardware is installed and testing successfully completed.	On date specified in Final Project Work Plan
4.	Implementation of Hardware	Hardware performs in accordance with requirements stated in Contract.	On date specified in Final Project Work Plan
5.	Training	Completion of training for DTMB staff in the use of the all hardware and software.	On date specified in Final Project Work Plan

The State seeks to have full implementation of the system to be completed 60 days after issuance of the purchase order.

The Contractor will carry out this project under the direction and control of the Department of Technology, Management and Budget, Printing Services.

The project manager will meet weekly with the bidder's project manager to review progress and provide necessary guidance.

The Contractor will submit weekly written progress reports to the designated project manager for the State that: outline the work accomplished during the reporting period and work to be done during the next reporting period; identify actual and anticipated problems that should be brought to the attention of the project manager; and provide notice of any significant deviation from previously agreed upon project plans.

### **1.3.2 Reports**

Reporting formats must be submitted to the State's Project Manager for approval. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of this Contract.

- Reports to be furnished by the Contractor during Installation:
  - Weekly Project status
  - Updated project plan
  - Summary of activity during the report period
  - Accomplishments during the report period
  - Deliverable status
  - Action Item status
  - Issues
- Reports to be furnished by the Contractor after Installation:
  - Quarterly maintenance activity reports
  - Quarterly production uptime report based off requirements in Section 1.2.4.
  - Annual preventative maintenance schedule.
  - Contractor will provide a summary report of all activities performed on the equipment annually.
    - Hardware report shall include parts replaced, consumables used, hours of down time, and click totals reported at the time maintenance is performed. The report shall be separated by equipment piece.



- Software report shall include any interim corrections, patches, upgrades, or database rebuilds performed on the software. The report shall be separated by equipment piece.

Additional reports available from the Contractor are:

**Equipment Performance Reports**

- Equipment Performance Detail
- Model Performance Summary
- Location Performance Summary
- Area Performance Summary
- Performance Exception Reports

**Performance Summary Graphs by Model**

- Uptime Percentage
- Response Time
- Copies between Failures
- Critical Service Calls

**Performance Summary Graphs by Location**

- Uptime Percentage
- Response Time
- Copies between Failures
- Critical Service Calls

**1.3.3 Staff, Duties, and Responsibilities**

**A. Contractor Staff**

A summary of key account team roles and responsibilities follows:

**Major Account Executive;**

- Ron Munson
- Carol Bertrand

**Solutions Consultant;**

Ramie Robinson. Ramie's responsibility to this project will be to provide local InfoPrint project management support to the IKON team.

**Customer Service Team**

Scott Acord is one of our performance resources who will manage the install from start to finish.

Other Support installation personnel that may be used in the account are:

- Nick Abaravich
- Brian Anderson
- Larry Pechman

Five installation customer engineers will install the printer system and perform ongoing maintenance on the system after it is in production:

- George Judson
- Joe Fry
- John Kilcoyne
- Rodney Reeves
- Kyle Jaarda



The customer service organization will not place any orders for the State without the approved purchase order and customer number that will validate an official State order. Furthermore, the customer service organization will confirm all orders with the account Sales Representative. This includes validating customer contact information, Purchase Order validity and amounts, and delivery instructions. No order is placed until this process passes these strict checkpoints.

Orders for the State of Michigan are handled by a dedicated State of Michigan team. IKON reviews each order and contacts the State of Michigan purchasing contact for any orders that appear unusual or excessive.

#### B. On-Site Requirements

Work to be performed, completed, and managed at the following location:

General Services Building  
State Secondary Complex  
7461 Crouner Dr.  
Lansing, MI 48913

#### C. Hours of Operation

Normal hours of operation are:

First Shift: 7:30am-4:00pm  
Third Shift: 11:00pm-7:30am

Monday thru Friday, with work performed as necessary after hours to meet project deadlines. No overtime will be authorized or paid.

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.

Contractor shall observe the same standard holidays as State employees. The State does not compensate for holiday pay.

#### D. Travel

No travel or expenses will be reimbursed. This includes travel costs related to training provided to the State by Contractor.

Travel time will not be reimbursed.

#### E. State Staff

The State will provide the following resources for the Contractor's use on the project:

- Work Space
- Minimal clerical support
- Desk
- Telephone
- PC Workstation
- Printer
- Access to copier and fax machine

The State will designate a Project Manager to work with Contractor after bid has been awarded.

#### **1.3.4 Meetings**

The Contractor must attend the following meetings:

- Kick-off meeting or conference call within 15 calendar days of issuance of the purchase order.
- Weekly status update meetings or conference calls after initial kick-off meeting until the end of the PARE review.



The State may request other meetings as it deems appropriate.

### **1.3.5 Place of Performance**

The Contractor locations of facilities that will be involved in performing this Contract:

<b>Full address of place of performance</b>	<b>Owner/operator of facility to be used</b>	<b>Percent (%) of Contract value to be performed at listed location</b>
IKON Office Solutions 26800 Meadowbrook Rd., Ste 101 Novi, MI 48377	IKON Office Solutions A Ricoh Company	
IKON Office Solutions 2321 Club Meridian Dr, Ste 101 Okemos, MI 48864	IKON Office Solutions A Ricoh Company	

### **1.3.6 Reserved**

### **1.3.7 Binding Commitments**

The Contractor's representatives with the authority to make binding commitments on the Contractor's behalf are:

Steve Fedel  
IKON Office Solutions  
A Ricoh Company  
District Vice President  
26800 Meadowbrook Road  
Suite 101  
Novi, MI 48377

Pat Brown  
IKON Office Solutions  
A Ricoh Company  
District Director of Finance  
26800 Meadowbrook Road  
Suite 101  
Novi, MI 48377

### **1.3.8 Training**

Typical printer training includes training operators in groups of two to operate the 4100 printer. Typical training includes the following:

- A general overview of the 4100 printers familiarizing the operators with the overall operation of the printing system.
- Threading paper through the printers.
- Jam and paper break fix and re-threading.
- Loading supplies on the fly.
- First level break fix of parts such as corotron wires and general daily cleaning.
- A complete overview of the operator console.
- Creating snap shots on the console for print applications.
- Cross training on the printer and pre-post and how to accomplish interoperability to work both systems together efficiently.
- This training will be scheduled on shifts accommodating the State's employee's and schedule work times.

Typical pre-post training includes training operators in groups of two to operate the unwinder and cutter attached to the 4100 printer. Typical training includes the following:

- A general overview of the Lasermix pre-post equipment familiarizing the operators with the over all operation of the printing system.
- Threading paper through the printers.
- Jam and paper break fix and re-threading.
- First level break fix of parts.
- A complete overview of the operator console.
- Creating snap shots on the console for print applications.





- Cross training on the printer and pre-post and how to accomplish interoperability to work both systems together efficiently.
- This training will be scheduled on shifts accommodating the State's employee's and schedule work times.

### **1.3.9 Security**

Contractor strives to provide a safe working environment for its employees and customers, take appropriate steps to protect company assets and make hiring decisions based on a comprehensive set of job-related criteria.

Contractor applies a pre-employment background check process that permits the company to obtain background information on each applicant. Under the policy, Contractor may request a background check on an applicant's prior criminal record, employment history, motor vehicle record and other information bearing on the applicant's ability to perform job-related functions satisfactorily. At all times, Contractor implements this policy in compliance with the federal Fair Credit Reporting Act (FCRA) and applicable state or local laws.

## **1.4 Delivery and Acceptance**

### **1.4.1 Time Frames**

IKON and Lasermix can both deliver all equipment listed and quoted in the bid within 30 to 45 days of receiving an order from the State.

Authorized customer representative can order supplies (e.g., toner, paper, staples) through IKON, using the supply order option(s) selected during contract negotiations):

A toll-free telephone number to a dedicated supply representative available 24 hours per day,  
Monday through Friday (888-456-6457)

Facsimile/e-mail ordering

- Web-based ordering through [www.ikon supplies.com](http://www.ikon supplies.com)

### **1.4.2 Minimum Order, [Deleted, Not Applicable]**

### **1.4.3 Packaging, [Deleted, Not Applicable]**

### **1.4.4 Palletizing, [Deleted, Not Applicable]**

### **1.4.5 Delivery Term, [Deleted, Not Applicable]**

### **1.4.6 Acceptance Process**

Final Acceptance is when criteria defined in Section 1.4.7 are met for the duration of the Performance and Review Evaluation (PARE). The PARE will last for 60 days after final installation.

The State of Michigan will sign off on the installation of all hardware and software following the successful completion of the PARE period.

### **1.4.7 Criteria**

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

- Equipment operates at 90% of production capability during CPC hours of operation.
- Repair requests garner responses within timeframes stated in Section 1.2.4.
- Machines able to print current CPC applications without any program modifications by CPC customers to the data files.
- Submission of an accurate detailed monthly invoice.
- Have all hardware and software ready for use by CPC staff within 60 days after execution of Contract.
- Completion of the Work and deliverables outlined in final project plan.
- Comply with all State of Michigan security requirements.





## **1.5 Pricing**

### **1.5.1 Pricing**

**Maintenance Price Protection:** IKON will agree to keep the maintenance and usage prices provided in Attachment A fixed for the term of the contract, up to six years.

**Supplies Price Protection:** IKON will agree to hold the price of the supplies constant for one year from the date of installation. Any annual increases (to the supplies dealer) thereafter will be limited to 3% of the prior year's price.

### **1.5.2 Quick Payment Terms, [Deleted, Not Applicable]**

### **1.5.3 Price Term**

Prices in **Attachment A** are fixed for the term of the Contract, up to six years.

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

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

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

### **1.5.5 Invoices**

The bidder must provide a sample invoice that, at a minimum, includes:

- (a) Date
- (b) PO #
- (c) Quantity
- (d) Deliverable
- (e) Unit Price
- (f) Shipping Cost (if any)
- (g) Total Price

## **1.6 Commodity Requirements**

### **1.6.1 Customer Service, [Deleted, Not Applicable]**

### **1.6.2 Research and Development- Deleted – Not Applicable**

### **1.6.3 Quality Assurance Program**

### **1.6.4 Warranty for Deliverable(s)**

Standard service contract takes the place of a traditional equipment warranty. It covers the equipment for the life of the contract. Contractor is an authorized service provider for all proposed equipment, and certified to perform warranty services and will provide such services for this project using manufacturer certified personnel.

Warranties generally extend to only 90 days after installation, or for a specific number of copies, whichever comes first. These warranties typically cover defective materials, workmanship and retrofits, but do not cover misuse or abuse, routine cleaning or preventive maintenance.

## **The Ricoh/InfoPrint Warranties**

### **Warranty for RICOH/INFOPRINT Machines**



RICOH/INFOPRINT warrants that each RICOH/INFOPRINT Machine is free from defects in materials and workmanship and conforms to its Specifications.

The warranty period for a Machine is a specified, fixed period commencing on its Date of Installation. During the warranty period, RICOH/INFOPRINT provides repair and exchange Service for the Machine, without charge, under the type of Service RICOH/INFOPRINT designates for the Machine. If a Machine does not function as warranted during the warranty period and RICOH/INFOPRINT is unable to either 1) make it do so or 2) replace it with one that is at least functionally equivalent, you may return it to RICOH/INFOPRINT and your money will be refunded.

Additional terms regarding Service for Machines during and after the warranty period are contained in Part 5.

#### **Warranty for Ricoh InfoPrint Customer Agreement Programs (ICA)**

RICOH/INFOPRINT warrants that each warranted ICA Program, when used in the Specified Operating Environment, will conform to its Specifications.

The warranty period for an ICA Program expires when its Program Services are no longer available. During the warranty period, RICOH/INFOPRINT provides defect-related Program Services without charge. Program Services are available for a warranted ICA Program for at least one year following its general availability.

If an ICA Program does not function as warranted during the first year after you obtain your license and RICOH/INFOPRINT is unable to make it do so, you may return the ICA Program and your money will be refunded. To be eligible, you must have obtained your license while Program Services (regardless of the remaining duration) were available for it. Additional terms regarding Program Services are contained in Part 4.

#### **Warranty for RICOH/INFOPRINT Services**

RICOH/INFOPRINT warrants that it performs each RICOH/INFOPRINT Service using reasonable care and skill and according to its current description (including any completion criteria) contained in this Agreement, an Attachment, or a Transaction Document.

#### **Warranty for Systems**

Where RICOH/INFOPRINT provides Products to you as a system, RICOH/INFOPRINT warrants that they are compatible and will operate with one another. This warranty is in addition to RICOH/INFOPRINT' other applicable warranties.

#### **Extent of Warranty**

If a Machine is subject to federal or state consumer warranty laws, RICOH/INFOPRINT' statement of limited warranty included with the Machine applies in place of these Machine warranties.

The warranties stated above will not apply to the extent that there has been misuse (including but not limited to use of any Machine capacity or capability, other than that authorized by RICOH/INFOPRINT in writing), accident, modification, unsuitable physical or operating environment, operation in other than the Specified Operating Environment, improper maintenance by you, or failure caused by a product for which RICOH/INFOPRINT is not responsible. With respect to Machines, the warranty is voided by removal or alteration of Machine or parts identification labels.

**THESE WARRANTIES ARE EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

#### **Items Not Covered by Warranty**

RICOH/INFOPRINT does not warrant uninterrupted or error-free operation of a Product or Service or that RICOH/INFOPRINT will correct all defects.

RICOH/INFOPRINT will identify RICOH/INFOPRINT Machines and ICA Programs that it does not warrant.

Unless RICOH/INFOPRINT specifies otherwise, it provides Materials, non-RICOH/INFOPRINT Products, and non-RICOH/INFOPRINT Services **WITHOUT WARRANTIES OF ANY KIND**. However, non-RICOH/INFOPRINT manufacturers, developers, suppliers, or publishers may provide their own warranties to you. Warranties, if any, for Other RICOH/INFOPRINT Programs and Non-RICOH/INFOPRINT Programs may be found in their license agreements.



### **1.6.5 Special Incentives- Deleted – Not Applicable**

### **1.6.6 Energy Efficiency- Deleted – Not Applicable**

### **1.6.7 Environmental Requirements**

The InfoPrint solution has no undesirable materials and the solution will not require special ventilation for the removal of airborne toxins.

### **1.6.8 Recycled Content and Recyclability**

(a) **Deliverable(s).** Without compromising performance or quality, the State prefers Deliverable(s) containing higher percentages of recycled materials. The bidder must indicate an estimate of the percentage of recycled materials, if any, contained in each Deliverable:

0 % (total estimated percentage of recovered material)

0% (estimated percentage of post-consumer material)

0 % (estimated percentage of post-industrial waste)

(b) **Packaging.** The State prefers packaging materials that:

- (i) are made from recycled content that meets or exceeds all federal and state recycled content guidelines (currently 35% post-consumer for all corrugated cardboard);
- (ii) minimize or eliminate the use of polystyrene and other difficult to recycle materials;
- (iii) minimize or eliminate the use of packaging and containers or, in the alternative, minimize or eliminate the use of non-recyclable packaging and containers;
- (iv) provide for a return program where packaging can be returned to a specific location for recycling; and
- (v) contain materials that are easily recyclable in Michigan.

### **1.6.9 Materials Identification and Tracking**

(a) **Hazardous Chemical Identification.** The bidder must list any hazardous chemical, as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number. Material Safety Data Sheets must be submitted in accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001 *et seq.*, as amended. This list must be updated whenever any other chemical to be delivered is hazardous.

Chemical (if none, enter 'None')	Identification Number
None	

(b) **Mercury Content.** Under MCL 18.1261d, the bidder must offer mercury-free products whenever possible. The bidder must explain if it intends to provide products containing mercury and whether cost competitive alternatives exist. If cost competitive alternatives do not exist, the bidder must disclose the amount or concentration of mercury and justification as to why this particular product is essential. All products containing mercury must be labeled as containing mercury.

(c) **Brominated Flame Retardants.** The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The bidder must disclose whether the products contain BFRs.

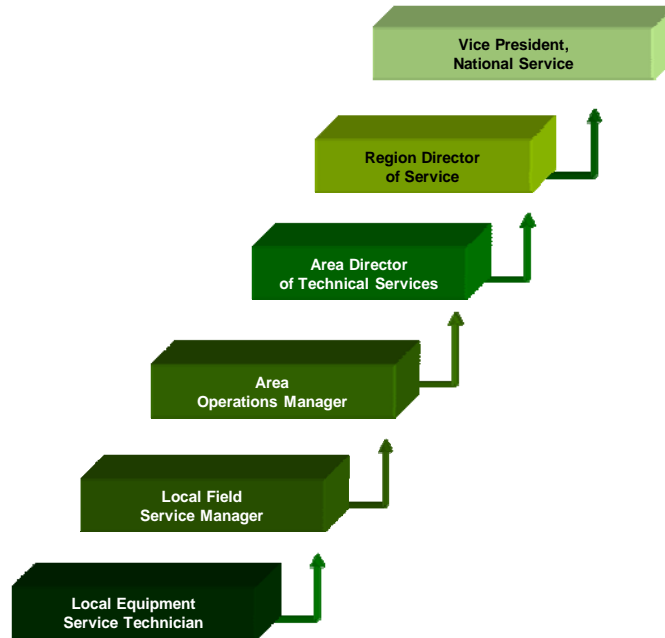
(d) **Environmental Permits and Requirements.** The bidder must disclose whether any of its facilities are in violation of any environmental laws. The bidder must immediately notify DTMB-Purchasing Operations of the receipt of any EPA, State, or local agency communication indicating that any of the bidder's facilities are in violation of applicable environmental laws.



## **1.7 Problem Escalation Procedure**

### **Equipment Service Resource Escalation**

In the event that State of Michigan is not satisfied with the level of equipment service support provided by the assigned customer service representative, the following escalation procedure can be applied.





## **Article 2 – Terms and Conditions**

### **2.1 Contract Term**

#### **2.1.1 Contract Term**

The Contract for 4 years begins November 15, 2011 and expires September 30, 2015. All outstanding Purchase Orders will expire upon the termination of the Contract for any of the reasons listed in Section 2.16, Termination by the State, unless otherwise agreed to in writing by DTMB-Purchasing Operations. Absent an early termination, Purchase Orders issued, but not expired, by the end of the Contract's term will remain in effect until the next September 30.

#### **2.1.2 Options to Renew**

This Contract may be renewed for up to two additional one year period(s). Renewal must be by mutual written agreement of the parties, not less than 30 days before expiration of the Contract.

### **2.2 Payments and Taxes**

#### **2.2.1 Fixed Prices for Deliverable(s)**

Prices are fixed for all Deliverable(s) and for all of the associated payment milestones and amounts.

#### **2.2.2 Payment Deadlines**

Undisputed invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 *et seq.*, within 45 days after receipt.

#### **2.2.3 Invoicing and Payment – In General [Deleted, Not Applicable]**

#### **2.2.4 Pro-ration [Deleted, Not Applicable]**

#### **2.2.5 Final Payment and Waivers**

The Contractor's acceptance of final payment by the State constitutes a waiver of all claims by the Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed. For other claims, final payment by the State will not constitute a waiver by either party of any rights as to the other party's continuing obligations, nor will it constitute a waiver of any claims under this Contract, including claims for Deliverable(s) not reasonably known to be defective or substandard.

#### **2.2.6 Electronic Payment Requirement**

As required by MCL 18.1283a, the Contractor must electronically register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer (EFT) payments.

#### **2.2.7 Employment Taxes**

The Contractor must collect and pay all applicable federal, state, and local employment taxes.

#### **2.2.8 Sales and Use Taxes**

The Contractor must register and remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. If the Contractor lacks sufficient presence in Michigan to be required to register and pay taxes, it must do so on a voluntary basis. The requirement to register and remit sales and use taxes extends to (a) all members of a "controlled group of corporations" as defined in § 1563(a) of the Internal Revenue Code, 26 USC 1563(a), and applicable regulations; and (b) all organizations under common control that make sales at retail for delivery into the State. Any United States Department of Treasury regulation that references "two or more trades or businesses under common control" includes organizations such as sole proprietorships, partnerships (as defined in § 7701(a)(2) of the Internal Revenue Code, 26 USC 7701(a)(2)), trusts, estates, corporations, or limited liability companies.



## **2.3 Contract Administration**

### **2.3.1 Issuing Office**

This Contract is issued by DTMB-Purchasing Operations on behalf of DTMB Printing Services (State). **DTMB-Purchasing Operations is the only entity authorized to modify the terms and conditions of this Contract, including the prices and specifications.** The Contract Administrator within DTMB-Purchasing Operations for this Contract is:

William C. Walsh, CPPB, Buyer/Manager  
Purchasing Operations  
Department of Technology, Management and Budget  
Mason Bldg, 2nd Floor  
PO Box 30026  
Lansing, MI 48909  
E-Mail: walshw@michigan.gov  
Phone: (517) 373-6535

### **2.3.2 Contract Compliance Inspector**

The Contract Compliance Inspector, named below, will monitor and coordinate Contract activities on a day-to-day basis. However, monitoring of this Contract implies **no authority to modify the terms and conditions of this Contract, including the prices and specifications.**

Kristen Hampton, Printing Services Manager  
Department of Technology, Management and Budget  
7461 Crowner Drive, Lansing, MI 48913  
hamptonk@michigan.gov  
Phone: 517-322-5488  
Fax: 517-322-5968

### **2.3.3 Project Manager**

The Project Manager, named below, will oversee the project. However, management of the project implies **no authority to modify the terms and conditions of this Contract, including the prices and specifications.**

Christopher Clark, Analyst  
Department of Technology, Management and Budget  
7461 Crowner Drive, Lansing, MI 48913  
clarkc5@michigan.gov  
Phone: 517-322-1704  
Fax: 517-322-6840

### **2.3.4 Contract Changes**

(a) If the State requests or directs the Contractor to provide any Deliverable(s) that the Contractor believes are outside the scope of the Contractor's responsibilities under the Contract, the Contractor must notify the State before performing the requested activities. If the Contractor fails to notify the State, any activities performed will be considered in-scope and not entitled to additional compensation or time. If the Contractor begins work outside the scope of the 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.

(b) The State or the Contractor may propose changes to the Contract. If the Contractor or the State requests a change to the Deliverable(s) or if the State requests additional Deliverable(s), the Contractor must provide a detailed outline of all work to be done, including tasks, timeframes, listing of key personnel assigned, estimated hours for each individual per Deliverable, and a complete and detailed cost justification. If the parties agree on the proposed change, DTMB-Purchasing Operations will prepare and issue a notice that describes the change, its effects on the Deliverable(s), and any affected components of the Contract (Contract Change Notice).



(c) No proposed change may be performed until DTMB-Purchasing Operations issues a duly executed Contract Change Notice for the proposed change.

**2.3.5 Price Changes, [Deleted, Not Applicable]**

**2.3.6 Notices**

All notices and other communications required or permitted under this Contract must be in writing and will be considered given when delivered personally, by fax (if provided) or by e-mail (if provided), or by registered mail, return receipt requested, addressed as follows (or any other address that is specified in writing by either party):

If to State:

State of Michigan  
DTMB-Purchasing Operations  
Attention: William C. Walsh, CPPB  
PO Box 30026  
530 West Allegan  
Lansing, MI 48909  
E-mail: walshw@michigan.gov  
Fax: (517) 335-0046

If to Contractor:

Carol Bertrand  
IKON Office Solutions  
26800 Meadowbrook Road, Suite 101  
Novi, MI 48377  
E-mail: carol.bertrand@ricoh-usa.com  
Fax: (248) 347-2190

Delivery by a nationally recognized overnight express courier will be treated as personal delivery.

**2.3.7 Covenant of Good Faith**

Each party must act reasonably and in good faith. Unless otherwise provided in this Contract, the parties will not unreasonably delay, condition or withhold their consent, decision, or approval any time it is requested or reasonably required in order for the other party to perform its responsibilities under the Contract.

**2.3.8 Assignments**

(a) Neither party may assign this Contract, or assign or delegate any of its duties or obligations under the Contract, to another party (whether by operation of law or otherwise), without the prior approval of the other party. The State may, however, assign this Contract to any other State agency, department, or division without the prior approval of the Contractor.

(b) If the Contractor intends to assign this Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State and provide adequate information about the assignee at least 90 days before the proposed assignment or as otherwise provided by law or court order. The State may withhold approval from proposed assignments, subContracts, or novations if the State determines, in its sole discretion, that the transfer of responsibility would decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(c) If the State permits an assignment of the Contractor's right to receive payments, the Contractor is not relieved of its responsibility to perform any of its Contractual duties. All payments must continue to be made to one entity.





### **2.3.9 Equipment**

The State will not provide equipment and resources unless specifically identified in the Statement(s) of Work or other Contract exhibits.

### **2.3.10 Facilities [Deleted, Not Applicable]**

## **2.4 Contract Management**

### **2.4.1 Contractor Personnel Qualifications**

All persons assigned by the Contractor to perform work must be employees of the Contractor or its majority-owned subsidiaries, or a State-approved SubContractor, and must be fully qualified to perform the work assigned to them. The Contractor must include this requirement in any subContract.

### **2.4.2 Contractor Key Personnel**

- (a) The Contractor must provide the Contract Compliance Inspector with the names of Key Personnel.
- (b) The Contractor must dedicate Key Personnel to perform work for the duration of the Contract as provided in Section 1.3.3, Staff, Duties, and Responsibilities.
- (c) Before assigning a new individual to any Key Personnel position, the Contractor must notify the State of the proposed assignment, introduce the individual to the appropriate State representatives, and provide the State with a resume and any other reasonably requested information. The State must approve or disapprove the assignment, reassignment, or replacement of any Key Personnel. The State may interview the individual before making its decision. If the State disapproves an individual, the State will provide a written explanation outlining the reasons for the rejection.
- (d) The Contractor may not remove any Key Personnel from their assigned roles without the prior consent of the State. The Contractor's removal of Key Personnel without the prior consent of the State constitutes Unauthorized Removal. Unauthorized Removal does not include replacing Key Personnel for reasons beyond the Contractor's reasonable control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause. Unauthorized Removal does not include replacing Key Personnel because of promotions or other job movements allowed by the Contractor's personnel policies or Collective Bargaining Agreement(s), as long as the Contractor assigns the proposed replacement to train the outgoing Key Personnel for 30 days. Any Unauthorized Removal will be considered a material breach of the Contract.
- (e) The Contractor must notify the Contract Compliance Inspector and the Contract Administrator at least 10 Days before redeploying non-Key Personnel to other projects.

### **2.4.3 Removal or Reassignment of Personnel at the State's Request**

The State may require the Contractor to remove or reassign personnel if the State has legitimate, good-faith reasons articulated in a notice to the Contractor. Replacement personnel 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.

### **2.4.4 Contractor Personnel Location**

Subject to availability, the State may allow selected Contractor personnel to use State office space.

### **2.4.5 Contractor Identification**

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

### **2.4.6 Cooperation with Third Parties**

The Contractor and its SubContractors must cooperate with the State and its agents and other Contractors, including the State's quality assurance personnel. The Contractor must provide reasonable access to its personnel, systems, and facilities related to the Contract to the extent that access will not interfere with or jeopardize the safety or operation of the systems or facilities.





#### **2.4.7 Relationship of the Parties**

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

#### **2.4.8 Contractor Return of State Equipment/Resources**

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

#### **2.4.9 Background Checks**

The State may investigate the Contractor's personnel before granting access to State facilities and systems. The scope of the background check is at the discretion of the State and the results will be used to determine eligibility for working within State facilities and systems. The investigations will include a Michigan State Police background check (ICHAT) and may include a Criminal Justice Information Services (CJIS) fingerprint check. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the CJIS fingerprint check.

#### **2.4.10 Compliance With State Policies**

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources, available at <http://www.michigan.gov/pcpolicy>. Contractor personnel must agree to the State's security and acceptable use policies before the State grants access to its IT equipment and resources. The Contractor must provide these policies to prospective personnel before requesting access from the State. Contractor personnel must comply with all physical security procedures in State facilities.

### **2.5 SubContracting by Contractor**

#### **2.5.1 Contractor Responsible**

The Contractor is responsible for the completion of all Deliverable(s). The State will consider the Contractor to be the sole point of contact with regard to all Contractual matters, including payment of any charges for Deliverable(s). The Contractor must make all payments to its SubContractors or suppliers. Except as otherwise agreed in writing, the State is not obligated to make payments for the Deliverable(s) to any party other than the Contractor.

#### **2.5.2 State Approval of SubContractor**

(a) The Contractor may not delegate any duties under this Contract to a SubContractor unless DTMB-Purchasing Operations gives prior approval to the delegation. Attached as **Exhibit A** is a list of the SubContractors, if any, approved by the State as of the Effective Date. The State is entitled to receive copies of and review all subContracts. The Contractor may delete or redact any proprietary information before providing it to the State.

(b) The State may require the Contractor to terminate and replace any SubContractor the State reasonably finds unacceptable. The required replacement of a SubContractor must be written and contain reasonable detail outlining the State's reasons. If the State exercises this right, and the Contractor cannot immediately replace the SubContractor, the State will agree to an equitable adjustment in the schedule or other terms that may be affected by the State's required replacement. If this requirement results in a delay, the delay will not be counted against any applicable Service Level Agreement (SLA).

(C) The State will award one Contract. The winning Contractor will be held accountable for all items outlined in Section 1.2.1 and Section 1.2.4 regardless if a subContractor is required for completion of services.

(D) Any subContractor must be an authorized manufacturer and/or authorized dealer.

#### **2.5.3 SubContract Requirements**

Except where specifically approved by the State, Contractor must include the obligations in Sections 2.24.2, Media Releases, 2.4, Contract Management, 2.11, Confidentiality, 2.12, Records and Inspections, 2.13, Warranties, 2.14, Insurance, and 2.23, Laws, in all of its agreements with SubContractors.



#### **2.5.4 Competitive Selection**

Contractor must select SubContractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of this Contract.

#### **2.6 Reserved**

#### **2.7 Performance**

##### **2.7.1 Time of Performance**

(a) The Contractor must immediately notify the State upon becoming aware of any circumstances that may reasonably be expected to jeopardize the completion of any Deliverable(s) by the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(b) 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 immediately notify the State and, to the extent practicable, continue to perform its obligations according to the Contract time periods. The Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

##### **2.7.2 Service Level Agreements [Deleted, Not Applicable]**

##### **2.7.3 Liquidated Damages**

The following measures shall be used to determine liquidated damages for this Contract:

1. Up-time based on CPC hours of operations (M-F 2 shifts)
2. 90% up-time on print engines only
3. Pre-and post processing equipment excluded from up-time calculation
4. PM, Operator error, paper issues, acts of God excluded from up-time calculation
5. First 60 days excluded from up-time calculation
6. Up-time calculation based on average of both machines over a month.to be calculated monthly.
7. Liquidated damages paid for any given month with less than 90% up-time – monthly cap of \$1,000.00
8. InfoPrint and SOM committed to monthly service meetings to discuss proactive methods of reducing down-time

##### **2.7.4 Excusable Failure**

Neither party will be liable for any default, damage or delay in the performance of its obligations that is caused by government regulations or requirements, power failure, electrical surges or current fluctuations, war, forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, acts or omissions of common carriers, fire, riots, civil disorders, 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 any 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, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. The non-performing party must promptly notify the other party immediately after the excusable failure occurs, and when it abates or ends. Both parties must use commercially reasonable efforts to resume performance.

If any of the reasons listed substantially prevent, hinder, or delay the Contractor's performance of the Deliverable(s) for more than 10 Days, and the State reasonably determines that performance is not likely to be resumed within a period of time that is satisfactory to the State, the State may: (a) procure the affected



Deliverable(s) from an alternate source without liability for payment so long as the delay in performance continues; or (b) terminate any portion of the Contract so affected and equitably adjust charges payable to the Contractor to reflect those Deliverable(s) that are terminated. The State must pay for all Deliverable(s) for which Final Acceptance has been granted before the termination date.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure or to payments for Deliverable(s) not provided as a result of the Excusable Failure. The Contractor will not be relieved of a default or delay caused by acts or omissions of its SubContractors except to the extent that a SubContractor experiences an Excusable Failure and the 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, including disaster recovery plans.

## **2.8 Acceptance of Deliverable(s), [Deleted, Not Applicable]**

### **2.8.1 Quality Assurance**

By tendering any Deliverable to the State, the Contractor certifies to the State that (a) it has performed reasonable quality assurance activities; (b) it has performed any reasonable testing; and (c) it has corrected all material deficiencies discovered during the quality assurance activities and testing. To the extent that testing occurs at State Locations, the State is entitled to observe and otherwise participate in the testing.

### **2.8.2 Delivery Responsibilities**

Unless otherwise specified by the State in Section 1.4.5, Delivery Term, the following are applicable to all deliveries:

- (a) The Contractor is responsible for delivering the Deliverable(s) by the applicable delivery date to the location(s) specified in the SOW or individual Purchase Order.
- (b) The Contractor must ship the Deliverable(s) "F.O.B. Destination, within Government Premises."
- (c) The State will examine all packages at the time of delivery. The quantity of packages delivered must be recorded and any obvious visible or suspected damage must be noted at the time of delivery using the shipper's delivery document(s) and appropriate procedures to record the damage.

### **2.8.3 Process for Acceptance of Deliverable(s)**

The State's review period for acceptance of the Deliverable(s) is governed by the applicable Statement of Work, and if the Statement of Work does not specify the State's review period, it is by default 30 Days for a Deliverable (State Review Period). The State will notify the Contractor by the end of the State Review Period that either:

- (a) the Deliverable is accepted in the form delivered by the Contractor;
- (b) the Deliverable is accepted, but noted deficiencies must be corrected; or
- (c) the Deliverable is rejected along with notation of any deficiencies that must be corrected before acceptance of the Deliverable.

If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Days resubmit the Deliverable(s) with an explanation that demonstrates all corrections have been made to the original Deliverable(s). The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from the Contractor, the State will have a reasonable additional period of time, not to exceed 30 Days, to accept the corrected Deliverable.

### **2.8.4 Acceptance of Deliverable(s)**

- (a) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of the Deliverable(s). The State Review Period will begin on the first Business Day following the State's receipt of the Deliverable(s).
- (b) The State may inspect the Deliverable to confirm that all components have been delivered without material deficiencies. If the State determines that the Deliverable or one of its components has material deficiencies, the State may reject the Deliverable without performing any further inspection or testing.
- (c) The State will only approve a Deliverable after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, in its discretion, conditionally approve a Deliverable that contains material deficiencies if the State elects to permit the Contractor to correct



those deficiencies post-approval. The Contractor remains responsible for working diligently to correct, within a reasonable time at the Contractor's expense, all deficiencies in the Deliverable that remain outstanding at the time of State approval.

(d) If, after three opportunities the Contractor is unable to correct all deficiencies, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to do so at the sole expense of the Contractor; (ii) keep this Contract in force and perform, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the Contract price plus an additional amount equal to 10% of the State's cost to cure the deficiency; or (iii) fully or partially terminate this Contract for default by giving notice to the Contractor. Notwithstanding the foregoing, the State cannot 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.

(e) The State, at any time and in its reasonable discretion, may reject the Deliverable without notation of all deficiencies if the acceptance process reveals deficiencies in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable.

#### **2.8.5 Process for Approval of Written Deliverable(s) [Deleted, Not Applicable]**

#### **2.8.6 Process for Approval of Services [Deleted, Not Applicable]**

#### **2.8.7 Final Acceptance**

Unless otherwise stated in the Statement of Work, "Final Acceptance" of a Deliverable occurs when that Deliverable has been accepted by the State following the applicable State Review Period.

#### **2.9 Ownership [Deleted, Not Applicable]**

#### **2.10 State Standards [Deleted, Not Applicable]**

#### **2.11 Confidentiality**

##### **2.11.1 Confidential Information**

As used in this Section, "Confidential Information" means all information of the parties, except information that is:

- (a) disclosable under the Michigan Freedom Of Information Act (FOIA);
- (b) now available or becomes available to the public without breach of this Contract;
- (c) released in writing by the disclosing party;
- (d) obtained from a third party or parties having no obligation of confidentiality with respect to such information;
- (e) publicly disclosed pursuant to federal or state law; or
- (f) independently developed by the receiving party without reference to Confidential Information of the furnishing party.

##### **2.11.2 Protection and Destruction of Confidential Information**

(a) Each party must use the same care to prevent unauthorized disclosure of Confidential Information as it uses to prevent disclosure of its own information of a similar nature, but in no event less than a reasonable degree of care. Neither the Contractor nor the State will: (i) make any use of the Confidential Information of the other except as contemplated by this Contract; (ii) acquire any interest or license 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.

(b) Each party will limit disclosure of the other party's Confidential Information to employees, agents, and SubContractors who must have access to fulfill the purposes of this Contract. Disclosure to, and use by, a SubContractor is permissible where: (i) use of a SubContractor is authorized under this Contract; (ii) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the SubContractor's scope of responsibility; and (iii) 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 to the State's Confidential Information may be required to execute a separate agreement to be bound by the confidentiality requirements of this Section.

(c) Upon termination of this Contract, Contractor must promptly return the State's Confidential Information or certify to the State that Contractor has destroyed all of the State's Confidential Information.

### **2.11.3 Exclusions**

The provisions of Section 2.11, Confidentiality, will not apply where the receiving party is required by law to disclose the other party's 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.

### **2.11.4 No Obligation to Disclose**

Nothing contained in Section 2.11, Confidentiality, will be construed as obligating a party to disclose any particular Confidential Information to the other party.

### **2.11.5 Security Breach Notification**

If Contractor breaches this Section, it must (i) promptly cure any deficiencies in Contractor's internal security controls; and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized access, use, or disclosure. Contractor must notify the State of any unauthorized use or disclosure of Confidential Information, whether suspected or actual, within 10 days of becoming aware of the use or disclosure or a shorter time period as is reasonable under the circumstances. The State may require Contractor to purchase credit monitoring services for any individuals affected by the breach.

## **2.12 Records and Inspections**

### **2.12.1 Inspection of Work Performed**

The State's authorized representatives, at reasonable times and with 10 days prior notice, have the right to enter the Contractor's premises or any other places where work is being performed in relation to this Contract. The representatives may inspect, monitor, or evaluate the work being performed, to the extent the access will not reasonably interfere with or jeopardize the safety or operation of Contractor's systems or facilities. The Contractor must provide reasonable assistance for the State's representatives during inspections.

### **2.12.2 Retention of Records**

(a) The Contractor must retain all financial and accounting records related to this Contract for a period of seven years after the Contractor performs any work under this Contract (Audit Period).

(b) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records 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.

### **2.12.3 Examination of Records**

The State, upon 10 days notice to the Contractor, may examine and copy any of the Contractor's records that relate to this Contract. The State does not have the right to review any information deemed confidential by the Contractor if access would require the information to become publicly available. This requirement also applies to the records of any parent, affiliate, or subsidiary organization of the Contractor, or any SubContractor that performs services in connection with this Contract.

### **2.12.4 Audit Resolution**

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





### **2.12.5 Errors**

(a) If an audit reveals any financial errors in the records provided to the State, the amount in error must be reflected as a credit or debit on the next invoice and subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried forward for more than four invoices or beyond the termination of this Contract. If a balance remains after four invoices, the remaining amount will be due as a payment or refund within 45 days of the last invoice on which the balance appeared or upon termination of the Contract, whichever is earlier.

(b) In addition to other available remedies, if the difference between the State's actual payment and the correct invoice amount, as determined by an audit, is greater than 10%, the Contractor must pay all reasonable audit costs.

## **2.13 Warranties**

### **2.13.1 Warranties and Representations**

The Contractor represents and warrants:

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

(b) The Contract appendices, attachments, and exhibits identify the equipment, software, and services necessary for the Deliverable(s) to comply with the Contract's requirements.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by the Contractor for 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 Deliverable(s). None of the Deliverable(s) provided by Contractor to the State, nor their use by the State, will infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party.

(d) If the Contractor procures any equipment, software, or other Deliverable(s) for the State (including equipment, software, and other Deliverable(s) manufactured, re-marketed or otherwise sold by the Contractor or under the Contractor's name), then the 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(s).

(e) The Contract signatory has the authority to enter into this Contract on behalf of the 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, will have, or will acquire, any interest that would conflict in any manner with the Contractor's performance of its duties and responsibilities to the State or otherwise create an appearance of impropriety with respect to the award or performance of this Contract. The Contractor must notify the State about the nature of any conflict or appearance of impropriety within two days of learning about it.

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

(i) Neither the 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 the 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 Contractor arrived at its proposed prices independently, without communication or agreement with any other bidder for the purpose of restricting competition. The Contractor did not knowingly disclose its quoted prices for this Contract to any other bidder before the award of the Contract. The Contractor made no attempt to induce any other person or entity to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by the Contractor to the State in connection with the award of this Contract fairly and accurately represent the Contractor's business, properties, financial condition, and results of operations as of the respective dates covered by the financial statements, reports, or other information. There has been no material adverse change in the Contractor's business, properties, financial condition, or results of operation.



(l) All written information furnished to the State by or for the Contractor in connection with the award of this Contract is true, accurate, and complete, and contains no false statement of material fact nor omits any material fact that would make the submitted information misleading.

(m) It will immediately notify DTMB-Purchasing Operations if any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract is awarded.

#### **2.13.2 Warranty of Merchantability**

The Deliverable(s) provided by the Contractor must be merchantable.

#### **2.13.3 Warranty of Fitness for a Particular Purpose**

The Deliverable(s) provided by the Contractor must be fit for the purpose(s) identified in this Contract.

#### **2.13.4 Warranty of Title**

The Contractor must convey good title to any Deliverable(s) provided to the State. All Deliverable(s) provided by the Contractor must be delivered free from any security interest, lien, or encumbrance of which the State, at the time of Contracting, has no knowledge. Deliverable(s) provided by the Contractor must be delivered free of any rightful claim of infringement by any third person.

#### **2.13.5 Equipment Warranty**

(a) The Contractor represents and warrants that the equipment/system(s) are in good operating condition and perform to the requirements contained in this Contract at the time of Final Acceptance, and for a period of one year following Final Acceptance.

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

(c) The Contractor must provide a toll-free telephone number for the State to report equipment failures and problems.

(d) Within one Day of notification, 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.

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

(f) The Contractor is the sole point of contact for warranty service.

(g) All warranty work must be performed at State locations.

#### **2.13.6 New Deliverable(s)**

The Contractor must provide new Deliverable(s) where the Contractor knows or has the ability to select between new or like-new. Unless specified in Article 1, Statement of Work, equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable only where the Contractor does not have knowledge or the ability to select one or the other.

#### **2.13.7 Prohibited Products**

Shipping of salvage, distressed, outdated, or discontinued goods to any State agency will be considered a material default by the Contractor. The brand and product number offered for all items will remain consistent for the term of this Contract, unless DTMB-Purchasing Operations has approved a change order under Section 2.3.4, Contract Changes.

#### **2.13.8 Consequences For Breach**

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in Section 2.13, Warranties, the breach may be considered a material default.

### **2.14 Insurance**



### **2.14.1 Liability Insurance**

For the purpose of this Section, "State" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

(a) The following apply to all insurance requirements:

(i) The State, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.

(ii) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits of coverage specified are not intended, and may not be construed to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

(iii) If the Contractor fails to pay any premium for a required insurance policy, or if any insurer cancels or significantly reduces any required insurance without the State's approval, the State may, after giving the Contractor at least 30 days 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 require the Contractor to pay that cost upon demand.

(iv) 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 Michigan Attorney General.

(b) The Contractor must:

(i) provide proof that it has obtained the minimum levels of insurance coverage indicated or required by law, whichever is greater. The insurance must protect the State from claims that are alleged or may arise or result from the Contractor's or a SubContractor's performance, including any person directly or indirectly employed by the Contractor or a SubContractor, or any person for whose acts the Contractor or a SubContractor may be liable.

(ii) waive all rights against the State for the recovery of damages that are covered by the insurance policies the Contractor is required to maintain under this Section. The Contractor's failure to obtain and maintain the required insurance will not limit this waiver.

(iii) ensure that all insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State.

(iv) obtain insurance, unless the State approves otherwise, from any insurer that has an A.M. Best rating of "A" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from an insurance rating agency approved by the State. All policies of insurance must be issued by companies that have been approved to do business in the State.

(v) maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three years following the termination of this Contract.

(vi) pay all deductibles.

(vii) pay for and provide the type and amount of insurance checked ☒ below:

#### **☒ (A) Commercial General Liability Insurance**

##### **Minimal Limits:**

\$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; and

\$1,000,000 Each Occurrence Limit.

##### **Deductible maximum:**

\$50,000 Each Occurrence

##### **Additional Requirements:**

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.





☐ **(B) Umbrella or Excess Liability Insurance**

Minimal Limits:

\$10,000,000 General Aggregate

Additional Requirements:

Umbrella or Excess Liability limits must at least apply to the insurance required in (A), General Commercial Liability. The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☒ **(C) Motor Vehicle Insurance**

Minimal Limits:

If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.

☐ **(D) Hired and Non-Owned Motor Vehicle Coverage**

Minimal Limits:

\$1,000,000 Per Accident

Additional Requirements:

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 must also provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☒ **(E) Workers' Compensation Insurance**

Minimal Limits:

The Contractor must provide Workers' Compensation coverage according to applicable laws governing work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, the Contractor must provide proof of an approved self-insured authority by the jurisdiction of domicile.

For employees working outside of the state of the Contractor's domicile, the Contractor must provide certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Additional Requirements:

The Contractor must provide the applicable certificates of insurance and a list of states where the coverage is applicable. Contractor must provide proof that the Workers' Compensation insurance policies contain a waiver of subrogation by the insurance company, except where such a provision is prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

☒ **(F) Employers Liability Insurance**

Minimal Limits:

\$100,000 Each Accident;  
\$100,000 Each Employee by Disease  
\$500,000 Aggregate Disease

Additional Requirements:

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate.

**2.14.2 SubContractor Insurance Coverage**

Except where the State has approved a subContract with other insurance provisions, the Contractor must require any SubContractor to purchase and maintain the insurance coverage required in Section 2.14.1,



Liability Insurance. Alternatively, the Contractor may include a SubContractor under the Contractor's insurance on the coverage required in that Section. The failure of a SubContractor to comply with insurance requirements does not limit the Contractor's liability or responsibility.

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

Before this 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 insureds under each commercial general liability and commercial automobile liability policy. The Contractor must provide DTMB-Purchasing Operations with all applicable certificates of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in Section 2.14.1, Liability Insurance. Each certificate must be on the standard "accord" form or equivalent and **MUST CONTAIN THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER**. Each certificate must be prepared and submitted by the insurer and must contain a provision indicating that the coverage afforded will not be cancelled, materially changed, or not renewed without 30 days prior notice, except for 10 days for nonpayment of premium, to the Director of DTMB-Purchasing Operations. The notice to the Director of DTMB-Purchasing Operations must include the applicable Contract or Purchase Order number.

## **2.15 Indemnification**

### **2.15.1 General Indemnification**

To the extent permitted by law, the Contractor must indemnify, defend, and hold the State harmless 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, any of its subContractors, or by anyone else for whose acts any of them may be liable.

### **1.5.2 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.

### **2.15.3 Employee Indemnification**

In any claims against the State, its departments, agencies, commissions, officers, employees, and agents, by any employee of the Contractor or any of its subContractors, the indemnification obligation will 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.

### **2.15.4 Patent/Copyright Infringement Indemnification**

(a) To the extent permitted by law, the Contractor must indemnify and hold the State harmless 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) resulting from any action threatened or brought against the State to the extent that the action is based on a claim that any piece of equipment, software, commodity, or service supplied by the Contractor or its subContractors, or its operation, use, or reproduction, infringes any United States patent, copyright, trademark or trade secret of any person or entity.

(b) If, in the State's or the Contractor's opinion, any piece of equipment, software, commodity or service supplied by the Contractor or its subContractors, or its operation, use, or reproduction, is likely to become the subject of an infringement claim, the Contractor must, at its expense: (i) procure for the State the right to continue using the equipment, software, commodity or service or, if this 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 this 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.

(c) 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 infringement claim based upon: (i) equipment, software, commodity or service developed based on written specifications of the State; (ii) use of the equipment, software, or commodity in a configuration other than implemented or approved by the Contractor, including any modification of the same by the State; or (iii) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

#### **2.15.5 Continuing Obligation**

The Contractor's duty to indemnify under Section 2.15, Indemnification, continues in full force and effect, notwithstanding the expiration or early cancellation of this Contract, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

#### **2.15.6 Indemnification Procedures**

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

- (a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within ten (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 ten (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.

#### **2.15.7 Limitation of Liability**

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of



United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorneys' fees awarded by a court in addition to damages after litigation based on this Contract.

## **2.16 Termination by the State**

### **2.16.1 Notice and Right to Cure**

If the Contractor breaches this Contract, and the State in its sole discretion determines that the breach is curable, then the State will provide the Contractor with written notice of the breach and a time period (not less than thirty (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.

### **2.16.2 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 will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.
- (d) If the State terminates this Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in this Contract for a termination for convenience.

### **2.16.3 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 this 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 thirty (30) days before the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

### **2.16.4 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 thirty (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 thirty (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 thirty (30) days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.
- (c) If the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

#### **2.16.5 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.

#### **2.16.6 Termination for Approvals Rescinded**

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

#### **2.16.7 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 this Contract and which are resulting from this 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.

#### **2.16.8 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.

#### **2.16.9 Contractor Transition Responsibilities**

If the State terminates this Contract for convenience or cause, or if this Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to 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 six (6) months.

#### **2.16.10 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.

### **2.17 Termination by the Contractor**

#### **2.17.1 Termination**

If the State breaches this Contract and the Contractor, in its sole discretion, determines that the breach is curable, then the Contractor will provide the State with notice of the breach and a time period (not less than 30 days) to cure the breach.

The Contractor may terminate this Contract if the State: (a) materially breaches its obligation to pay the Contractor undisputed amounts due; (b) breaches its other obligations to an extent that makes it impossible or commercially impractical for the Contractor to complete the Deliverable(s); or (c) does not cure the breach within the time period specified in a notice of breach. The Contractor must discharge its obligations under Section 2.20, Dispute Resolution, before it terminates this Contract.

### **2.18 Stop Work**

#### **2.18.1 Stop Work Order Deleted – Not Applicable**

#### **2.18.2 Termination of Stop Work Order- Deleted – Not Applicable**

#### **2.18.3 Allowance of the Contractor's Costs – Deleted – Not Applicable**

### **2.19 Reserved**

### **2.20 Dispute Resolution**

#### **2.20.1 General**

(a) The Contractor must submit any claim related to this Contract to the State under Section 2.3.6, Notices, together with all supporting documentation for the claim.

(b) The representatives of the Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information related to the claim.

(c) During the course of negotiations, each party will honor all reasonable requests made by the other for non-privileged information reasonably related to the claim.

**2.20.2 Informal Dispute Resolution**

(a) If, after a reasonable time following submission of a claim under Section 2.20.1, General, the parties are unable to resolve the claim, the parties must meet with the Director of DTMB-Purchasing Operations, or his or her designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings.

(b) Within 60 calendar days of the meeting with the Director of DTMB-Purchasing Operations, or such other time as agreed to by the parties, the Director of DTMB-Purchasing Operations will issue a written recommendation regarding settlement of the claim. The Contractor must notify DTMB-Purchasing Operations within 21 days after the recommendation is issued whether the Contractor accepts or rejects the recommendation. Acceptance by the Contractor constitutes the final resolution of the claim addressed in the recommendation, and the Contractor may not assert that claim in any future litigation or other proceeding between the parties.

(c) The recommendation of the Director of DTMB-Purchasing Operations is not admissible in any future litigation or other proceeding between the parties. The conduct and statements made during the course of negotiations or dispute resolution under Section 2.20, Dispute Resolution, are subject to Michigan Rule of Evidence 408 and are not admissible in any future litigation or other proceeding between the parties.

(d) This section will not be construed to prohibit either party from instituting formal proceedings to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under Section 2.20.3, Injunctive Relief.

(e) DTMB-Purchasing Operations will not mediate disputes between the Contractor and any other entity, except State agencies, concerning responsibility for performance of work.

**2.20.3 Injunctive Relief**

A claim between the State and the Contractor is not subject to the provisions of Section 2.20.2, Informal Dispute Resolution, where a party makes a good faith determination that a breach of the Contract by the other party will result in damages so immediate, so large or severe, and so incapable of adequate redress that a temporary restraining order or other injunctive relief is the only adequate remedy.

**2.20.4 Continued Performance**

Each party will continue performing its obligations under this Contract while a claim is being resolved, except to the extent the claim precludes performance and without limiting either party's right to terminate the Contract as provided in Section 2.16, Termination by the State or Section 2.17, Termination by the Contractor. A claim involving payment does not preclude performance.

**2.21 Disclosure Responsibilities****2.21.1 Disclosure of Litigation**

(a) Within 30 days after receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") that arises during the term of this Contract, the Contractor must disclose the following to the Contract Administrator:

- (i) A criminal Proceeding involving the Contractor (or any SubContractor) or any of its officers or directors;
- (ii) A parole or probation Proceeding;
- (iii) A Proceeding involving the Contractor (or any SubContractor) or any of its officers or directors under the Sarbanes-Oxley Act; and
- (iv) A civil Proceeding to which the Contractor (or, if the Contractor is aware, any SubContractor) is a party, and which involves (A) a claim that might reasonably be expected to adversely affect the viability or financial stability of the Contractor or any SubContractor; or (B) a claim or written allegation of fraud against the Contractor (or, if the Contractor is aware, any SubContractor) by a governmental or public entity arising out of the Contractor's business dealings with governmental or public entities.

(b) Information provided to the State from the Contractor's publicly filed documents will satisfy the requirements of this Section.



(c) If any Proceeding that is disclosed to the State or of which the State otherwise becomes aware, during the term of this Contract, would cause a reasonable party to be concerned about: (i) the ability of the Contractor (or a SubContractor) to continue to perform this Contract; or (ii) whether the Contractor (or a SubContractor) is engaged in conduct that is similar in nature to the conduct alleged in the Proceeding and would constitute a breach of this Contract or a violation of federal or state law, regulations, or public policy, then the Contractor must provide the State all requested reasonable assurances that the Contractor and its SubContractors will be able to continue to perform this Contract.

#### **2.21.2 Other Disclosures**

The Contractor must notify DTMB-Purchasing Operations within 30 days of:

- (a) becoming aware that a change in the Contractor's ownership or officers has occurred or is certain to occur; or
- (b) any changes to company affiliations.

#### **2.21.3 Call Center Disclosure, [Deleted, Not Applicable]**

### **2.22 Extended Purchasing**

#### **2.22.1 MiDEAL Requirements, [Deleted, Not Applicable]**

#### **2.22.2 State Administrative Fee, [Deleted, Not Applicable]**

#### **2.22.3 State Employee Purchase Requirements, [Deleted, Not Applicable]**

### **2.23 Laws**

#### **2.23.1 Governing Law**

This Contract is 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 another jurisdiction to the extent not inconsistent with or preempted by federal law.

#### **2.23.2 Compliance with Laws**

The Contractor must comply with all applicable federal, state, and local laws and ordinances in providing the Deliverable(s).

#### **2.23.3 Jurisdiction**

Any dispute arising from this Contract must be resolved in the State of Michigan. With respect to any claim between the parties, the Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections to this venue that it may have, such as lack of personal jurisdiction or *forum non conveniens*. The Contractor must appoint agents in the State of Michigan to receive service of process.

#### **2.23.4 Nondiscrimination**

In the performance of this Contract, the 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, marital status, or physical or mental disability. The Contractor further agrees that every subContract entered into for the performance of this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each SubContractor. This covenant is required under the Elliott-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 this Contract.

#### **2.23.5 Unfair Labor Practices**

Under 1980 PA 278, MCL 423.321, *et seq.*, the State must not award a Contract or subContract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under MCL 423.322. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to this Contract, must not enter into a Contract with a





SubContractor, manufacturer, or supplier whose name appears in this register. Under MCL 423.324, the State may void any Contract if, after award of this Contract, the name of the Contractor as an employer or the name of the SubContractor, manufacturer or supplier of the Contractor appears in the register.

### **2.23.6 Environmental Provision**

For the purposes of this section, "Hazardous Materials" include 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:

(a) The Contractor must use, handle, store, dispose of, process, transport, and transfer any Hazardous Material according to all federal, State, and local laws. The State must immediately advise the Contractor of the presence of any known Hazardous Material at the work site. If the Contractor encounters material reasonably believed to be Hazardous Material that may present a substantial danger, the Contractor must: (i) immediately stop all affected work; (ii) notify the State in accordance with Section 2.3.6, Notices; (iii) notify any entities required by law; and (iv) take appropriate health and safety precautions.

(b) The State may issue a Stop Work Order if the material is a Hazardous Material that may present a substantial danger and the Hazardous Material was not brought to the site by the Contractor, or does not wholly or partially result 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 may remove the Hazardous Material, render it harmless, or terminate the affected work for the State's convenience.

(c) If the Hazardous Material was brought to the site by the Contractor, or wholly or partially results from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to applicable laws.

### **2.23.7 Freedom of Information**

This Contract and all information submitted to the State by the Contractor is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, *et seq.*

### **2.23.8 Workplace Safety and Discriminatory Harassment [Deleted, Not Applicable]**

### **2.23.9 Prevailing Wage [Deleted, Not Applicable]**

### **2.23.10 Abusive Labor Practices**

The Contractor may not furnish any Deliverable(s) that were produced fully or partially by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 under a Contract the enforcement of which can be accomplished by process or penalties.

## **2.24 General Provisions**

### **2.24.1 Bankruptcy and Insolvency**

The State may, without prejudice to any other right or remedy, fully or partially terminate this Contract and, at its option, take possession of the work-in-progress and finish the work-in-progress by whatever method the State deems appropriate if:

- (a) the Contractor files for bankruptcy protection;
- (b) an involuntary petition is filed against the Contractor and not dismissed within 30 days;
- (c) the Contractor becomes insolvent or 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 provide the Deliverable(s) under this Contract.



Contractor will place appropriate notices or labels on the work-in-progress to indicate ownership by the State. To the extent reasonably possible, work-in-progress must be stored separately from other stock and marked conspicuously with labels indicating State ownership.

#### **2.24.2 Media Releases**

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and this Contract or the project to which it relates will not be made without prior approval by the State, and only in accordance with the instructions from the State.

#### **2.24.3 Contract Distribution**

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

#### **2.24.4 Permits**

Contractor must obtain and pay any associated costs for all required governmental permits, licenses, and approvals for the delivery, installation, and performance of this Contract.

#### **2.24.5 Website Incorporation**

The State is not bound by any content on the Contractor's website unless incorporated directly into this Contract.

#### **2.24.6 Future Bidding Preclusion [Deleted, Not Applicable]**

#### **2.24.7 Antitrust Assignment**

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

#### **2.24.8 Disaster Recovery**

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as mandated by federal disaster response requirements, Contractor personnel dedicated to providing Deliverable(s) under this Contract will provide the State with priority.

#### **2.24.9 Legal Effect**

The State is not liable for costs incurred by the Contractor or for payment(s) under this Contract until the Contractor is authorized to perform under Section 1.2.4, Ordering.

#### **2.24.10 Entire Agreement**

This Contract constitutes the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter. All attachments referenced in this Contract are incorporated in their entirety and form part of this Contract.

#### **2.24.11 Order of Precedence**

Any inconsistency in the terms associated with this Contract will be resolved by giving precedence to the terms in the following descending order:

- (a) Mandatory sections (2.1.1, Contract Term, 2.24.9, Legal Effect, 2.2.2, Payment Deadlines, 2.14, Insurance, 2.15, Indemnification, 2.16, Termination, 2.23, Governing Law, 2.15.7, Limitation of Liability);
- (b) The most recent Statement of Work related to this Contract;
- (c) All sections from Article 2 - Terms and Conditions, not listed in subsection (a);
- (d) Any attachment or exhibit to the Contract documents;
- (e) Any Purchase Order, Direct Voucher, or Procurement Card Order issued under the Contract; and
- (f) Bidder Responses contained in any of the RFP documents.

#### **2.24.12 Headings**

The captions and section headings used in this Contract are for convenience only and may not be used to interpret the scope and intent of this Contract.

**2.24.13 Form, Function and Utility**

If this Contract is for statewide use, but the Deliverable(s) does not meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the Deliverable(s) from another source.

**2.24.14 Reformation and Severability**

Each provision of this Contract is severable from all other provisions of this Contract. If any provision of this Contract is held unenforceable, then this Contract will be modified to reflect the parties' original intent. All remaining provisions of this Contract remain in full force and effect.

**2.24.15 Approval**

Unless otherwise provided in this Contract, approval(s) must be in writing and must not be unreasonably withheld or delayed.

**2.24.16 No Waiver of Default**

Failure by a party to insist upon strict adherence to any term of this Contract does not waive that party's right to later insist upon strict adherence to that term, or any other term, of this Contract.

**2.24.17 Survival**

The provisions of this Contract that impose continuing obligations, including warranties, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

**Attachment A, Price**

<b>Line Item</b>	<b>Amount</b>
Direct purchase amount:	\$751,191.00
Monthly maintenance amount (no impression allowance):	\$5,623.00
Meter charge per image with supplies.	\$0.00139
Meter charge per image Micr with supplies	\$0.00161
InfoPrint Manager Software	\$35,070.00
InfoPrint Production Tracker	\$25,500.00
InfoPrint Manager Software Maintenance	\$8,925.00/Year (1 <sup>st</sup> Year Free)
InfoPrint Production Tracker Maintenance	\$6,750.00/Year (1 <sup>st</sup> Year Free)